

Avon and Somerset Constabulary Response

Thank you for your report of the Avon and Somerset Out of Court Disposal (OOC) Scrutiny Panel of Wednesday 05th December 2018. We welcome the opportunity to respond to the report. The findings of the panel were fed back into our next OOC Steering Group when they met in January and as always are useful in helping to shape our policies and procedures. Feedback will also be passed on to individual officers where appropriate and general themes will be passed on to all supervisors in briefings sent around.

Scrutiny of Case Files

Thirty-six new case files were made available to the Panel for review including 2 CRs for serious violence or serious sexual offences. The Panel reviewed a total of 24 cases at this meeting. The theme for this panel was stalking and harassment and 17 adult cases and 11 youth cases were reviewed. Following review 2 cases were considered to be appropriate, 9 appropriate with observations, 12 were considered inappropriate and there was one case where the panel failed to agree.

Inappropriate Cases

The first inappropriate case relates to a harassment case where the perpetrator made a series of phone calls to the victim of a sexual nature. The Panel felt that as the offender had a long list of pre-convictions, that there were multiple victims in the first report and calls in the middle of the night to vulnerable victims and there were no conditions attached to the caution that the caution was inappropriate. The Panel were also concerned that there was no investigation into potential further victims in the second report. There was also a significant gap between the report being received and an application for evidence in relation to the victim's phone. This is something that should have been done at the start. These concerns have been fed back to the investigating officers.

The second inappropriate case was in relation to a stalking case where the perpetrator had followed the victim to a meeting at a village hall and refused to leave and had also followed the victim to her mother's address and left constant notes and messages. The Panel felt that the simple caution given was inappropriate due to the serious nature of the offence and the fact that the suspect had done this before when the relationship ended. The Panel also noted that there was no referral to Lighthouse Victim and Witness Care despite the high risk to the victim and a previous domestic incident. Also as a simple caution was issued there was no protection built in through conditions for the victim. The Panel felt that on principle the offence should have been charged given its serious nature. However, the Panel did note that this may have been a policy vs pragmatist approach and as the stalking presented as extreme behaviour immediately following the break up rather than sustained behaviour over a period of years that officers felt that this was the best way to make the suspect stop his behaviour. This has again been fed back to the investigating officers.

The third case that the Panel found to be inappropriate was a breach of harassment case where the suspect continued to harass the victim despite being issued with a harassment information notice. The panel felt that the caution issued was inappropriate as the suspect

ignored the warning and did not fully admit the offence. The Panel felt that he needed consequences for his actions. This was fed back to the investigating officers.

The fourth case which was considered inappropriate was a breach of harassment injunction where the suspect continued to harass the victim via Facebook. The Panel felt that the offender should have been charged. However, the decision to caution was a CPS one so this has been fed back to the Crown Prosecution Service.

The fifth case which was considered inappropriate was a case where the ex-partner was constantly contacting the victim. The Panel felt that the simple caution given was inappropriate as the Inspector made the decision based on incorrect information. The Inspector stated that there was a lack of pre-convictions however; the suspect had many previous convictions for harassment albeit they were historic. The Panel felt that this should have been prosecuted but acknowledged the difficulty of prosecution when the victim's support has been withdrawn. This has been fed back to the investigating officers.

The sixth case which the Panel considered inappropriate was one where there was unwanted contact and stalking despite repeated messages requesting no contact. The panel felt that the victim statement was evidentially poor as it kept slipping into the third person and therefore did not appear to have been written by the victim. The panel also noted the lack of date on the conditions which made them effectively an indefinite restraining order, the panel felt that if the victim was in need of such protection then this should have been done through the courts. This has been fed back to the investigating officers.

The seventh case which was considered inappropriate was a case of harassment involving verbal abuse of a neighbour by the suspect. The Panel felt that the outcome of a community resolution was inappropriate due to the high level of threat and the fact that there was a hate crime element. There was also no referral to Lighthouse Victim and Witness Care. This has been fed back to the investigating officers.

The eighth case which was considered inappropriate was one of harassment where the victim was harassed by the offender following the sale of an object and an allegation that the object was a fake. The Panel felt that the investigation was primarily led by the victim and their partner who may have abused their position as a barrister. The Panel felt that the investigating officer should have pursued all reasonable lines of enquiry. This has been fed back to the investigating officers.

The ninth case which was considered inappropriate was one of harassment where the victim was being harassed by an ex-partner. The panel felt that the case was too serious for a caution and noted that the full offence had not been listed on the caution form. This has been fed back to the investigating officers.

Good Practice

The Constabulary are always happy to hear about the good feedback from the Scrutiny Panel, and were pleased to note that the Panel praised the Constabulary's efforts in relation to victim care with appropriate referrals being made including to care services outside the

force area and a strong set of victim care and safety measures noted on one case to protect a victim from further harassment. In the same case the Panel noted the excellent victim care with officers providing an excellent level of support for the victim with frequent updates and checks on the victim's wellbeing.

The Panel also praised a case where the files contained clear rationale for decision making and there were strong supervisory notes from the Inspector to guide the investigation.

The Panel also noted some excellent partnership work with a victim's employer and felt that officers were proactive and identified some learning for the employers.

Recommendations and Observations

With regards to the Panel's recommendation around the understanding and identification of harassment and stalking the Constabulary recognises that there are some issues around the accurate identification of harassment crimes. In 2018 the Crown Prosecution Service launched a new Stalking and Harassment checklist to be completed by officers and attached to a case file. The checklist provides clarification on the definition of harassment and stalking and guidance on all the evidential possibilities for stalking and harassment offences. This checklist has been published on the Constabulary page for stalking and harassment alongside the Home Office Counting Rules guidance on harassment in order to provide officers with clear direction for stalking and harassment offences.

The Constabulary notes the Panel's recommendation to improve the quality of conditions and that end dates need to be clearly documented. The Constabulary recognises that this is an ongoing issue with regards to Conditional Cautions and is positive that going forward the move to the two tier framework and continuing support of the ASCEND workers will result in a significant improvement to the quality of Conditional Cautions.

All the other points raised by the Panel refer specifically to youth cases and how they were dealt with in the Youth Panel setting so it is not appropriate for the Constabulary to respond directly to those observations.