

Avon and Somerset Constabulary Response

Thank you for your report of the Avon and Somerset Out of Court Disposal (OOC) Scrutiny Panel of Wednesday 6th June 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

Twenty nine new case files were made available to the Panel for review including 3 CRs for serious violence or serious sexual offences. The Panel reviewed a total of 20 cases at this meeting. The theme for this panel was Hate Crime. Following review 4 cases were considered to be appropriate, 13 appropriate with observations and 3 were considered inappropriate.

Inappropriate Cases

The first inappropriate case relates to a CR given for a case recorded as wounding with Grievous Bodily Harm. It was felt that a CR was too lenient due to the use of a weapon, the pattern of behaviour in the offender's history and that the outcome was not in accordance with the victim's wishes. The Panel felt that the incident was too serious to have been dealt with out of court and they would have liked to have known more about the offender's mental health. It was felt that on the basis of the offending history the offender did have capacity to have gone to court. There was also discussion by the Panel around police involvement as the incident had taken place in a supported living residence. The Panel also queried the recording of the offence as the file made no reference to injuries sustained despite the offence being recorded as Grievous Bodily Harm. However, the Panel welcomed the fact that the victim in the case had been referred to the AVOICE service for vulnerable victims. These points have been fed back directly to the decision making officers.

The second inappropriate case was for the offence of racially aggravated common assault where a Simple Caution was issued. The Panel felt that a Simple Caution was too lenient as the victim –a mental health nurse- had been punched in the face by a patient and called a racially offensive term. The Panel expressed concern that the racial aggravation aspect of the case did not appear to have been pursued. The file included advice from the consultant psychiatrist, confirming that the offender did have capacity and as such it was felt that the case should have been dealt with at court. It was noted by the Panel that Hate Crime services are seeing an increase in care facilities not wishing to criminalise patients; however, this must be balanced with the imperative to protect staff in their place of work. Again, this has been fed back to the officers involved in making those decisions.

The third case that the Panel found to be inappropriate was a case of harassment where the victim was an off-duty PCSO who was subject to homophobic abuse in the presence of her daughter. The Panel felt that a Simple Caution was too lenient. The Panel noted that the offender had a history of reported behaviour in similar offences; however, they noted that

there may not have been sufficient evidence in the form of witness statements to take the case to court. The Panel also noted that although a referral to the Lighthouse Victim Care service had been made, there was no contact with the victim. The Panel expressed concern that in this case and across a number of other cases examined during the course of the meeting, it appeared that the hate crime element of the case was underplayed or not pursued. The Panel would like to have seen a face to face intervention to understand the impact on the victim and to prevent similar behaviour in the future. These points have been fed back to the decision making 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 regards to multi-agency working in order to safeguard vulnerable victims including close working with adult social care and housing associations. Additionally the Panel praised a Youth case where a bladed article was carried on to school premises; the Panel felt that strong and effective multi-agency working was used in order to address the root cause of the incident.

The Constabulary has effective processes in place for dealing with offenders with complex needs and the Panel praised referrals to the SHE programme for women offenders and Golden Key for offenders with complex needs.

Recommendations and Observations

With regard to the theme of Hate Crime the Constabulary accepts that in some of the cases the Hate Crime element of the offence was insufficiently addressed and this has been fed back to the relevant officers. The Constabulary is committed to taking Hate Crime offences seriously and ensuring that victims of Hate Crime are treated with respect and referred to appropriate support services.

The Constabulary is also aware that there are still some data quality/recording issues within the force and that certain cases are not always updated with key documents such as letters of apology or completed conditions. Data quality is a key area of focus for the Constabulary and as such the Outcome Review Team was created. The Outcome Review Team reviews certain crimes such as Hate Crimes and certain Outcomes such as Cautions and Community Resolutions to ensure compliancy of filing and to ensure that all relevant documentation is attached. Any crimes that are not compliant are tasked back to the filing officer in order to rectify any issues. Additionally training is being rolled out to Sergeants across the force on Home Office Counting Rules and the use of filing outcomes.

The Constabulary notes the Panel's comments on cases where a conditional caution had been issued and conditions were unclear and unenforceable and it was also unclear whether conditions had been completed. With the move to the new two-tier framework additional training has been rolled out on conditional cautions including face to face training with supervisors, DIT and IAU and a distant learning package for operational officers. There will be full guidance issued on the constabulary's intranet and there are plans for drop down menus within Niche for standard conditions such as Victim Awareness courses.

The Panel also queried the appropriateness of a Penalty Notice for Disorder following a racially aggravated public order offence. The case was part of an ongoing neighbour dispute which did include a racially aggravated element, however, according to the log there was no racial abuse in this particular incident therefore a PND was deemed suitable and it was felt a positive outcome would be beneficial to any future action against the offender. The victims were being suitably supported by SARI and Lighthouse. In response to the Panel's additional query about how incidents that are currently dealt with via a PND will be dealt with under the new two-tier framework; officers can use their discretion to either issue a Community Resolution or a Conditional Caution which can have a punitive element such as a fine.

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.