

Out of Court Disposals Scrutiny Panel Violence Against Women & Girls

March 2022

Out of Court Disposals Scrutiny Panel: March 2022

The OoCD Scrutiny Panel carries out independent scrutiny of the use of Out of Court Disposals to bring transparency to the use of Out of Court Disposals, drive improvement and increase understanding and confidence in their use. The theme of this meeting was cases involving Violence Against Women and Girls. It was also the Annual Meeting of the Panel.

About the Panel – the Panel includes Magistrates and representatives of the Crown Prosecution Service, HMCTS, Youth Offending Teams, and victim services. The role of the Panel is to ensure that the use of Out of Court Disposals (OoCD) is appropriate and proportionate, consistent with national and local policy, and considers the victims' wishes where appropriate. Findings of the Panel, recommendations, and action taken in response are published at the following link:

[Out of Court Disposals Panel Reports | OPCS for Avon and Somerset \(avonandsomerset-pcc.gov.uk\)](https://www.avonandsomerset-pcc.gov.uk/out-of-court-disposals-panel-reports)

OoCD Overview & Performance (Inspector Yannis Georgiou)

Performance: Use of OoCDs has increased, with 1,507 given from 1 November 2021 – 31 January 2022 (compared with 1,458 in the same period last year). This is broken down by department as follows:

Response	994
Neighbourhood	418
Detainee Investigations Team	222
Operations	32

Action in response to recommendations: Meetings have been held to address 'missed opportunities' for restorative justice. Actions include:

- RJ integration within ASCEND Team workload and sharing referral data;
- Pilot to build RJ referral into PCSO-administered Community Resolutions involving young people where the outcome is a letter of apology (approximately 50 per month);

A&S Identifying Disproportionality Report

The report has now been published, and contains 83 recommendations for improvements across the criminal justice service in Avon and Somerset. A total of 13 recommendations have been made specifically in relation to OoCDs. The Panel considered two recommendations specific to the work of the OoCD Scrutiny Panel:

- Rec. 29: it was confirmed that Panel arrangements are in line with national best practice, including annual scrutiny of disproportionality. This will be the theme of the next meeting.
- Rec 30: scoping work will be carried out to investigate feasibility and develop a proposed scrutiny framework for cases that have been charged but may have been eligible for an OoCD.

The report can be found at the following link: [Identifying-Disproportionality-Report.pdf \(avonandsomerset-pcc.gov.uk\)](https://www.avonandsomerset-pcc.gov.uk/identifying-disproportionality-report.pdf)

Recognition as National Best Practice

Crest Advisory has published a national evaluation report looking the use of OoCD and diversion. Whilst the report focuses on Thames Valley, Avon and Somerset is singled out as a 'top performing force', making specific reference to transparency relating to the website and best practice in the use of tailored diversions through the ASCEND team, including interventions for women. This is extremely positive feedback and recognition for the Avon and Somerset approach.

The report can be found at the following link: [The use of out-of-court disposals and diversion at the 'front end' | Crest Advisory](https://www.crestadvisory.com/the-use-of-out-of-court-disposals-and-diversion-at-the-front-end)

Panel Business: Annual Meeting

- **Election of Chair / Deputy Chair:** Mike Evans (Magistrate) and David Godfrey (HMCTS) were duly elected and thanked for their continued service in these roles.
- **Terms of Reference** were reviewed with changes agreed to: widening membership to include Restorative Justice and Probation service representatives; provision for virtual meetings; consideration of limit on terms of office.
- **Themes for 2022** were agreed:

June	Disproportionality (focus on youth cases), Hate Crime Conditional Caution – to feed into evaluation of intervention pilot
September	Assault against emergency workers – impact of new intervention
December	Domestic Abuse Conditional Caution

Case Scrutiny

Theme

Cases involving Violence Against Women and Girls was selected as the theme, in response to concerns about safety of women and girls and the police response to the VAWG agenda following the murders of Sarah Everard and Sabina Nessa in 2021. Police forces are developing local action plans to: a) improve trust and confidence in policing; b) relentlessly pursue perpetrators; c) create safe spaces. The Home Office has launched 'Enough', www.enough.campaign.gov.uk to highlight action that can be taken to safely challenge perpetrators and the harmful attitudes and cultures that exist in wider society. The Panel selected cases to look at these issues through the use of OoCD.

Summary of cases scrutinised

A total of 30 cases were scrutinised by the Panel:

- 26 cases on the selected theme of Violence Against Women and Girls;
- 4 cases involving serious violence and serious sexual offences resolved by Community Resolution - all such cases are scrutinised by the Panel in order to provide assurance and for the purposes of transparency and public confidence.

Panel Decision

Disposal	Offence	Panel Decision
Community Resolution	Sexual assault on a female	Inappropriate
Community Resolution	Wounding with intent (GBH)	Observations
Community Resolution	Sexual assault on a female	Inappropriate
Community Resolution	Sexual assault on a female	Observations
Community Resolution	Violence Against the Person	Inappropriate
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Appropriate
Diversionary, educational intervention	Violence Against the Person	Appropriate
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Appropriate
Community Resolution	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Observations
Diversionary, educational intervention	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Observations
Conditional Caution - Adults	Violence Against the Person	Inappropriate
Conditional Caution - Adults	Violence Against the Person	Inappropriate
Conditional Caution - Adults	Violence Against the Person	Appropriate
Conditional Caution - Adults	Violence Against the Person	Appropriate
Conditional Caution - Adults	Violence Against the Person	Appropriate
Conditional Caution – Youths	Violence Against the Person	Observations
Conditional Caution – Youths	Violence Against the Person	Observations
Conditional Caution – Youths	Violence Against the Person	Observations
Conditional Caution – Youths	Violence Against the Person	Appropriate
Conditional Caution – Youths	Violence Against the Person	Observations
Conditional Caution – Youths	Violence Against the Person	Appropriate
Conditional Caution – Youths	Violence Against the Person	Observations
Conditional Caution – Youths	Violence Against the Person	Observations
SUMMARY - 8 Appropriate (8); Appropriate with Observations (17); Inappropriate (5)		

Summary of cases considered inappropriate by the Panel & Constabulary response

- 1. Sexual assault on a lone woman at night:** no clear admission, therefore not suitable for OoCD. Should have gone to court on public interest grounds, given aggravating factors. No letter of apology on file. Ongoing impact for victim, accessing counselling services. Missed opportunity for intervention for perpetrator around alcohol use.
Constabulary response: *Victim was supportive of the outcome and wanted the incident 'logged'. Whilst the points to prove were not fully admitted to be eligible for a Conditional Caution, the offender accepted what happened so was eligible for a Community Resolution. The outcome could have been strengthened with a condition to attend the 'Consider' course to address behaviour alongside the letter of apology.*
- 2. Sexual assault on nurse in A&E:** Community Resolution too lenient, does not reflect severity of the incident while serving the public. Victim willing to support a prosecution, strong evidence and public interest – should have gone to court. Community Resolution poor with weak and ineffective conditions, including indirect verbal apology. Missed opportunity for referral to alcohol awareness course.
Constabulary response: *acknowledge the file is confusing: it mentions the victim being supportive but also not supportive of a Community Resolution; the offender accepts responsibility on the CR form, but goes on to make a 'no comment' interview. An intervention would have made more of an impact, which can be done via a CR. Accepted that a Conditional Caution may have been more appropriate in this case, however the decision to use a CR was based on the fact that the offence was not fully admitted.*
- 3. Visiting ex-partners' home to gather evidence:** Community Resolution considered too harsh, words of advice

would have been sufficient. Offender was acting on advice of solicitor and stopped at the request of the victim. DASH assessment completed, low risk, no previous.

Constabulary response: *feedback has been taken on board. The outcome of a CR was used both to provide a positive outcome for victim and taking into context the opportunity for preventative action in cases that could otherwise have been dealt with by words of advice.*

- 4. Dog bite to child:** Significant injury caused to leg, exacerbated by the dog owner supergluing the wound, causing infection. Conditional Caution considered too lenient – dog should have been seized immediately and owner charged with assault. Previous issues with this dog being found roaming. Letter of apology inappropriate, particularly given the age of the victim.
Constabulary response: *the Conditional Caution relates specifically to the dog offence which met the criteria based on the offence and admission. The female suspect could have been dealt with for assault in relation to the superglue if the appropriate in the circumstances and based on the wishes of the child's parents.*
- 5. Assault in nightclub:** Female victim assaulted with a bottle in an unprovoked, sustained attack, requiring hospital treatment. Conditional Caution considered too lenient, should have been charged. Evidence in place (CCTV, witnesses), aggravating factors. File states that victim feels that the offender is 'getting away with it'. Missed opportunity for both compensation and Restorative Justice.
Constabulary response: *the suspect is eligible for a Conditional Caution, however in cases of more serious assaults such as this, victims' views should be considered. It was clear from the file that the victim was not happy and felt that the suspect was getting away with it. It is ultimately a police decision and a rationale should be clearly recorded on file.*

Summary of observations and good practice identified by the Panel

Observations:

- Case selection – methodology for case selection needs to be refined for future scrutiny of violence against women and girls in order to enable more robust scrutiny of the issue. Cases reviewed at this meeting were selected on the basis that the victim happened to be female.
- Missed opportunities for referral to interventions to address drivers to behaviour in some cases – e.g. alcohol awareness;
- Questioning whether referral to interventions such as Choices and Consequences are appropriate for people with learning difficulties, and whether bespoke/alternatives are available;
- Missed opportunities for the use of compensation conditions to make the disposal more robust. This includes cases involving offenders where there is capacity in order to demonstrate consequences;
- Concern that delays in decision making, due in part to current backlogs in the CPS, causing the victim to disengage, meant that Conditional Caution was the only appropriate option in a case involving harassment;
- Lack of agreed actions in a Community Resolution made it difficult to assess whether the outcome was effective. The Panel also questioned whether the victim supported the outcome as the victim requested no further action;
- Concern that a Youth Conditional Caution risked criminalising a young person in a first offence and questioned why a Community Resolution or Outcome 22 was not considered in one case, particularly given the specialist school setting;
- Queried consistency of practice across the Force in whether Youth Offending Team assessments are routinely sent to the police. This happens in one area, but not all;
- Examples of files which were unclear and confusing to follow;
- The Panel want to see a more robust approach to officer assault – police officers should not 'expect' or be prepared to be assaulted while doing their job. This topic will be explored at the September meeting;
- Continued examples of issues which have been previously identified by the Panel as areas for improvement:
 - The need to ensure that conditions are clear, appropriate, workable, respond to identified concerns and are enforceable;
 - Quality and suitability of letters of apology;
 - For youth cases to be referred to the Youth Offending Team Panel for assessment to allow targeted work to address behaviour;
 - For Restorative Justice to be offered as an opportunity for the victim to explain to the offender the impact of their actions;
 - To ensure accurate recording of ethnicity;
 - To ensure accuracy of terminology in PNC records (Youth Conditional Caution v Youth Caution);
 - To consider potential for a lower level outcome (Community Resolution) with voluntary conditions particularly to avoid criminalising young people;

Good Practice

- Appropriate use of Domestic Violence Protection Notice as a powerful tool to deal with domestic abuse and offer protection without requiring the victim to support a prosecution;
- Referral to appropriate interventions such as alcohol awareness and 'keep it calm' course;
- Examples of appropriate referrals to victim services, safeguarding and completion of DASH assessments where required;
- Recognised pragmatic and sensitive approach in dealing with both victim and offender in one complex case. Feedback will be given to the individual officer involved;
- Highlighted excellent summary and rationale in a number of files, one involving challenging circumstances with the police navigating a situation which did not meet the threshold for social services;
- Highlighted thorough Youth Offending Team assessment having reviewed additional documents provided by the YOT in relation to one case;

What happens next?

Action is taken to respond to Panel findings and reported to the next meeting. Feedback on inappropriate cases is provided to individual officers and their supervisors to reflect and inform future decision making.

Theme of the next meeting:

- Disproportionality (youth cases)
- Hate Crime Conditional Caution cases