

Avon and Somerset Constabulary Response

Thank you for your report of the Avon and Somerset Out of Court Disposal (OCD) Scrutiny Panel of Wednesday 20th March 2019. We welcome the opportunity to respond to the report. The findings of the panel will be fed back into our next OCD Steering Group when they next meet 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 one new case files were made available to the Panel for review including 5 CRs for serious violence or serious sexual offences. The Panel reviewed a total of 23 cases at this meeting. The theme for this panel was Domestic Abuse; intimate partner and familial. Following review 5 cases were considered to be appropriate, 13 appropriate with observations and 5 were considered inappropriate.

Inappropriate Cases

The first case that was found to have been done inappropriately was a CR given for a sexual assault by a female on a male. The panel felt that had the genders been reversed and the assault had been male on female it would have been dealt with more severely. The behaviour was seen as drunken and predatory and whilst the victim played the incident down that should not be an excuse to do nothing. There were also comments about the condition that was applied in that it did not address the behaviour. The nervousness of the panel that the use of letters of apology when there is no other viable condition has been noted and work has been done recently to ensure that the conditions set by ASCEND Workers for letters of apology meet a certain standard. This particular case being dealt with by CR means that in all likelihood the OIC dealt with the setting of the conditions as far fewer CRs are referred to ASCEND, which means there is further work to be done in general around letters of apology in such cases. Finally there was real concern about the environment in which the offence took place; a camp for young people. These points have been fed back to the officers involved. The unconscious bias side to this case will be fed in to the next OCD Steering Group to make sure it is picked up by training, as will the need for wider guidance on letters of apology for officers dealing with cases themselves. It is very important that the conditions set are meaningful to the offender and wherever possible to the victim as well.

The second case that was found to have been done inappropriately, again, was because the use of an OCD was deemed to be too lenient. In this case, had the offence been charged it could have resulted in a 9-15 week custodial sentence. This was a very messy case with the female partner ending up filming the victim and herself and sending it to the male's new partner and her mother. Before this happened the offender has lived with 3 years of his controlling behaviour and there are offences committed by both parties, but ultimately the maliciousness of this case is an aggravating factor that means it should not have been an OCD. Feedback has been supplied to the officers in this case to that effect.

The third case to have been found inappropriate is a familial case whereby the son has caused damage to the family home having been denied money. This was dealt with by way of CR but while the panel felt a higher level of disposal would have been more appropriate, a conditional caution was not allowed at that point. The fear is that the offender is exhibiting escalating behaviour and this needs to be addressed, and a CR is not the method to do that. These offences were committed within a month of the offender having received a simple caution and that makes this even less likely to be appropriate. These points have been fed back to the officers involved.

The fourth case to have been found to have been done inappropriately is a case where independent witnesses saw the offender kick his pregnant girlfriend. Whilst the victim declined to prosecute, the fact that there were independent witnesses means that we should have pursued a victimless prosecution. The incident was simply too serious in nature to have been dealt with in the way that it was. Unfortunately the officer who made this decision is no longer on the system so there is no way of addressing this directly, however, as with all of the feedback it will be raised at the next OOCSD Steering Group meeting.

The final case to have been found to have been done inappropriately is another one where the offences committed appear to be too serious for an OOCSD to be considered and reading through the file and evidence it is hard to argue with that point. Again this has been fed back to the officers involved

Good Practice

The comments from the panel around the positive implementation of the new OOCSD framework are gratefully received. The new way of working has been running for a few months now and appears to be embedding well and it is good to see the positive impact this is having on the effective use of intervention pathways on OOCDS. The use of the new framework will have increased the use of the Community Remedy with cases as well thus improving interaction with victims, however, it is duly noted that the victim should not be driving investigation. As officers are trained it is made clear that the victim can indicate the conditions they would like to see used but the OIC ultimately has the final say as they will be the ones aware of what is going to be appropriate, proportionate and achievable for the offender. The same goes for the ASCEND Workers, so they will make that decision on behalf of the OIC.

The change to the two tier framework has allowed training to take place for officers across the board, helping them to understand how to use OOCDS correctly, the good practice noted in inspectors rationales shows that this extra training is having an impact on the quality or recording in these cases.

It is pleasing that the panel have noted the improvements in use of technology, we are striving to make better use of time and being efficient and technology forms a large part of that. To see this having a positive impact without impacting of the quality of information provided, or even improving that, is very positive.

Recommendations and Observations

ASCEND was introduced with a limited number of intervention options available and it has always been the intention of the Constabulary to increase the number of options available. We are constrained somewhat by the costs involved and because of that we are making as much use of the perpetrator-pays options available. At the moment we are unaware of any further interventions available on this basis but there is one being developed and piloted for anger management which we would be very interested in adding to our portfolio as soon as possible. We have a Pathways and Partnerships Coordinator who manages that side of ASCEND and is always on the lookout for new intervention options. We have always felt that it is better to offer as much as we can rather than offer nothing because we can't offer as much as we would like.

We understand that the interventions we offer, in the context that they are being offered, will not be able to have the same impact that those offered through probation services. The ASCEND Workers are trained and experienced in carrying out the needs assessment with offenders so that they will understand whether the interventions will have the desired impact. It must be remembered that these interventions and this service are offered at the lowest level of offending; in the majority of cases these will be first time offenders or those involved in minor criminality.

The amount of compensation set in an individual case will take into account the ability of the offender to pay as well as the damage or loss of the victim. The ASCEND Workers have some guidance from the CPS on compensation levels that they use and then will take into account other factors such as loss of earnings as well, but ultimately they have to set a realistic and achievable value on the condition so that the offender has a realistic prospect of being able to comply, they cannot be set up to fail. So while it may seem as though the value of a condition in an individual case may seem lower than expected, it will be what the ASCEND Worker feels, on balance, is most appropriate for that case and the circumstances of the individuals involved.

Comments made about the language and information included in the Niche record is something that is constantly being addressed through various rounds of training and this will continue. There are plans to train sections of the force that have not yet been covered. However, it is also noted that the panel has commented on an improvement in inspectors' rationales in general so it is hoped that the individual cases where more information is required are reducing overall.

There were several comments made about youth cases and while the Constabulary cannot comment on the work of the Youth Offending Teams, the points made about timeliness will be fed back in to the relevant forum. Likewise the comments made about referral of a victim to appropriate victim services will be passed on to make sure the learning is taken from the case in question.

The use of conditional cautions in cases where the victim declines to be involved is something that is done on the understanding that the breach may not be able to be

prosecuted. In such cases, it is felt that it is better to try something and there is the chance to intervene in the offending behaviour in some way. Otherwise the offence would be recorded as an NFA of some sort, which is unsatisfactory all round and does not protect the public or potential future victims in any way. Under other circumstances a simple caution may have been used which made no such attempts. While a prosecution may not be successful should such a case be breached, there is still a record that the condition caution was used, and the conditions not met. This helps us to make the decision of what disposal to use should the offender re-offend, they would not be offered a conditional OOC again.

The next OOC Steering Group is due to be held on 21st June and all of the issues raised above will be fed in there in the first instance.