AVON & SOMERSET POLICE & CRIME COMMISSIONER

Out of Court Disposals Scrutiny Panel

Conditional Cautions with Financial Compensation: Criminal Damage cases

December 2024

Out of Court Disposals Scrutiny Panel: December 2024

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 meeting focused on:

- **Conditional Cautions and use of financial compensation – criminal damage cases**

About the Panel

The Panel includes Magistrates and representatives of the Crown Prosecution Service, HMCTS, Youth Justice 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.

The Panel is supported by the Office of the Police & Crime Commissioner (OPCC), Force Out of Court Disposals Tactical Lead and the ASCEND Team Manager.

Findings of the Panel, recommendations, and action taken in response are published at the following link:

Out of Court Disposals Panel Reports | OPCC for Avon and Somerset (avonandsomerset-pcc.gov.uk)

OoCD Overview & Performance

(Caroline Woodward-King, Force OoCR Tactical Lead)

- The My Out of Court Resolutions App was made mandatory from 1 December 2024. This will support officers in decision making and referrals in adult OoCR cases. The Scrutiny Panel will have an important role in assessing the impact of the App in the coming year.

- A Child version of the My OoCR App is currently in development. Form 143 (for referral to Youth Panel) will be incorporated into the App to ensure that cases are referred as appropriate. The App is expected to go live in March 2025. This will be an important tool in strengthening consistency in dealing with youth cases.

- National changes to the Out of Court Resolutions Framework are still expected in the coming year. There is no further update on timescales for implementation.

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Performance Overview: (Mark Holford, ASCEND Manager)

Quarterly performance information was shared with the Panel:

- **Ethnicity**: Non-recorded ethnicity remains a concern, accounting for 25.3% in adult cases and 37.8% in youth cases. Cases involving interview thorugh Voluntary Attendance (which are led by officers themselves, rather than in a custody setting where the Custody Sergeant has responsibility for recording) has been identified as a key gap. Guidance will be provided to ensure that the ethnicity question is covered at interview, and to ensure familiarity in appropriate recording in police systems. Panel Members discussed barriers to recording of ethnicity that are seen across the board in other statutory and support services. There is a need for training and building the confidence to ask the questions required.

- **Conditions:** Conditions continue to be set across a broad range of interventions as well as Restorative Justice, restrictive conditions and financial compensation, the focus of today's meeting. The **breach rate** (looking at the similar period for the previous year, 2023), is 14% which while slightly higher than last quarter, continues to indicate that participation in and completion of conditions remains very strong.

- **Youth Cases:** There has been a significant reduction in Youth Conditional Caution levels over the past years. This is due to the increased use of Deferred Cautions (previously Outcome 22). Panel Members noted that it was positive to see the use of this alternative outcome.

- **Chance to Change Deferred Prosecution Model:** the A&S Deferred Prosecution Model for 18-24 year olds continues to be well received since its implementation in June 2024. Successful completion means that the outcome will not appear on your police record in the future. Some offences are not eligible, these include Domestic Abuse, sexual offences and serious assaults. The Police Foundation is leading evaluation and there will be an opportunity for Panel Members to scrutinise impact in 2025.

Theme: Conditional Cautions with Financial Compensation – Criminal Damage Cases

Rationale

The theme for this meeting was Conditional Cautions and the use of financial compensation with a focus on criminal damage cases. The introduction of financial compensation as condition is welcome because it enables the victim to receive compensation in a more timely manner than had the case gone to court. Compensation through a Conditional Caution must be paid within 16 weeks in order to comply with the condition. Compensation awarded through a court order can take much longer. Panel members scrutinised how effectively the financial compensation approach was working to inform further improvements to the Force Policy.

Definitions & Requirements

Conditional Caution:
A formal sanction with at least one meaningful condition attached. Failure to comply results in court appearance for the original offence.

Eligibility:

- Summary or Either way offences only
- Sufficient evidence to prosecute
- Full admission from offender
- No previous cautions or convictions in last 2 years*
- Authority from relevant Supervisor*

* Domestic abuse, Assault Emergency Worker and Hate Crime Offences require NO previous offences for those matters ever AND an Inspectors Authority.

Financial Conditions – Guidance on Levels:

Fig. 1: Compensation for personal injuries:-

Injury	Description	Award
Graze	Depending on size	Up to £75
Bruise	Depending on size	Up to £100
Minor cut (no permanent scar)	Depending on size and whether stitched	£100-£200
Sprain	Depending on loss of mobility	£100-£200

Fig. 2: Financial penalty conditions banding

Penalty Band: A

- Standard Penalty: £50
- Mitigated Penalty Offence: £20 - £40
- Scales: Summary only offences

Penalty Band: B

- Standard Penalty: £100
- Mitigated Penalty Offence: £30 - £50
- Scales: Offences triable either way

What are financial conditions?

Financial conditions include:

Compensation for:

- Personal injury (see table at Fig. 1)
- Time off work
- Covering medical or other expenses
- Pain and suffering

Reparation: directly reimbursing the victim to cover a financial loss, e.g. through theft or damage. In general, the value of the condition should equate to the cost of the damage caused to the victim or victims, however professional judgement will be taken into account to assess affordability.

Fines: can be set to penalise the offender for the offence committed. Financial penalty levels are set according to guidance issued by the Director for Public Prosecutions (see Fig. 2). Fines are paid directly to the public purse; not to an individual and not to Avon and Somerset Police.

How does it work?

- **Estimates / invoices** are sought where relevant. Levels can be set outside guidelines where precise costs are known (e.g. for dental work).

- **Affordability** is assessed to ensure payment can be made within 16 weeks. Alternative outcomes are considered where financial compensation is not suitable. Alternatives may include paying excess fees so that the victim can utilise insurance. The priority is to recompense the victim where possible.

- **Payments** are made through ASP payroll so that banking details are never shared between victim and offender and for assurance / oversight purposes.

Case Scrutiny

Summary of cases scrutinised

16 cases were scrutinised by the Panel made up of:

- 12 Conditional Cautions with Financial Compensation – Criminal Damage cases:
- 4 Community Resolution for serious violence or sexual offences cases. The Panel scrutinises all cases recorded in the last quarter in this category at every meeting.

Criteria

The Panel discuss whether the method of disposal is considered appropriate, based on a review of the information/evidence available to the decision maker at the time, and agree a categorisation against four options:

GREEN: Appropriate and consistent with national and local policies including: the OoCD Code of Practice, NPCC Guidance, CPS Code, Force Policy, and the Gravity Matrix
YELLOW: Appropriate, but with observations from the panel
RED: Inappropriate and/or inconsistent with policy
The Panel Members fail to agree on the appropriateness of the decision made

The Panel *cannot* change the outcome of the case, but can make observations and give feedback on the case reviewed. Feedback is provided to individual officers and supervisors on cases considered inappropriate. Observations are used to identify training needs, inform development of policies and interventions and promote good practice.

Panel Decision

Disposal	Offence	Panel Decision
Community Resolution	Sexual assault on a female	Appropriate with observations
Community Resolution	Sexual assault on a female	Appropriate with observations
Community Resolution	Exposure	Appropriate
Community Resolution	Sharing Intimate Image	Appropriate with observations
Conditional Cautions with Financial Compensation – Criminal Damage cases		
Conditional Caution	Criminal Damage - under £5000	Appropriate with observations
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate with observations
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Appropriate
Conditional Caution	Criminal Damage - under £5000	Inappropriate*
SUMMARY: Appropriate (10); Appropriate with Observations (5); Inappropriate (1) * A summary of cases considered inappropriate can be found below.		

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Summary of cases considered inappropriate by the Panel

Case 1: The Panel considered use of a Conditional Caution inappropriate in one case involving damage to a neighbour's door due to their offending history, including a conviction within the last 2 years. This meant that they were **not eligible for a Conditional Caution**. The Panel noted that the PNC record on file was incomplete, therefore the officer's decision may have been appropriate on the basis of the information available to them at the time. Good practice was noted in the same case, with the OEL setting out clear consideration of the gravity matrix to guide decision making.
Response: *feedback has been provided to the individual officer and their supervisor to inform future decision making.*

Organisational Learning

- Continued concern at high levels of not stated / not recorded ethnicity – the Panel suggested building a mandatory question into the My OoCR Decision Making App to help address this issue.
- Clarifying that Community Resolution outcome requires acceptance of responsibility, whereas Conditional Caution requires admitting the offence.
- Missed opportunities for restorative justice and concern at quality of letter of apology where RJ was considered.
- Some concerns around timeliness, particularly in youth cases.
- Questioning police delivery of an intervention for a young person, when a Youth Justice Service-delivered intervention would be more effective given their specialism.
- Missed opportunities for referral to alcohol awareness course (to address the cause of the offence), alongside financial compensation. It was clarified that the Alcohol Awareness Course is offered on an offender-pays basis. Financial compensation can be prioritised based on affordability and outcomes for the victim.
- Previous convictions not fully shown on PNC print, questioning eligibility for an out of court resolution.

The Panel identified the following **good practice**:

- Timeliness in payment of financial compensation when used in Conditional Cautions (within 16 weeks) as compared to court ordered compensation.
- Referral to and availability of Project SHE (specialist intervention for female offenders).
- Examples of clear consideration of gravity matrix to guide decision making set out in Officer Enquiry Log.
- Police officers identifying mental health crisis as underlying cause of incident and taking harmer to Place of Safety.

What happens next?

Feedback is provided to individual officers and their supervisors to inform future decision making. Organisational learning is considered by the OoCR Tactical Group and actioned as appropriate, with updates reported back to the Panel.

Theme of the next meeting:

Community Resolutions – Criminal Damage (Adult and youth cases)

Review of Panel Terms of Reference / agreeing work programme for 2025