

## Avon and Somerset Police and Crime Commissioner

### Report of the Avon and Somerset Out of Court Disposal Scrutiny Panel

Wednesday 9th December 2020

#### Background

##### About the Panel

The Avon and Somerset Out of Court Disposals Scrutiny Panel has been set up to independently scrutinise the use of Out of Court Disposals in response to national recommendations following concerns about their appropriate use. The role of the Panel is to ensure that the use of Out of Court Disposal is appropriate and proportionate, consistent with national and local policy, and consider the victims' wishes where appropriate. The Panel aims to bring transparency to the use of Out of Court Disposals in order to increase understanding and confidence in their use. Findings of the Panel, together with responses to recommendations made, are reported publicly to support this aim.

##### How the Panel Operates

The Panel review and discuss case files as a group and conclude one of four categories:

- Appropriate and consistent with national and local guidelines;
- Appropriate with observations from the Panel;
- Inappropriate use of out of court disposal;
- Panel fails to agree on the appropriateness of the decision made.

Decisions reached by the Panel on each case file are recorded, together with observations and recommendations to inform changes in policy or practice. The Panel also consider performance information regarding levels and use of out of court disposals, and changes to legislation, policy and practice to support them in their role.

Findings from the Out of Court Disposals Scrutiny Panel will be considered by the Avon and Somerset Out of Court Disposal Steering Group. The Steering Group is responsible for operational oversight and development of local policy and practice in relation to Out of Court Disposals.

Further information about the role of the Panel, Membership and reports can be found at the following link: <https://www.avonandsomerset-pcc.gov.uk/get-involved/volunteering-opportunities/out-court-disposals-panel/>

## Report of the twenty-sixth meeting: 9 December 2020

Attendees: Mike Evans (Magistrate) (Chair), Deryck Rees (ASC Lead for DA), Paul Underhill (ASC) David Godfrey (HMCTS) (Deputy Chair), Paul Ashby (YOT), Giles Brown (Magistrate), Frances Keel (Victim Support) Aidan D'Arcy (YOT), Niki Westerling (VOCAS – Adult Advocacy Support Service, Helen Jeal (Avon and Somerset Constabulary), Rebecca Harris (Office of the Avon and Somerset Police and Crime Commissioner), Rachel Garstang (CPS). Di Memmott (Minutes).

Apologies: Carla Cooper (YOT), Lauren Jones (Helen Jeal rep), Marc Hole, Joanne Quinton, Lynne Paraskeva (Magistrate)

### Panel Business

#### ASCEND Progress update provided by Paul Underhill

- The ASCEND team hold needs assessment appointments with offenders following a decision to use an out of court disposal (OOCd). These workers have the ability to decide on the conditions attached to those OOCds that will best address the offending behaviour exhibited by the offender.
- The ASCEND team has been increased from 6 team members to 7, to provide better coverage across the Somerset East areas of the force and have all been made permanent. The team consists of 5 police staff and 2 police officers.
- During COVID all interventions have been maintained, A&S were the only force to achieve this.
- Initial issues with Domestic Abuse, Drugs Education Programme and Victim Awareness. The constabulary worked with all partners and were able to create workable solutions, through virtual meetings and technology solutions.
- New COVID practices are now being reviewed for post COVID to allow time for any changes to be made.
- The ASCEND Team have been independently evaluated by the UWE. This has resulted in a number of recommendations that we have started to work through. But the overall report was very positive about ASCEND and was the cornerstone of the business case to make the team permanent. A training and knowledge VLOG is accessible to all.
- Tactical Group has made significant progress with identified SPOC's (senior point of contact) across DIT, Patrol, Neighbourhood and criminal Justice. We meet monthly and review performance in these areas.
- PU the OOCd lead is now linked in with the Lammy review looking at disproportionality with OOCd's. Nothing has been identified as of yet.
- Funding has been secured to create an OOCd for Hate crime and Assaults on emergency workers.

#### Policy and Performance Update

- Current performance through Qlik police performance system is strong
- There has been a dip in performance around the summer months due to covid i.e. no festivals.
- 16 days of activism has gone well.
- The constabulary continue to improve data recording.
- Looking at areas where we have not looked before.
- Influenced by covid and Black Live Matters and looking at through new lenses.
- There has been a dramatic increase in parent child violence.

### Report and actions from the last meeting:

- The panel had not met to review cases since March 2020, this is due to covid restraints and capacity issues within the OPCC to run the panel. A new team of staff across the OPCC and Constabulary have now been agreed to support the OOC panel, this will allow the panel to run effectively throughout 2021. The panel will meet virtually until further notice and a report will be issued to the Constabulary for comment following each panel meeting.

### **Scrutiny of Case files**

Theme: Domestic Abuse

#### Rationale and file selection

A total of 22 files were made available for scrutiny.

These cases included:

- 14 adult cases
- 8 youth cases

These were broken down by 10 conditional cautions, 4 Community Resolutions, 3 Youth Cautions and 5 Youth Conditional Cautions.

The theme was selected to look at effective and appropriate use of OOC as an alternative to charge to court or NFA (No further action).

#### Panel Findings

22 cases were selected and scrutinised. Of the cases reviewed, 9 were considered appropriate, 10 were considered appropriate with observations and 3 were considered inappropriate. A summary of findings on files scrutinised by the panel is set out in the table below:

<b>Reference</b>	<b>Disposal</b>	<b>Offence Type</b>	<b>Panel Decision</b>
01/22	Conditional Caution	Burglary - Residential	Appropriate
02/22	Conditional Caution	Pursue course of conduct in breach of Sec 1 (1) which amounts to stalking	Appropriate with observations
03/22	Conditional Caution	Assault occasioning actual bodily harm	Appropriate with observations
04/22	Conditional Caution	Stalking involving serious alarm/distress	Inappropriate*
05/22	Conditional Caution	Cruelty to and neglect of children	Inappropriate*
06/22	Conditional Caution	Racially or religiously aggravated harassment or alarm or distress	Appropriate with observations
07/22	Conditional Caution	Possessing or distributing prohibited weapons designed for discharge of noxious substances etc	Appropriate
08/22	Conditional Caution	Disclose private sexual photographs and films with intent to cause distress	Appropriate
09/22	Conditional Caution	Stalking involving fear of violence	Appropriate with observations
10/22	Conditional Caution	Wounding with intent to do grievous bodily harm	Inappropriate*
11/22	Community Resolution	Threats to kill	Appropriate with observations

12/22	Community Resolution	Common assault and battery	Appropriate
13/22	Community Resolution	Arson endangering life	Appropriate with observations
14/22	Community Resolution	Common assault and battery	Appropriate with observations
15/22	Youth Caution	Common assault and battery	Appropriate
16/22	Youth Caution	Affray	Appropriate
17/22	Youth Conditional Caution	Common assault and battery	Appropriate with observations
18/22	Youth Conditional Caution	Common assault and battery	Appropriate
19/22	Youth Caution	Racially or religiously aggravated intentional harassment, alarm or distress	Appropriate
20/22	Youth Conditional Caution	Causing intentional harassment, alarm or distress	Appropriate with observations
21/22	Youth Conditional Caution	Causing intentional harassment, alarm or distress	Appropriate with observations
22/22	Youth Conditional Caution	Other Criminal Damage, Other - valued under £5000	Appropriate

\*Brief circumstances of the cases considered inappropriate, or upon which the Panel failed to reach a consensus are as follows:

#### 04/22

The panel considered use of an OOC in inappropriate in a case of stalking involving serious alarm/distress on the basis of the defendant being a serious repeat offender. The panel observed that covid had influenced the decision on this case. The route through court was avoided due to pressure on the courts, instead of key consideration to the high risk present of a pattern of repeat offending, including physical, mental and controlling behaviour and threats of arson to home and car. The Inspector decisions for authorising an OOC were viewed as very poor and used Covid as an excuse to not do more. In addition to this the OOC chosen was not suitable in supporting the victim from repeat victimisation providing no rehabilitative support to the defendant.

#### 05/22

The panel considered use of an OOC inappropriate in a case of Cruelty to and neglect of children due to the seriousness of the offence and witness evidence that was available to present at court. The panel witnessed serious ongoing child abuse and thus more intervention was required following a record of a red BRAG (vulnerability rating tool) status from attending officers. The offence detailed the defendant punching the child to the head multiple times in an indoor children's play area in front of child and adult witnesses. This caused the panel deep concern and evident this case was handled incorrectly from the beginning of the investigation with the need for experienced officers in the investigations department to take the lead. The rationale for the OOC included no complaint from the victim, the victim being a 12 year old child, the mother of the child had also assaulted the child earlier in the day. The language used by officers to the child victim was not suitable and the mother was not recorded as an offender on the crime. This case shows a clear lack of safeguarding and ongoing protection for the victim.

10/22

The panel considered use of an OOCd inappropriate in a case of Wounding with intent to do grievous bodily harm, due to the seriousness of the offence and no evidence of rationale for use of an OOCd recorded. The panel witnessed the use of a weapon causing an injury in an unprovoked attack. The panel could not locate any justification to why an OOCd was used instead of charging to court and so it lacked clarity on any thought process from officers.

**In addition, the following observations were made:**

Good Practice:

The Panel identified the following areas of good practice:

- Good practice examples were identified including:
- The panel were impressed by the vast improvement of quality of DA cases, including the investigation summary and the increase in DASH completion having an overall noticeable improvement.
- Good referrals from DA triage meeting, to local DA services.
- Consideration given to the victims views of not wanting to pursue court and listening to their preference of OOCd.
- The panel noted a good use of conditions, aimed to protect the victim and rehabilitate the defendant.
- Identification of county lines with a youth defendant, good consideration to the bigger picture of risk to both victim and the defendant. The Community resolution supported the youth with an educational mentor and course, a real change in behaviour was evidenced by the defendant, due to officers listening to the individual's needs of rehabilitative support.

Recommendations and Observations:

The Panel put forward the following recommendations and observations:

- Concerns raised from the use of covid as an excuse not to pursue the right outcome through court. Aware that the Force stance, as well as HMCTS is Business as usual so this should not impact on investigations.
- Rationale for OOCd must be evidenced, if it is not recorded we cannot fully understand why a decision has been made.
- BRAG safeguarding assessments must be considered in addition to the offence otherwise risk is not regarded in decision making for the victim.
- In one case it was not clear that the defendant had fully admitted the offence to allow for OOCd.
- The panel deemed some cases as too serious for the OOCd route.
- One case had been classified wrongly where the racial element had not been proven.
- The panel reviewed a case of stalking which although was appropriate for the OOCd route, the statement was highlighted as lacking clarity, mention of grabbing the victims throat, no further detail and not clear if children were present. The statement did not cover sufficient information to fully understand the sequence of events.
- Considerations for use of knives in Youth cases. In some cases this risk is not appropriately addressed.
- There is still room for improvement with the DASH completion and use of detailed risk information to be considered when deciding on the outcome to pursue.

**Next Meeting: 2<sup>nd</sup> March 2021**

The theme of the next meeting was agreed as Hate Crime.