



Leicestershire Police & Partner Agencies
Adult Out-of-Court Scrutiny Panel
Minutes

19th October 2015

1. Attendance & Apologies

Attendance	Apologies
Paul Stock (PS) – Chair – Chief Executive OPCC	Michael Hopkinson – Snr Probation Officer
John Norman (JN) – Police	Sandra Green – SAFE Project (Domestic Violence Support)
Steph Brown (SB) – HMCS	Mina Shah – Women’s Aid
Emma Langham (EL) – HMCS	C/Supt David Sandall – CAID – Police
Kayley Galway (KG) – Leicestershire Probation	Janine Smith, CPS
Nigel Chapman (NC) – CPS	
Clare Weddell (CW) – Women’s Aid	
Caroline Barker (CB) – Force Crime Registrar	
Supt Neil Castle (NC) – Police	
Sandra Cadwallader (minute taker)	

2. Minutes & Actions from June 2015 meeting

2.1 JN explained the background and purpose of the meetings for the benefit of those who had not previously attended. It is a national requirement to have a multi-agency scrutiny panel to look at the way the police deal with cases by way of an out of court disposal as opposed to prosecution. Samples cases are reviewed (Adult and Youth) to check if they have been dealt with appropriately and if there are any learning points that can be fed back or incorporated into future training for officers. Good points are also identified. There is a three force pilot project underway (in Leicestershire, Staffordshire and Yorkshire) and as part of that the number of out of court disposals that can be used has been reduced from five to two, ie. Community Resolution or Conditional Caution. This is the sixth meeting and Leicestershire is one of the first in the country to introduce it.

- 2.2 JN gave a summary of the last meeting. The minutes were agreed as a correct record and actions were reviewed and discussed.
- 2.3 Fifteen cases were reviewed at the last meeting – 9 deemed appropriate, 2 appropriate but with observations, 3 inappropriate and one in which the panel failed to reach a conclusion. Of the 6 cases deemed inappropriate, appropriate but with observations or where a conclusion was not reached, JN advised that the concerns raised and learning points had been fed back to the relevant officers and supervisors.
- 2.4 With regard to case #10, which the panel agreed was dealt with extremely well, JN confirmed this had been flagged up and circulated as good practice.
- 2.5 The CPS had expressed concern that domestic violence cases were being disposed of by way of Conditional Caution due to the victim refusing to make a complaint [4.12]. This was discussed and it was clarified that with any out of court disposal, evidence that the offence was committed is required because if the offender does not abide by the conditions prosecution will be sought. If the victim does not want prosecution but there is other evidence, it can go ahead without the victim's cooperation.
- 2.6 In relation to concerns raised that women appear to be treated more robustly than male counterparts for similar offences [4.13], JN advised that he reviews all adult Conditional Cautions, he has kept a very close eye on this and it does not appear to be the case.
- 2.7 The lack of rationales provided for Community Resolutions [4.16] is an ongoing issue. Decision makers must justify and rationalise decisions made and this has been fed back to supervisors. PS asked if there is wider work needed on this but JN advised it has got better, partly due to the new computer system which has inbuilt templates, one of which is for decision making rationale for out of court disposal (mandatory field). JN added that for cases dealt with by way of a Conditional Caution there is no excuse for not providing a rationale as the sergeant must authorise it, but for a Community Resolution which relates to a lower level of offending, cases are generally dealt with out on the street by an officer and communication is likely to be by way of a telephone call. The way the force now operates 90% of decision making is by Force Investigation Unit supervisors with a smaller number of sergeants making decisions and it is easier to go back to supervisors. It was pointed out that staff are still getting to terms with NICHE and there are ongoing training programmes. There is a NICHE meeting to be held on Friday and the rationale issue will be fed into that.

- 2.8 Mr Moody (Lincs County Bench Chair and Regional and National OOCB Roles) attended the last meeting as an observer and was positive about the development of the OOCB Pilot in Leicestershire and Rutland. It was noted that the way the out of court panel operates in Leicestershire and Rutland is held up nationally as best practice and that it is a great achievement to be able to review 30 cases at each meeting. Mr Moody had undertaken to relay to the panel the MoJ responses and SB read out a recent communication received from him. He relayed that he found the visit most stimulating and interesting. He will be recommending that the roll out of the new type of out of court disposals needs to be resourced properly and have funding in place for local charities and support groups in dealing with alcohol, drug issues and domestic violence. He saw it as an excellent way to divert people from the Court system, but was frustrated by the lack of input for individuals due to lack of resources and how outcome is measured and dealt with if they should not comply with any conditions. He advised it will be on his radar for the foreseeable future.

PS commented that we are fortunate in Leicestershire to have a mature commissioning framework and we are trying to share some of our practice but it is never possible to fund everything. It was noted that charity funding is currently reduced and that many charities need funding for at least 12 months when it is only possible to support them for 6 months. CW (Women's Aid) commented that it is working really well for them. They are liaising with New Dawn New Day on Conditional Cautions and have also had discussions with Engage. JN pointed out that there was no forum for these conversations previously. Signposting is good now and there has been much progress.

3. June 2015 Report

- 3.1 An overview of the report circulated prior to the meeting was provided by JN and he distributed a further paper at the meeting relating to comparative performance figures for Adult Out of Court Disposals Jul-Sep 2015.
- 3.2 JN said it is interesting that the number of CCs and CRs has risen massively but the total number of Out of Court Disposals has dropped. The number of people prosecuted has dropped but not to the same extent. Some disposals are therefore missing in the system and this may relate to possession of cannabis cases, where the number of disposals overall has dropped due to the way this is policed. Until figures are looked at in more detail, we will not know. The pilot project ends in November 2015 and JN will provide feedback at the next meeting.

NC pointed out that Conditional Cautions are fine if they work but if people are re-offending they are not appropriate for the same offender and he suggested this may be a small contributory factor as time goes on. JN said there are strict guidelines with regards to previous offending. If an offender has had a previous Conditional Caution in the last two years, they will not be given another except if the offence is totally different, and it would instead proceed to prosecution. The ethos of a Conditional Caution is that it addresses reoffending. If first time offenders reoffend and are then in the system as charged, this will have an effect on the figures. It was confirmed that the number of breaches are monitored and there is good evidence that using Conditional Caution as opposed to the previous disposals available is having an effect.

4. October 2015 Panel Cases for Consideration

4.1 15 cases were chosen at random by the OPCC were reviewed by the Panel.

Of the 15 cases, there were:

- 2 x Theft from Store
- 1 x Theft from Employer
- 1 x Theft
- 2 x Possession of Cannabis
- 2 x Common Assault (Battery)
- 1 x Domestic Violence Assault (Battery)
- 1 x Damage (less than £5,000)
- 1 x Threats to Commit Damage
- 1 x Criminal Damage (less than £5,000)
- 1 x Domestic Violence Criminal Damage (less than £5,000)
- 1 x Section 5 Public Order / Possession of Class A Drug
- 1 x Section 5 Public Order

4.2 The panel findings for the 15 cases were as follows:

9 cases were deemed “Appropriate and consistent with Police policies / the CPS Code for Crown Prosecutors.”

5 cases were deemed “Appropriate but with observations.”

1 case was deemed “Inappropriate and inconsistent”

4.3 A breakdown of the offences, disposals and findings is as below:

Case No:	June 2015 Panel	Disposal	Panel Findings & Comments	Category
01	Theft from Store	Adult Conditional Caution	Appropriate but with observations	2
02	Possession of Cannabis	Adult Conditional Caution	Appropriate and consistent	1
03	Common Assault (Battery)	Community Resolution	Appropriate but with observations	2
04	Theft from Employer	Adult Conditional Caution	Appropriate but with observations	2
05	Common Assault (Battery)	Community Resolution	Appropriate and consistent	1
06	Theft	Community Resolution	Appropriate and consistent	1
07	Possession of Cannabis	Adult Conditional Caution	Appropriate and consistent	1
08	Theft from Store x 2	Adult Conditional Caution	Inappropriate and inconsistent	3
09	Damage (less than £5,000)	Community Resolution	Appropriate and consistent	1
10	S.4 Public Order / Possession of Class A Drug	Adult Conditional Caution	Appropriate and consistent	1
11	Domestic Violence Assault (Battery)	Adult Conditional Caution	Appropriate but with observations	2
12	Threats to Commit Damage	Adult Conditional Caution	Appropriate but with observations	2
13	Criminal Damage (less than £5,000)	Adult Conditional Caution	Appropriate and consistent	1
14	Domestic Violence Criminal Damage (less than £5000)	Community Resolution	Appropriate and consistent	1
15	S.5 Public Order	Community Resolution	Appropriate and consistent	1

4.4 In the case deemed “*Inappropriate and Inconsistent with Policy*” [#8], the Panel considered that although Adult Conditional Caution was not appropriate for the female who had previously been dealt with by way of a Community Resolution in relation to an identical theft 4 weeks previously, it was appropriate for the second female for whom it was a first offence.

- 4.5 In the first of the cases deemed *“Appropriate but with observations”* [#1], the Panel was concerned that the offender had claimed the theft was opportunistic when it appeared pre-planned. They also noted the offender had been dealt with by way of a Community Resolution for theft from a store in 2014.
- 4.6 In the second of the cases deemed *“Appropriate but with observations”* [#3], the Panel noted that the student involved was from Bicester and if he had been dealt with for previous offences in that area by way of a Community Resolution, this would not be flagged up as there is currently no national database. It was also felt that an alcohol referral would have been appropriate in this case.
- 4.7 In the third of the cases deemed *“Appropriate but with observations”* [#4], the Panel considered that there was already an agreement for stolen money to be repaid and in this situation the police had unnecessarily been utilised as ‘debt collectors’.
- 4.8 With regard to the 9 cases deemed *“Appropriate and consistent”*, the following observations were made:

#2	Possession of cannabis – entirely appropriate
#5	Common assault (battery) – entirely appropriate
#6	Theft – before out of court disposals this would have been a simple caution.
#7	Possession of cannabis – it was confirmed that Sussex Police were contacted.
#9	Criminal damage – if victim happy then appropriate. If reported to police, need to justify.
#10	Public Order and possession of cocaine – discussion re how curfew is policed. Effective when given specific details, photographs circulated to officers.
#13	Criminal damage – wide range of conditions well thought through, really good use of Engage.
#14	Domestic related criminal damage – not Domestic Violence as directed at partner’s father’s car.
#15	Public Order – proportionate and appropriate

- 4.9 There were no cases where the panel failed to reach a conclusion.

5. Pilot Project Update

- 5.1 JN provided an update regarding the Leicestershire Adult OOCB Pilot. This will conclude on 3 November 2015. A final decision is awaited but Leicestershire will continue to use purely the two disposals until a national decision is made by the MoJ, which is likely to be in summer next year when the pilot has been evaluated. The DPP has agreed to give Leicestershire special dispensation to use Conditional Caution in Domestic Violence cases. JN has concerns that there will not be the same amount of scrutiny in place at the end of the pilot on a day to day basis. JN looks at and reviews cases but resources are needed and an exit strategy is in the process of being put together. The pilot project has shown officers are beginning to look at cases and conditions more appropriately and there has been a lot of good work. There is a great deal of local decision making around conditions with regard to asking offenders to do specific things around their offences. We have come up with a lot of conditions and engaged a number of agencies to facilitate these, such as Engage (young male adults aged 18-24), New Dawn New Day project for females offenders, Victim Awareness course etc. None of this was in place prior to the pilot.
- 5.2 JN acknowledged that there being some gaps, an example being Domestic Violence cases although it is hoped that a Domestic Violence outcome will come on line in the not too distant future. There is some work to be done about the reason why the number of out of court disposals has gone down. The three outcomes available previously and since lost were fairly meaningless and the two left will be the outcomes rolled out nationally, both of which require the offender to do something. There is a lot going on, a lot to do but we are in a good place. Two other forces have encountered the same sort of problems and we do need to be careful regarding the postcode lottery situation.
- 5.3 It was asked if an increase in the workload was anticipated due to Conditional Cautions being imposed and breached, then becoming court charges. The Judicial Leadership Group has recently made a decision on the number of GAP and NGAP courts required every week as the workload has dropped and these will be reduced to one per week for a three month period. JN responded that it is not known how many there will be as time goes on, but the numbers are low currently. Although there has been a decision, this is reviewable and if the volume goes up it can be reintroduced. CW (Women's Aid) pointed out that they do their utmost to ensure people fulfil the Conditional Cautions and there is a robust outreach impacting the level of breaches.

6. Communication

- 6.1 PS advised that the case outcomes from today will be circulated.
- 6.2 The rationale issue needs to be reinforced.
- 6.3 It was agreed to defer the next meeting to January 2016 to give JN an opportunity to do an update on the pilot report. SB pointed out that her successor will be in post by then, however she is welcome to attend with the next Chairman at the next meeting.
- 6.4 NC commented that these meetings are very professionally prepared and run and the group agreed this was the case in large part due to JN's work beforehand, which is much appreciated.

7. Any Other Business

- 7.1 There was none.

8. Summary and Recommendations

- 8.1 The next Adult OOCB Scrutiny Panel will continue to consider cases that have been dealt with under the Pilot Scheme.
- 8.2 The next Adult OOCB Scrutiny Panel will take place in January 2016.