

# **Out of Court Disposals Scrutiny Panel**

## **Disproportionality – Youth Cases**

### **Knife Possession / Peer-on-Peer Assault**

June 2024

# Out of Court Disposals Scrutiny Panel: June 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:

- **Disproportionality - Youth Cases:**
  - **Knife Possession**
  - **Peer on Peer Assault**

## 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

(Rebecca Marshall, Force OoCD Tactical Lead)

- The **Child Out of Court Disposal Tactical Group** has worked over the last 18 months to improve consistency in youth cases and to share best practice. Improvements include:
  - Quality of Form 143 (police referral to youth panels).
  - Child Gravity Matrix roll out to support robust and consistent decision making.
  - Training for police officers on how to deal with youth cases.
  - Attendance of all Local Authority Youth Justice Service Partnership Board meetings by Force Tactical lead to bring consistency across the Force.
  - Development of single joint protocol for youth panels and police interaction across Avon and Somerset (aiming for launch in Summer 2024).

Work continues to support implementation of the Child Gravity matrix. This is due to be updated and reissued in the coming months and will be refreshed at frequent intervals in future. National Procedural Guidance on Out of Court Resolutions has been issued by the Youth Justice Board.

- The **Chance to Change Deferred Prosecution Scheme** (for 18-25 year olds) went live on 1 June. This represents a significant investment in Out of Court Resolutions and a welcome change in supporting work to tackle disproportionality.

- **My OoCR App** – to support decision making by officers in navigating the appropriate resolution, intervention and referral – has now been launched. The app allows officers to work through and accept the recommendation or to override

the recommendation by stating a rationale. The app currently supports adult cases only. A Child Out of Court Resolution decision making tool is in development.

## Performance Overview: (Caroline Elwood, ASCEND Manager)

Quarterly performance information for March – May 2024 was shared with the Panel:

Outcome	Adult Cases	Youth Cases
Conditional Cautions	295	33
Community Resolutions	310	153
Youth Simple Caution	N/A	20
Outcome 22	337 (120 = Drug Education Programme)	222

- **Ethnicity:** Non-recorded ethnicity remains a concern, accounting for 22.4% in adult cases and 35.8% of youth cases. This issue is being addressed through the Identifying Disproportionality in the Criminal Justice System work programme.
- The rise in non-recorded ethnicity in youth cases is of particular concern and will be fed back to the Child Out of Court Resolution Tactical Group as an area in need of focus. Checks will also be undertaken to check the accuracy of this data and whether ethnicity is recorded elsewhere on Niche (police records) in youth cases.

Fig. 1: Adult OoCDs – Ethnicity

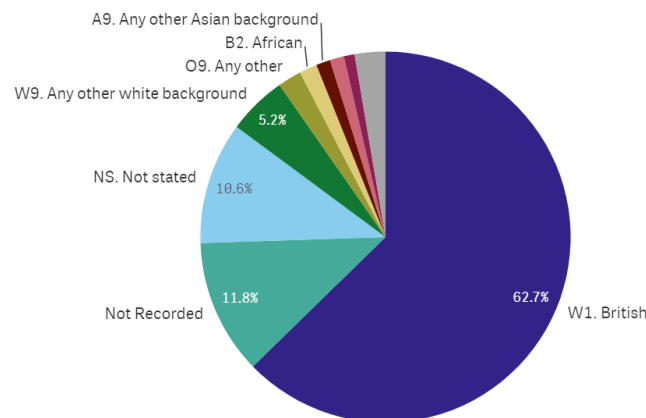
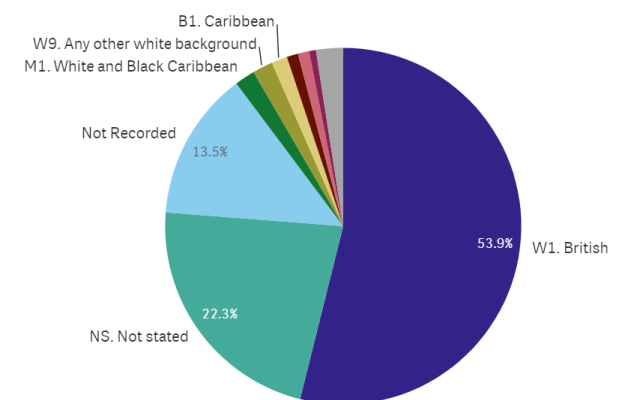
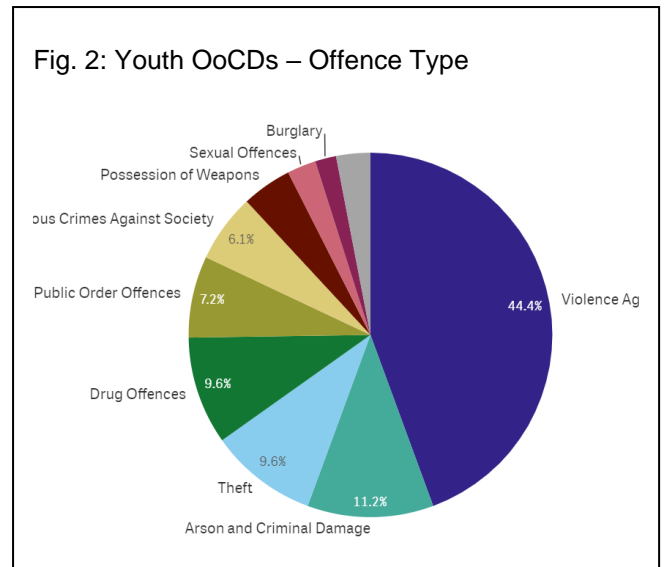
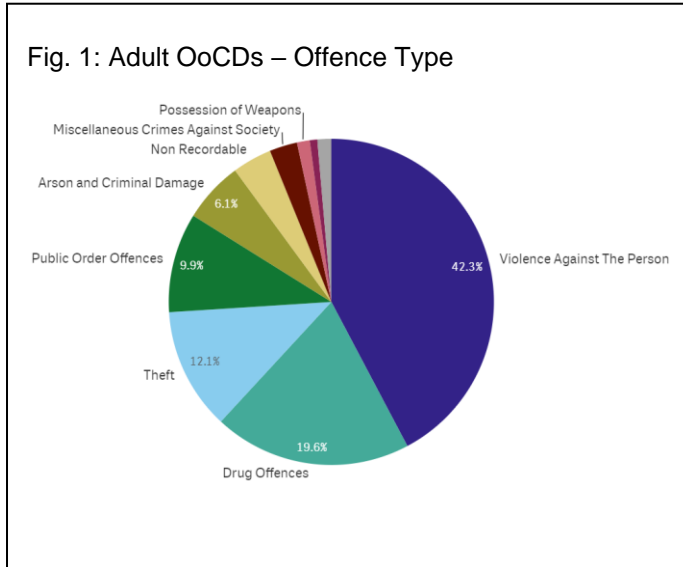


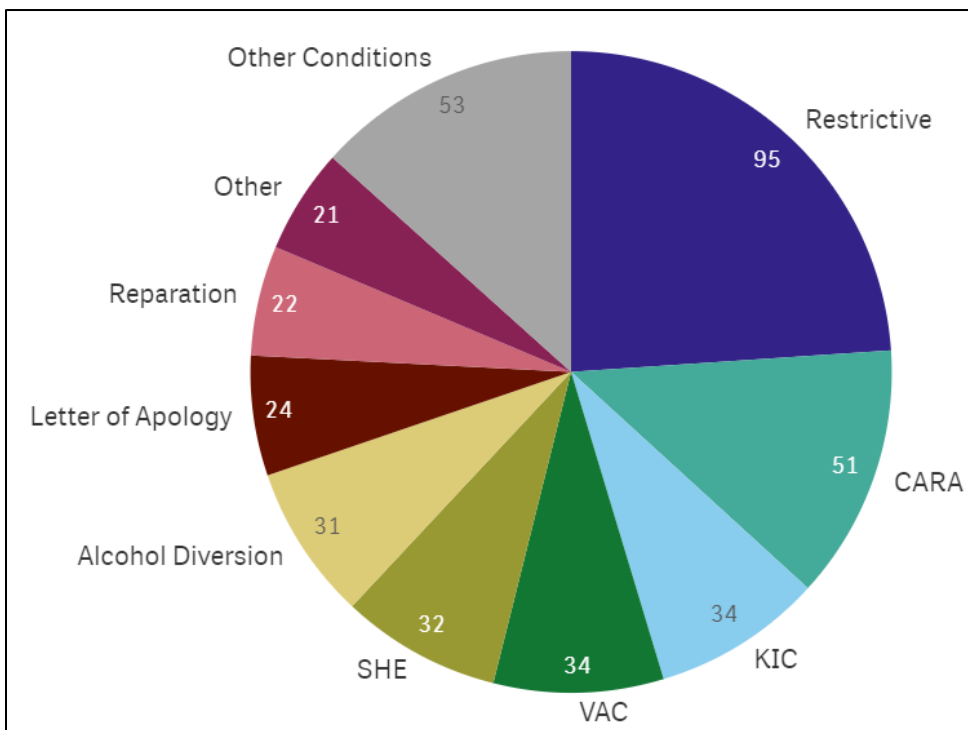
Fig. 2: Youth OoCDs – Ethnicity



**Offence type:** Violence against the person continues to account for the majority of OoCDs (42.3% of adult cases and 44.4% of youth cases).



- **Conditions:** 397 conditions were set over 223 occurrences.
- 'Other Conditions' includes:
  - Assault on Emergency Worker, Perspective (Hate Crime), Consider, Always Choose to Tell, Drug Diversion, Restorative Justice, Compensation, Reparation Costs and Fines.



- **Breach Rates (adult cases):** Breach rates for Conditional Cautions were shared as requested by the Panel:
  - Conditional Cautions issued in the period March-May 2023: **412**
  - Completed: **87.6%** (361)
  - Breached: **10.2%** (42)
  - Pending: **2.2%** (9)

The high completion rate demonstrates the positive impact of the centralised ASCEND team, and their work in supporting compliance. Cases that are breached are charged to court.

Data is taken from the same period in the previous year to give an indication of breach rates. It is not possible to assess current cases due to the 16-20 week completion period. The 2.2% pending cases are cases waiting to be filed.

## Theme: Disproportionality – Youth Cases

### Rationale

The theme of this meeting is Disproportionality with a focus on Youth Cases. The Panel scrutinises disproportionality on an annual basis. Youth cases were selected as the focus to follow up on progress in improving consistency in policy and practice in dealing with youth cases through the work of the Child Out of Court Resolutions Tactical Group / Peer Review Group and implementation of the **Child Gravity Matrix**<sup>1</sup>. The need to improve consistency was core recommendation from previous scrutiny by this Panel to reduce the risk of disproportionality.

Cases were selected as follows:

- **Knife Possession:** testing use of Outcome 22 and the application of 'exceptional circumstances' – includes Outcome 22, Youth Caution/Conditional Caution and Charged cases as a comparator.
- **Peer on Peer Assault:** this was the theme of the OoCR Youth Peer Review Group. The majority of cases involve assault with injury. Includes Community Resolution, Youth Caution/Conditional Caution and Charged cases as a comparator.
- **Serious Sexual Offences cases resolved by Community Resolution** within the last quarter have also been included, as per the Panel Terms of Reference. There are four cases involving the same offender.

Cases were selected to ensure an even spread across geographic areas and included charged cases alongside out of court resolutions to enable comparison. This follows a successful pilot by this Panel last year in response to a recommendation of the **Identifying Disproportionality report**<sup>2</sup>.

The Youth Panel decision log was included in case files where available.

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<sup>1</sup> [child-gravity-matrix-v2.2---september-2023.pdf \(npcc.police.uk\)](#)

<sup>2</sup> [Identifying Disproportionality Report | OPCC for Avon and Somerset \(avonandsomerset-pcc.gov.uk\)](#)

## Definitions & Requirements

The [Child Gravity Matrix](#) was published in September 2023. Improvements to the previous guidance include:

- **Step-by-step guide for decision makers** tailored to consider all available options, taking into account the unique circumstances of each case.
- **Incorporating a full range of disposals**, including non-statutory options such as Community Resolutions and 'No Further Action' as well as statutory disposals.
- **Scoring framework for decision making.** This aims to provide a more nuanced approach to decision making, recognising the need to exercise professional judgement and curiosity in addressing underlying vulnerabilities and needs.

The Child Gravity Matrix is based on the guiding principles of the [Child Centred Policing model](#) which seeks to prevent the unnecessary criminalisation of children.

## WHAT IS A YOUTH DEFERRED CAUTION?

A Youth Deferred Caution is available via referral the Youth Out of Court Resolution Panel. The decision to give a formal caution is put on hold whilst the young person agrees to diversionary conditions. If the child fails to comply, they will be cautioned for the original offence. Successful completion results in no further action.

The Youth Deferred Caution can offer a more effective option than a Community Resolution, where interventions are entirely voluntary with no opportunity for enforcement.

Further information on resolutions available in Avon and Somerset can be found at the following link:

[Out of Court Resolutions | Avon and Somerset Police](#)

### Child Gravity Matrix Outcomes Summary

Final Score	Usual Outcome	Decision Maker
5	Charge	Crown Prosecution Service (CPS)
4	Youth Conditional Caution <i>Consideration can be given for use of deferred caution</i>	Youth Justice Service (YJS) / OoCR Panel
3	Youth Caution <i>Consideration can be given for use of deferred caution</i>	YJS / OoCR Panel
2	Community Resolution / Outcome 22 <i>Consideration can be given for use of deferred caution where there is no admission of guilt</i>	YJS / OoCR Panel encouraged
1	No Further Action (NFA) Consider referral to other agencies to allow for voluntary offer of intervention / support	Liaise with YJS as appropriate

# Case Scrutiny

## Summary of cases scrutinised

27 cases were scrutinised by the Panel made up of:

- 13 Possession of a bladed article cases:
  - 3 Charge / Summons
  - 3 Youth Caution / Youth Conditional Caution
  - 1 Youth Deferred Caution
  - 6 Outcome 22
- 13 Peer on Peer Assault with injury cases:
  - 3 Charge / Summons
  - 2 Youth Conditional Caution
  - 1 Youth Deferred Caution
  - 7 Community Resolution
- 1 Community Resolution for serious violence or sexual offences cases (4 occurrences with the same offender). 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
<b>Knife Possession Cases</b>		
Youth Conditional Caution	Having an article with a blade or point in a public place	Appropriate
Youth Conditional Caution	Having an article with a blade or point in a public place	Inappropriate*
Charge/Summons	Having an article with a blade or point in a public place	Appropriate
Youth Conditional Caution	Having an article with a blade or point in a public place	Appropriate with observations
Charge/Summons	Having an article with a blade or point in a public place	Appropriate
Charge/Summons	Having an article with a blade or point in a public place	Appropriate
Youth Deferred Caution	Having an article with a blade or point in a public place	Appropriate
Outcome 22	Having an article with a blade or point in a public place	Appropriate
Outcome 22	Having an article with a blade or point on school premises	Appropriate
Outcome 22	Having an article with a blade or point on school premises	Appropriate
Outcome 22	Having an article with a blade or point in a public place	Inappropriate*
Outcome 22	Having an article with a blade or point in a public place	Appropriate with observations
Outcome 22	Having an article with a blade or point in a public place	Inappropriate*
<b>Peer on Peer Assault Cases</b>		
Youth Conditional Caution	Assault with injury	Appropriate with observations
Youth Conditional Caution	Assault with injury	Appropriate with observations
Community Resolution	Assault with injury	Inappropriate*
Community Resolution	Assault with injury	Appropriate
Community Resolution	Assault with injury	Appropriate with observations
Community Resolution	Assault with injury	Inappropriate*
Community Resolution	Assault with injury	Appropriate
Community Resolution	Assault with injury	Appropriate with observations
Charge / Summons	Assault with injury	Appropriate
Community Resolution	Assault with injury	Appropriate
Charge / Summons	Assault without injury	Appropriate
Youth Deferred Caution	Assault with injury	Appropriate
Charge / Summons	Assault without injury	Appropriate
<b>SUMMARY: Appropriate (15); Appropriate with Observations (7); Inappropriate (5)</b>		
<b>* A summary of cases considered inappropriate can be found below.</b>		



## Summary of cases considered inappropriate by the Panel

**Case 1:** The Panel considered use of a Youth Conditional Caution inappropriate in a case in which a young person was found carrying a hunting knife. The young person was already waiting to go to court for prosecution of a similar offence and had since been placed under a referral order. The Panel **questioned why this offence had been dealt with out of court** when the previous case had been charged. The Panel were concerned at the **lack of timeliness** – the Youth Conditional Caution was issued 5 months after the incident, and the previous matter had taken a year to get to court. The **Condition to attend 3 sessions was felt to be insufficient**. It was noted that a 12-16 week intervention would usually be offered. The Panel questioned how effectively **young people with prolific offending behaviour** were being dealt with. It was not possible to see whether the previous offence had been discussed at Youth Panel or to consider how vulnerability and risk had been taken into account in decision making because the **Youth Panel Monitoring Log was not on file**.

**YJS Response:** *Bristol YJS conducted a multi-agency review of this case and provided a full report to the Panel. It was clarified that the previous offence was still undergoing investigation at the time of the offence in this case, and had not yet been charged. The offence in this case was dealt with out of court because the young person had admitted it and it met the threshold to be dealt with in the OoCR Panel – the outcome was therefore appropriate. In relation to timeliness, a review of the timeline showed that it took 2 months for the case to be tasked to the YJS, 2 months to be considered at Panel (including adjournment for 4 weeks for assessment), and 1 month for the YCC to be signed and completed. A detailed description of interventions was provided, providing assurance that the three sessions provided were carefully planned and coordinated in response to identified need and delivered in collaboration with existing mentors and support agencies involved. The YJS questioned the description of offending behaviour as ‘prolific’, given that the young person was 12 at the time of these offences and had no previous offending history. The YJS shared Youth Panel Prevention and Diversion Assessment records in relation to this case setting out robust and detailed assessment of vulnerability and risk to inform interventions and support for the young person. The YJS shared positive feedback on participation and engagement of the young person in interventions provided, and there has been no subsequent offending behaviour, indicating a positive outcome for the young person in this case.*

**Scrutiny Panel Review:** *The Panel thanked Bristol YJS for their work in reviewing the case and providing a detailed report in response to issues raised. Having reviewed the YJS report on this case, the **Panel has agreed that the outcome was in fact appropriate in this case**. Discussions have since taken place with YJS colleagues to ensure that the Scrutiny Panel has sight of relevant paperwork in future to give a full picture to inform decision making. Additional briefing arrangements have since been put in place to address a gap in knowledge around youth cases and to strengthen scrutiny arrangements moving forward.*

**Case 2:** The Panel considered **use of an Outcome 22 too lenient** in a case involving possession of a 5-inch kitchen knife and knuckle dusters. Given the age of the young person, the starting point should have been a Youth Conditional Caution. The Panel **could not identify any mitigating factors to enable exceptional circumstances to allow use of an Outcome 22**. The young person had received a previous referral order. The Panel discussed the challenge of **balancing risk to the public with vulnerability of the offender**. The young person had been a victim of violence themselves and stated they were carrying the knife for protection.

**YJS Response:** *the decision in this case was taken shortly after the introduction of the Child Gravity Matrix and removal of the previous Knife Possession policy. The decision had been escalated to the police lead for advice, who at the time supported the case for there being exceptional circumstances. This position reflects the learning journey by the police and Youth Justice Services in implementing the new guidance, as recognised by Scrutiny Panel, particularly in complex cases in areas such as knife possession. Mitigating factors taken into account at the time were detailed in the Decision Log. **Now that guidance is more embedded and understood, it***

*has been clarified that ‘exceptional circumstances’ must be based on offence-specific circumstances, not on mitigating factors. Whilst the weapons were not shown and did not therefore cause harm to the public, the fact that there were two weapons found could have been a factor to consider not agreeing to exceptional circumstances. The Referral Order referenced by the Scrutiny Panel related to an offence committed after the decision was made in this case.*

**Case 3:** The Panel considered **use of an Outcome 22 too lenient** in a case involving possession of a large knife as well as drugs. The young person was subject to a referral order and was waiting to go to court for other offences. **No educational intervention had been completed** as part of the Outcome 22. The Panel again discussed the **challenge of balancing risk with vulnerability**, noting that the young person was pregnant and at risk of exploitation. However, given their offending history, it was felt that the case should have been dealt with alongside the existing matter at court.

***YJS Response:** It is noted that the OIC had a discussion with the YJS case holder, who supported decision for Outcome 22. The young person was on a Referral Order at the time so was already open to working with the YJS and subject to intervention which was focussed on addressing desistance factors that were also relevant to the factors in this case.*

*However, given that there was a history of offences of a similar nature (possession of a knife), and there was another possession of knife offence going through the system for charge to Court, **this case should have been referred into the Youth Out of Court Panel for multi-agency discussion.** Instead, the decision was taken outside of the formal route, with a single agency decision being made on the basis of information provided to the OIC by the YJS case holder.*

**Case 4:** The Panel considered use of a Community Resolution inappropriate in a case involving an assault with actual bodily harm-level injuries. The case had been **dealt with by the officer without referral to the Youth Justice Service. Conditions were felt to be inadequate and were in any case unenforceable** given that they are voluntary under a Community Resolution. There was insufficient information on file to consider whether risks and vulnerabilities had been taken into account. The Panel expressed concern at involvement of the young person’s mother in enabling the offence to take place. It was felt that the case should have been referred to Youth Justice Service Panel to enable a multi-agency response, including safeguarding referrals. The Panel requested that the case was reviewed to look at inaccuracies in OEL to ensure that the correct person had been issued with the Community Resolution.

***Police Feedback:** Development of the Child OoCR Decision Making App will help to ensure that cases are referred to the Youth Justice Service where appropriate. It was confirmed that the correct person had been issued with the Community Resolution.*

**Case 5:** The Panel considered use of a Community Resolution inappropriate in a second case involving an assault with actual bodily harm-level injuries. Again, the case had been **dealt with by the officer without referral to the Youth Justice Service.** The incident took place in school, and the young person had been suspended for 5 days. The condition ‘not to contact’ and ‘not to commit any further offences’ were considered unworkable given that both parties are at the same school, and did not appropriately manage risk in preventing future incidents. It was again noted that **conditions attached to Community Resolutions are voluntary and unenforceable.** The Panel highlighted that this may be **misleading and give false reassurance to the victim** (who is required to give their agreement to a Community Resolution being used).

***Police Feedback:** It was clarified that NPCC guidance for community resolutions states: “Where a victim has been identified, the **victim should be consulted and their views recorded**, however the ultimate decision to dispose of the case as a Community Resolution is for the police.” Therefore, victims do not have to agree to the Community Resolution being issued.*

## Organisational Learning

- Overall, the Panel **welcomed evidence of the impact of work over the last year to improve consistency in the approach to youth cases**. However, a number of areas for improvement were identified. These will be taken forward by the continued work of the Child Out of Court Resolutions Tactical Group.
- The **introduction of the Child Gravity Matrix** in Autumn 2023 has helped to provide consistency, but the police and youth justice services continue to be on a learning journey particularly in decision making around Deferred Cautions, assessing what constitutes ‘exceptional circumstances’, and dealing with complex cases such as knife crime and harmful sexual behaviour.
- Local guidance for use of Outcome 22 in Knife Possession cases was rescinded in Autumn 2023 in light of concerns identified by the Scrutiny Panel and with the introduction of the Child Gravity Matrix. In one case (Bristol), out-of-date guidance was used, despite the decision maker being aware of the new guidance. Local arrangements in Bristol also continue for possession of a knife on school premises. There is **a need to ensure that guidance is aligned and consistent** across the Force area.
- A number of cases highlighted **process issues in youth cases** including:
  - **Inconsistencies in paperwork on file** –the Youth Panel Decision / Monitoring Log was included in most, but not all cases referred to Youth Panel. Where the Youth Panel Decision was included on file, this provided valuable insight into the decision-making process and assurance that vulnerabilities and underlying issues driving behaviour were being appropriately addressed.
  - There is **a need for clear guidance to ensure cases are referred to Youth Panel where appropriate**. The Panel identified a number of cases with police-led decision making which should have been referred to Youth Panel. It is acknowledged that decision making in youth cases is complex, and that it would be helpful to extend the new OoCR Decision Making App to include the youth framework.
  - **Timeliness in cases getting to court** – the Local Criminal Justice Board has identified this as a priority. A Task and Finish group has been set up to explore and seek to address the issues.
  - **Timeliness issues linked to police officer abstraction** to university were identified in a number of cases – this issue has been escalated to the PCC Governance & Scrutiny Board.
  - Timeliness and process issues meant that **decisions were being taken in isolation** of other outstanding offences, rather than being wrapped up together to look at the bigger picture and put in place appropriate support and interventions for the young person.
  - The Panel questioned the **effectiveness of the approach in dealing with young people with prolific offending behaviour**.
  - The Panel questioned what information was made available to young people in custody to understand the **impact of a ‘no comment’ interview**. Work is ongoing through the Identifying Disproportionality Programme to address this issue.
  - There needs to be clarity on the **rights and entitlements of young people under the Victims Code of Practice**. Where the victim is a young person, they are entitled to Enhanced VCOP support – this was not offered in all cases.

- Issues in the **use of Community Resolutions** were identified in a number of cases:
  - **Ineffective and unenforceable conditions:** quality and enforceability of conditions will be the focus of the next Panel meeting. The Panel also **questioned whether it was made clear to victims that conditions attached to Community Resolutions are voluntary** and unenforceable. It was clarified that victims must be consulted and their views recorded, but were not required to agree to a Community Resolution being issued.
  - **Eligibility:** in one case the offender had 'accepted the matter had been reported to the police' – this is not the same as accepting responsibility.
- The Panel expressed **concern at the use of the Choices and Consequences intervention being used for sexual offences**, even if delivered bespoke to the needs and circumstances of the young person. The Panel has raised this issue previously and would prefer to see a specialist intervention offered in relation to sexual offences.
- **'Not recorded/Not stated' ethnicity** was 35.8% for youths (compared with 22.4% for adults) in the last quarter. Work needs to be carried out to understand why levels are so poor, whether there is an issue in where data is being drawn from, and steps to take in order to rectify this.

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

- Overall **evidence of progress in improving consistency in the approach to youth cases** which will help in reducing the risk of disproportionality. The progress made by the Youth Tactical group and Peer Review group was recognised and welcomed.
- Evidence of **progress in implementation of the Child Gravity Matrix to guide decision making** and improve consistency, with a number of case files setting out a clear rationale on the basis of the gravity matrix and the appropriate level of disposal applied. However, it was acknowledged that implementation of the Child Gravity Matrix is still a learning journey for practitioners, particularly given the complex landscape in youth justice, in particular in dealing with areas such as knife crime and harmful sexual behaviour.
- The **value of the Youth Panel decision log** in demonstrating consideration of the full picture - needs, vulnerabilities and a Child First approach - in determining the appropriate resolution and outcome. This reinforces the importance of this document being included in police files where appropriate.
- Examples of effective use of the new intervention available through **Youth Deferred Cautions**. This offers the opportunity to carry out an intervention, and upon completion, record as No Further Action. Where there is a failure to comply, all other options come back into play. The combination of a voluntary intervention with enforcement opportunities was felt to be valuable in promoting a Child First approach, while given more 'teeth' than a Community Resolution, in which interventions are entirely voluntary and unenforceable.
- **Appropriate referral** to safeguarding and victim support services where relevant.

## 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:

- **Conditional Cautions – Dispensation requirements for Hate Crime & Domestic Abuse**
- **Quality of Conditions – comparing Conditional Cautions with Community Resolutions**