

Out of Court Disposals Scrutiny Panel

Training & Development Session

Community Resolution Assault Cases

March 2024

Out of Court Disposals Scrutiny Panel: March 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:

- **Panel Training and Development session**
- **Community Resolution – Assault 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 \(avonandsomerset-pcc.gov.uk\)](https://www.opcc.gov.uk/out-of-court-disposals-panel-reports)

Panel Business

Membership:

New Magistrate representatives, Rachel Murray and Rachel Pearce were welcomed to the meeting.

Election of Chair:

Lynne Paraskeva (Magistrate) was elected as Chair.

Terms of Reference / Work Programme:

The Panel considered the annual review of the Panel Terms of Reference and approved the following updates:

- Throughout: Updated language to reflect forthcoming changes to OoCD Framework - Out of Court *Resolutions* (OoCR)
- Section 2: Outlining work programme focus and requirements for 2024; Including requirement for police vetting clearance in access to information section
- Section 3: Updated language to replace reference to Youth Offending Teams with Youth Justice Service; Outlining Youth Justice scrutiny approach for 2024
- Section 6: Reference to including charged cases as comparator where appropriate (recommendation of A&S Tackling Disproportionality in the Criminal Justice System report)
- Section 7: Including reference to piloting use of electronic forms to capture feedback and enable analysis.

The 2024 work programme was agreed as follows:

Meeting	Theme
March	<ul style="list-style-type: none">• Training & Development Session• Community Resolutions – Assault Cases

June	<p>Youth Focused meeting – Disproportionality – follow up to look at progress in improving consistency in youth cases. Focus on knife possession cases in last 6 months – testing use of Outcome 22 and application of ‘exceptional circumstances’ Include charged cases as comparator.</p>
September	<p>Conditional Cautions</p> <ul style="list-style-type: none"> • Hate Crime / Domestic Abuse – to meet dispensation requirements, look at impact of national changes, and following recommissioning of DA intervention provider • Quality of conditions – follow up on Panel observations looking at a variety of offences.
December	<p>Arson / Criminal Damage To review Community Resolution / Conditional Caution cases and support development of financial compensation approach.</p>
March 25	<p>Impact of Deferred Prosecution model To review implementation of the Chance to Change programme (to be offered to all 18-24 y/o, irrespective of whether they have admitted the offence). Focus on cases of non-admittance cases.</p>

The Panel will continue to support the Constabulary in preparing for implementation of the new Two Tier Plus Framework, expected in late 2024.

Training & Development Session

The Panel participated in a training and development session covering:

- **Overview of A&S Out of Court Disposal Scrutiny Panel** (Jo Coulon, OPCC Scrutiny & Performance Manager)
- **Overview of Restorative Justice** (Lesley Cogan, A&S Constabulary)
- **Overview of Youth Justice Services** – Laura Dixey (North Somerset)
- **Overview of Out of Court Disposals – National Framework, Local Approach, Current Developments** (Rebecca Marshall, Force OoCD Tactical Lead)

The Panel also considered the question set to support introduction of a new online form to capture feedback from the Panel and track organisational learning over time through the Constabulary Qlik App (performance management system).

Theme: Community Resolution – Assault cases

Rationale

Community Resolutions was selected as the theme of the meeting to follow up on scrutiny of Community Resolution cases in March 2023 which looked at:

- **New national guidance** was published in October 2022¹ – scrutiny of cases using Community Resolution is needed to support implementation of the new guidance and inform additional guidance and training requirements locally.
- Community resolutions are **in need of a greater level of scrutiny** generally given that they involve **greater discretion** for officers and less oversight (whereas Conditional Cautions are reviewed by the ASCEND team as a matter of course).

Assault cases were selected because this offence makes up the greatest proportion of out of court disposals.

Definitions & Requirements

Community Resolutions enable police to make decisions about how to deal proportionately with lower-level crime and is aimed at first time offenders.

‘Less serious’ is not nationally defined, but should be determined on a case by case basis taking into account factors such as the circumstances of the offence, impact on the victim, risk to the public, likely penalty on conviction, and relevant offending history.

Previous offences in the last **12 months** may make a Community Resolution inappropriate. Supervisor authority is required.

Community Resolution **should not** be issued for:

- Indictable only offences
- Intimate partner Domestic Abuse
- Other offences as determined by Force policy.

WHAT IS A COMMUNITY RESOLUTION?

A Community Resolution is the lowest disposal available to policing. It is used for **less serious offences** where:

- A case is capable of proof.
- An offender has been identified.
- There is an acceptance of responsibility or an admission of guilt.

When undertaking a Community Resolution, the officer must make the victim aware of the **PCC Community Remedy list** and set interventions that are rehabilitative or reparative. Any interventions agreed are **voluntary** and not legally enforceable.

The Community Remedy list can be found here:

[Out of court disposals | Avon and Somerset Police](#)

¹ [Microsoft Word - New Community Resolution Guidance Document V4 \(npcc.police.uk\)](#)

Case Scrutiny

Summary of cases scrutinised

A total of 6 cases were reviewed.

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	Initial Offence	Panel Decision
Community Resolution	Assault occasioning actual bodily harm	Inappropriate*
Community Resolution	Assault occasioning actual bodily harm	Inappropriate*
Community Resolution	Common assault and battery	Appropriate with observations
Community Resolution	Common assault of an Emergency Worker	Appropriate with observations
Community Resolution	Owner or person in charge allowing dog to be dangerously out of control in any place injuring any person	Inappropriate*
Community Resolution	Common assault and battery	Inappropriate*
SUMMARY: Appropriate (0); Appropriate with Observations (2); Inappropriate (4)		
* A summary of cases considered inappropriate can be found below.		

Summary of cases considered inappropriate by the Panel

Case 1: An incident in which a cleaner had been assaulted at their place of work was considered **too serious for a Community Resolution**. The victim had been punched in the face, needing hospital treatment, and was signed off work. **Victim focus:** The Panel expressed concern that at the **letter of apology** which was not victim-focused and questioned whether victim safety had been considered moving forward. The Panel acknowledged the email exchange between the officer and

the victim but noted that the victim required interpretation support and questioned whether diversity needs had been considered. **Investigative standards:** CCTV indicated that the attack had been unprovoked. The suspect had been interviewed; however this was not on file. The suspect had provided a defence, therefore was not eligible for a Conditional Caution as this requires **admission** of guilt. The Panel felt the case should have gone to court, particularly given availability of CCTV evidence.

Case 2: The Panel considered a 'road rage' incident in which a woman was punched in the face in front of her children **too serious for a Community Resolution**. The level of injury, aggravating factors and public protection considerations (at the roadside causing a danger to others) would have reached a Community Order had the case gone to court. The victim was vulnerable and known to MARAC. The **letter of apology** was of better quality, however the Panel questioned whether the letter was victim-led or a 'tick box' exercise. The Panel discussed how the road traffic offences in the same incident would have been dealt with under the separate system and felt that these aspects would have supported evidence for a charge had the case been considered in the round. The Panel identified issues with timeliness, victim contact, allocation, and handover with the officer in the case returning to university. **Good practice** was also identified: an appropriate referral to the Lighthouse Safeguarding Unit had been made and the officer spoke to the victim about support for her children and had contacted the school.

Case 3: The Panel considered a case involving a dog bite requiring hospital treatment inappropriate for a Community Resolution as **conditions were not enforceable**. It was noted that conditions that had been set were not specific enough, highlighting issues with the quality of conditions. Sentencing guidelines indicated that this would have been an either way offence with up to 5 years in custody had the case gone to court. The Panel discussed potential outcomes for the dog and the owner, including disqualification from keeping animals and imposing a conditional destruction order. The Panel could not find a rationale for the decision on file and noted there had not been a supervisor review. **Timeliness** was identified as an issue, with the victim having to chase for updates.

Case 4: The Panel considered a Community Resolution inappropriate in a case in which a parent pushed another child off their bike in retaliation for a racist comment directed at their child at school. The suspect **did not admit responsibility**, making them ineligible for an out of court disposal. The Panel expressed concern that the incident involved assault on a child by an adult and noted the suspect had an offending history and was in touch with the probation service. Given witness statements had been taken, the Panel questioned the statement on file that the case would not meet the **evidential threshold to charge**. The Panel identified a missed opportunity for a restorative justice process, and instead the school was managing the outcome. It Panel again highlighted the **issue of 'conditions' attached to Community Resolutions not being enforceable**. The condition applied here to stay away was not workable given that the children are in school together. The Panel expressed concern that the outcome did not provide a resolution and instead had the potential to increase the risk of further tension.

Organisational Learning

The Panel identified the following issues to inform organisational learning and improvement:

- A need for officer **training and guidance** on how to use Community Resolutions and for greater **oversight / monitoring arrangements** to ensure appropriate use. While it was acknowledged that national guidance leaves high levels of discretion to local Forces and individual officers, the Panel noted a number of issues with all the cases scrutinised, despite the small sample size.
- **Investigative Standards and File Quality:**

- **Gravity Matrix incomplete** in a number of cases.
 - Assumptions made about **evidential threshold** where a Community Resolution was issued instead of building a case, despite availability of witness statements / CCTV footage. This risks the perception that Community Resolutions may be being used as a 'quick and easy' option.
 - **Timeliness** and issues with reallocation / handover were identified in two cases.
 - A lack of **supervisor review** was identified in some cases.
- **Eligibility** – queried whether officers had checked PNC to establish **offending history**. In one case, the offender had a significant offending history, including serious offences, but no convictions within the last year and so could still be considered for a Community Resolution.
 - **Conditions** – Conditions attached to Community Resolutions are voluntary, not mandatory, and therefore are not enforceable. Whilst voluntary conditions can provide a meaningful outcome where the offender chooses to engage, the Panel identified a number of cases in which voluntary conditions would not be suitable. The quality of conditions was also identified as an issue, to ensure that any conditions imposed are specific, measurable, achievable, realistic, and time-bound.
 - **Letters of Apology** – were frequently issued as a 'condition' of the resolution. A good quality, victim focused letter of apology can provide a positive resolution, and the Panel found examples of appropriate letters. However, the Panel also identified a number of examples of poor quality letters which lacked victim-focus, as well as letters referenced but missing on file.
 - Examples of **incorrect offences** were identified:
 - Common Assault of an Emergency Worker - should have been s4 Public Order
 - Common Assault/Battery in which no physical assault had taken place - considered borderline for the offence given.
 - A Community Resolution had been issued for Anti Social Behaviour which is not a criminal offence so not suitable for an out of court disposal.
 - **Assault against Emergency Worker cases**: the Panel identified issues in victim contact in a case involving assault against emergency worker. The Panel reiterated their previous recommendation to address the current disparity in treatment between victims of crime and emergency service workers who are treated as employees.

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

- **Clear rationale** given for decision to proceed with Community Resolution rather than Conditional Caution.
- **Appropriate referral** to safeguarding and victim support services.

Constabulary Response:

General oversight of Community Resolution given high levels of discretion and lack of gatekeeping arrangements: Development of the Decision Making App to guide officers on the ground in making appropriate decisions on out of court disposals. Consideration will be given to carrying out additional dip sampling by ASCEND team and the potential for review on basis of harm (e.g. all CR SSO/SV cases to be reviewed by ASCEND).

Investigative standards: issues identified by the Panel will be fed back to the Force through Investigative Standards pillar for action as appropriate.

Letters of apology: work is ongoing to improve RJ referral pathways / increase awareness and skills of officers. Letter of Apology training has been rolled out to Supervisors to improve quality and make letters more restorative.

Assault against Emergency Worker cases: the issue around parity of treatment with victims of crime will be feedback to the Officer Safety Group.

Dog bite cases: This accounts for the most prevalent form of Outcome 22 diversionary activity. There were over 40 cases in the last year. The Force is looking to bring in specific intervention on how to look after your dog delivered by the Blue Cross.

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:

- **Youth Focused Meeting – Disproportionality:** follow up to look at progress to improve consistency in youth cases focusing on knife possession and peer-on-peer assault cases. Will include charged cases as comparator.