

Out of Court Disposals Scrutiny Panel

Domestic Abuse & Hate Crime Conditional Cautions and Quality of Conditions

September 2024

Out of Court Disposals Scrutiny Panel: September 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:

- **Domestic Abuse and Hate Crime Conditional Cautions**
- **Quality of Conditions**

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.avonandsomerset-pcc.gov.uk/out-of-court-disposals-panel-reports)

OoCD Overview & Performance

(Caroline Woodward-King, Force OoCD Tactical Lead)

1st June saw implementation of two important local changes:

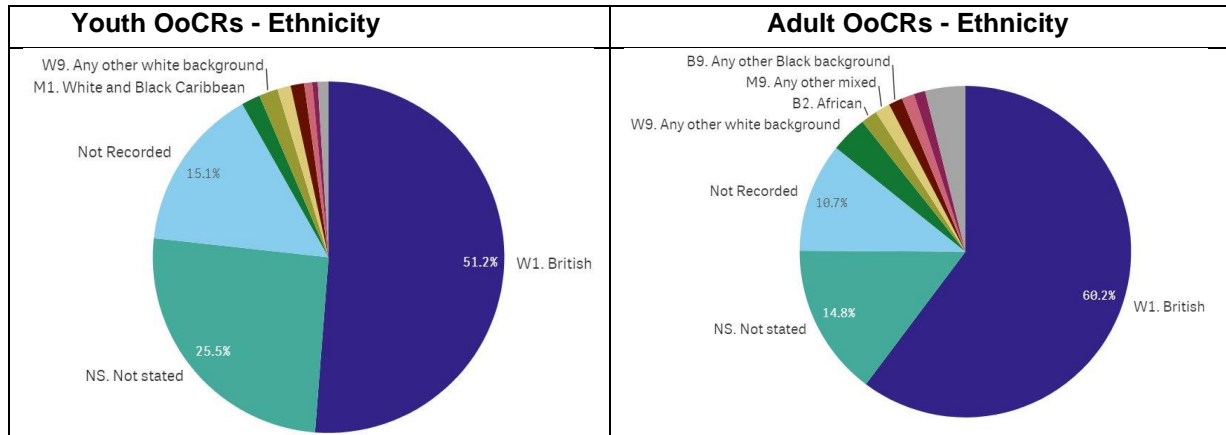
- **Chance to Change Deferred Prosecution Scheme** (for 18-25 year olds). This represents a significant investment in Out of Court Resolutions and a welcome change in supporting work to tackle disproportionality. There have been 40 referrals to date and strong compliance, with only 2 breaches - 1 did not engage with provider, 1 went on to reoffend. A session to look at the impact of the scheme 1 year on will be included in the Scrutiny Panel work programme for 2025.
- **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. The 143 Form will be built into the Child OoCR app, to ensure that referrals are made to Youth Panels where appropriate.

Performance Overview:

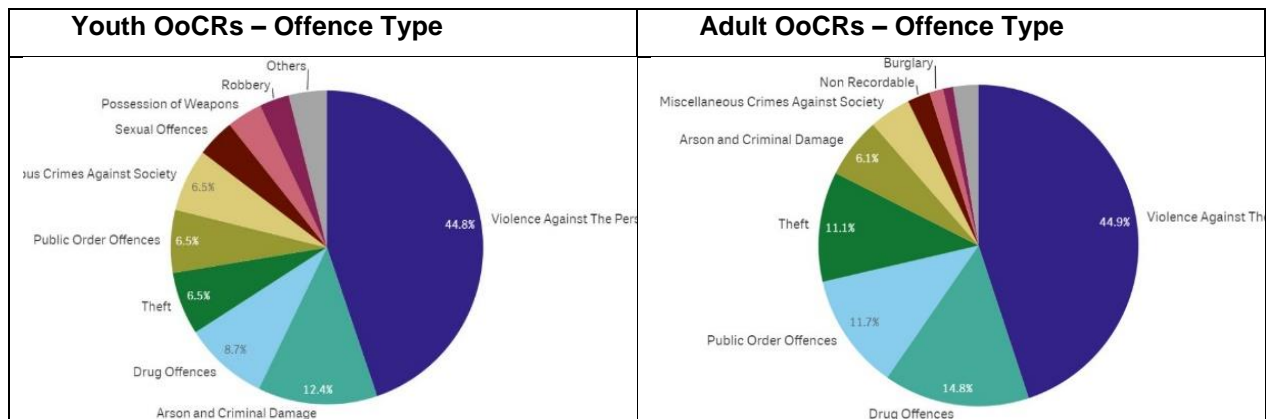
Quarterly performance information for June - August 2024 was shared with the Panel:

Outcome	Adult Cases	Youth Cases
Conditional Cautions	239	23
Community Resolutions	262	107
Youth Simple Caution	N/A	10
Outcome 22	285 (80 = Drug Education Programme)	215

- Ethnicity:** Non-recorded ethnicity remains a concern, accounting for 25.5% in adult cases and 40.6% of youth cases. The ASCEND team has been tasked with ensuring ethnicity has been correctly recorded within the case file where ethnicity is recorded elsewhere on file. However, it was noted that most cases involving non-recorded ethnicity were Community Resolutions which are dealt with directly by the police officer. Ethnicity recording is being built into the Child OoCR App and Panel members requested that it is retrospectively built into the Adult App to help address this issue.

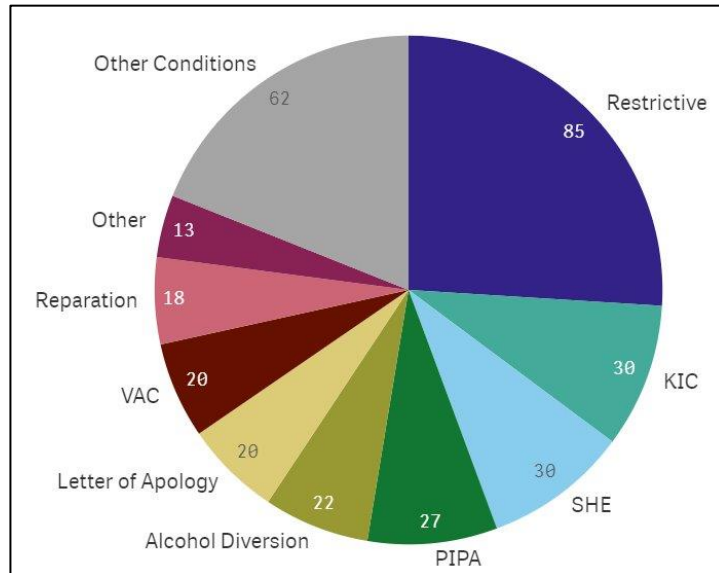


- Offence type:** Violence against the person continues to account for the majority of OoCDs (44.9% of adult cases and 44.8% of youth cases).



- Conditions:** 327 conditions were set over 188 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 June-August 2023: **412**
 - Completed: **94.9%** (333)
 - Breached: **4.3%** (15)
 - Pending: **0.9%** (3)

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 pending cases are cases waiting to be filed.

Theme: Domestic Abuse & Hate Crime Conditional Cautions and Quality of Conditions

Rationale

The September meeting focused on two themes:

- **Annual Scrutiny of Domestic Abuse and Hate Crime Conditional Cautions** (a requirement of dispensation granted by the Director of Public Prosecutions for use of Conditional Cautions for these offences);
- **Quality of conditions** – comparing the quality of conditions applied in Conditional Cautions, which have oversight by the central ASCEND team and Community Resolutions which are dealt with by individual officers.

Definitions & Requirements

Domestic Abuse Conditional Caution:

- Offender must admit the offence and show genuine remorse and understanding of the seriousness and impact of the offence
- No previous DA convictions or cautions at all, no convictions or cautions for any offence in the last two years
- Domestic Abuse Stalking & Harassment (DASH) assessment score no higher than 13 (assessed as standard to medium risk)
- No risk factors that would exclude use of a CC (threats to kill, sexual violence, abuse of animals)
- Victim to be aware of referral to intervention
- Inspector authorisation.

Hate Crime Conditional Caution:

- Offender must make full admission, including 'hate element' of the offence and show genuine remorse
- Offence does not involve conduct likely to stir up hatred, or intended to stir up hatred, towards other groups
- The offence is not one which is indictable only
- No previous history for hate crime or relevant behaviour that would indicate an OoCR would be ineffective
- Must not be a known member of an extremist organisation
- The victim does not appear to be a targeted victim in terms of protective characteristics, for example a disability which makes the victim vulnerable, and/or in terms of repeat incidents
- The express wishes of the victim are met by dealing with the matter out of court after the victim has been provided with a full explanation of all options and their consequences
- Inspector authorisation.

INTERVENTION SPOTLIGHT

Domestic Abuse:

- **Male Offenders - PIPA** – Preventing Intimate Partner Abuse – delivered by RISE (from 1 June 2024, replacing previous Project CARA delivered by the Hampton Trust). Comprises 5 face-to-face sessions over consecutive weekends. The new commissioned service now also includes an intervention for non-intimate relationships.
- **Female Offenders - SHE Programme** – specialist intervention for intimate partner DA offences, delivered by Nelson Trust. The SHE Programme provides interventions and signposting for female offenders in response to assessed needs.

Hate Crime:

- **Perspective** – Delivered by RISE. Comprises 1 Zoom call, followed by three weekly group sessions.

Accessibility:

- Both Domestic Abuse and Hate Crime interventions are commissioned services, with no cost to attend. Interpreter services are available where required.

What is the ASCEND Team?

- **ASC Engage Navigate Divert (ASCEND) Team** is responsible for holding assessment appointments with offenders, deciding on conditions to best address offending behaviour and issuing **Conditional Cautions**.
- Conditions can be selected from a menu of intervention options, or involve financial reparation, restrictive conditions, unpaid activities or restorative justice.
- ASCEND workers are based at the three Custody centres (Bridgwater, Keynsham and Patchway) and Yeovil.

Case Scrutiny

Summary of cases scrutinised

35 cases were scrutinised by the Panel made up of:

- 4 Community Resolutions for Sexual Offences. The Panel scrutinises all cases recorded in the last quarter in this category at every meeting.
- 10 Domestic Abuse Conditional Caution cases
- 5 Hate Crime Conditional Caution cases
- Quality of Conditions:
 - 6 Conditional Cautions
 - 10 Community Resolutions

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	Engage with sexual communication with a child	Inappropriate*
Community Resolution	Possess indecent image of a child	Inappropriate*
Community Resolution	Exposure	Appropriate
Community Resolution	Sexual assault	Appropriate with observations
Conditional Cautions – Domestic Abuse		
Conditional Caution	Assault by beating	Inappropriate*
Conditional Caution	Assault by beating	Appropriate
Conditional Caution	Assault by beating	Appropriate
Conditional Caution	Assault by beating	Appropriate
Conditional Caution	Assault by beating	Appropriate
Conditional Caution	Assault by beating	Inappropriate*
Conditional Caution	Criminal Damage	Appropriate
Conditional Caution	Assault by beating	Appropriate
Conditional Caution	Assault by beating	Appropriate with observations
Conditional Caution	Assault by beating	Inappropriate*
Conditional Cautions – Hate Crime		
Conditional Caution	Racially aggravated s5 Public Order Act	Appropriate
Conditional Caution	S4 Public Order Act	Appropriate
Conditional Caution	S4 Public Order Act / Malicious Communications / Threats to damage	Appropriate with observations
Conditional Caution	S4 Public Order Act	Appropriate with observations
Conditional Caution	Assault by beating (racially aggravated)	Appropriate with observations
Quality of Conditions		
Conditional Caution	S4 Public Order Act	Inappropriate*
Conditional Caution	Dog dangerously out of control causing injury	Appropriate with observations
Conditional Caution	Common assault / Criminal damage	Appropriate with observations
Conditional Caution	S4 Public Order Act	Appropriate
Conditional Caution	Theft - Shoplifting	Appropriate
Conditional Caution	Theft - Shoplifting	Appropriate
Community Resolution	Assault by beating	Appropriate
Community Resolution	Malicious communications	Appropriate with observations
Community Resolution	Criminal damage	Appropriate with observations
Community Resolution	Theft – Shoplifting	Appropriate
Community Resolution	Theft – Shoplifting	Appropriate
Community Resolution	S4 Public Order Act	Appropriate with observations
Community Resolution	Common assault	Appropriate
Community Resolution	Malicious communications	Appropriate with observations
Community Resolution	Theft – Shoplifting	Appropriate
Community Resolution	Theft – Shoplifting	Appropriate with observations
SUMMARY: Appropriate (17); Appropriate with Observations (12); Inappropriate (6)		
* A summary of cases considered inappropriate can be found below.		

Summary of cases considered inappropriate by the Panel

Case 1: The Panel considered use of a Community Resolution inappropriate in a case involving engaging in sexual communication with a child because the young person was under the age of criminal responsibility. This should have been dealt with as a safeguarding matter.

Response: *development of the Child My OoCR App will mean that in future youth cases involving sexual offences will automatically be referred to Youth Panel for assessment. Whilst the young person had been referred to the Choices and Consequences Programme (delivered by the Youth Justice Service, the case had not been referred to Youth Panel as should have happened.*

Case 2: The Panel considered use of a Community Resolution inappropriate in a case involving sharing indecent images of a child between peers. The Panel expressed concern that the condition – asked to delete the photos – was insufficient, as well as unenforceable, and felt that the case should have gone to Youth Panel for assessment.

Response: *as above, automatic referral to Youth Panel in youth cases involving sexual offences will be built into the Child My OoCR App to guide future decision making.*

Case 3: The Panel considered use of a Conditional Caution inappropriate in a Domestic Abuse case because the DASH score indicated it was too serious for a Conditional Caution, and it did not follow appropriate process in referral to ASCEND. This was a missed opportunity for ASCEND to carry out their gatekeeping function to ensure the suitability of the outcome.

Response: *feedback has been provided to the individual officer and their supervisor, including clarifying the requirement that DA cases must be referred to ASCEND.*

Case 4: The Panel considered use of a Conditional Caution inappropriate in a case involving domestic abuse on the basis of eligibility. The case involved abuse perpetrated against a mother by her son. A Domestic Abuse Conditional Caution is only available for intimate partner cases.

Response: *the new commissioned service, for cases after 1 June 2024, will include interventions suitable for non-intimate relationships. At the time of the offence, this was not available and as such the outcome was inappropriate.*

Case 4: The Panel considered use of a Conditional Caution inappropriate in a case involving assault on the basis of inconsistencies in relation to admission and previous convictions. The case had initially been dealt with by Community Resolution and letter of apology. When the victim was not satisfied with the letter of apology, the case was dealt with by Conditional Caution.

Response: *it was clarified that previous offences occurred before the 2 year requirement to be considered for a Conditional Caution. A Community Resolution requires acceptance of responsibility, not a full admission. It was noted that the letter of apology contained the admission.*

Case 6: The Panel considered use of a Conditional Caution too lenient in a case involving a headbutt whilst being escorted away from a football match. The Panel expressed concern at the wording of the condition which effectively banned the offender from football matches indefinitely. It was also noted that the Conditional Caution form was not signed.

Response: *feedback has been provided to the officer and supervisor in this case to inform future decision making.*

Organisational Learning

- In two cases deemed too serious for a Community Resolution, the offence was not specified in the Child Gravity Matrix, which may account for inconsistencies in scoring. It was confirmed that

development of the Decision Making App for youth cases will include mandatory referral to Youth Panel for anything other than a first time Community Resolution in future.

- In one case, a person below the age of criminal responsibility at the time of the offence had been given a Community Resolution. Feedback has been provided to the individual officer and supervisor.
- One example of a DA Conditional Caution being issued without going through correct process of ASCEND referral / escalation.
- Observations about the scope of commissioned services – the newly commissioned DA intervention has now been extended to include interventions for non-intimate DA.
- In general, Conditional Caution cases demonstrated that effective gatekeeping arrangements are in place via the ASCEND Team. Issues were identified where process requiring referral to ASCEND had not been followed. The introduction of the My OoCR App to guide decision making in adult cases is intended to address this in future.
- Ensuring that conditions are clear and meaningful:
 - The broad condition ‘not to commit further offences’ (if accompanied by another condition) is currently included in the new Code of Practice (CoP), due for launch in the next year. Feedback on this issue was provided during consultation. If it is included in the final CoP, there will be a need for clear local guidance to mitigate this.
 - The ASCEND team has developed a set of broad conditions with consistent wording agreed. Advice has been issued on Pocketbook.
 - Shoptheft conditions remain an area for development, to ensure that underlying reasons for offending are addressed alongside a ban/restrictive condition.

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

- The quality of conditions was strong in many cases reviewed.
- The value of the central ASCEND team in assessing need and identifying appropriate interventions was demonstrated.
- The availability of a wide range of interventions to address the root causes of offending behaviour enabled strong and effective conditions to be applied.
- Clear rationale provided for exceptional circumstances to enable consideration of a Conditional Caution was identified in 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:

- Use of financial compensation as a condition – focusing on Criminal Damage cases.