

# Office of the Police & Crime Commissioner

## Out of Court Disposals Scrutiny Panel

### 2017 Annual Report

#### Role

A number of independent scrutiny panels are administered by the Office of the Police and Crime Commissioner (OPCC) to support PCC Martyn Underhill in fulfilling his statutory responsibility to hold Dorset Police to account.

Out of court disposals (OoCD) allow the police to deal quickly and proportionately with low-level, often first-time offending which could more appropriately be resolved without a prosecution at court. An OoCD can only be used in limited circumstances and the perpetrator must take responsibility for the offence committed. OoCDs can include restorative approaches, community resolutions, conditional cautioning, simple cautions, cannabis warnings, Penalty Notices for Disorder and interventions for young people.

The OoCD Scrutiny Panel was set up to scrutinise Dorset Police's use of such disposals, to ensure they are appropriate, proportionate, consistent with national and local policy, and consider the victims' wishes where appropriate. These cases are dealt with without the involvement of the courts. As such there is a public expectation that the police, who in such cases act as 'judge and jury', have some checks and balances in exercising that power and follow set guidelines and policies. At each meeting, the panel consider a random selection of cases based on a theme which has been decided upon at the previous meeting.

#### Membership

As well as an independent chair, the panel is made up of representatives from the following organisations: Dorset Police, the Crown Prosecution Service, Her Majesty's Courts and Tribunal Service, Probation Services, Youth Justice and Youth Offending Services and the Office of the Police & Crime Commissioner. While the panel includes practitioners, final decisions on the appropriateness of OoCD decisions rest with the independent members. These include the chair who is not employed by the police or judicial system, a senior Crown Prosecution Service prosecutor, a Magistrate/Chair of the Bench and a Deputy Justices' Clerk.



## **Governance**

During the year, the panel changed their practice when considering the cases presented to the panel to allow the police and the youth justice representatives to participate in the discussions.

Since the changes, Dorset Police and Youth Justice representatives participate in the discussions but those involved in issuing Out of Court Disposals do not take part in the decision making process. It was agreed to amend the terms of reference to clarify this separation of powers.

Previously the independent Chair selected cases for discussion. Under current arrangements, the police provide the PCC's Governance Advisor with cases under the chosen theme and the Governance Advisor, in liaison with the Chair, randomly selects the cases for discussion. This process was tested for the first time at a meeting in November 2017. The terms of reference were amended to reflect this.

## **Business activity**

In 2017 the panel met on 4 occasions, reviewing 67 cases. Dorset Police and the Youth Offending teams issued 3,593 OoCDs in 2017. This means that the panel reviewed 1.8% of total OoCDs.

The panel is aware that the disposals issued may increase in the coming years as a result of legislative changes, and the proportion of cases reviewed may therefore decrease. The panel will have an open discussion on how best to address this.

The scrutiny panel has a standing agenda which covers the following areas:

- Introductions, conflicts of interest and confidentiality.
- Minutes from previous meetings (approved online to save time at main meeting).
- Review of actions from previous meeting/s and updates.
- Review of effectiveness (from Dorset Police, if any previous recipients of previous Out of Court Disposals have re-offended).
- Performance update.
- Cases for discussion (usually 20 cases).
- Any other business (including selection of theme for the next meeting).

The meetings are quarterly. The scrutiny panel aims to consider 20 cases per meeting. These comprise of 15 adult and five youth cases, randomly selected by a representative of the OPCC as delegated by the Chair.

The panel decides upon a theme for each meeting so that cases considered are easily comparable based on similar crime types. Where there are insufficient numbers of cases relevant to the theme, other cases are added to achieve the required number. The panel has also agreed that any contentious cases that have been highlighted during the meeting may be put forward for discussion.

Each case is assessed and the OoCD decision is graded as one of the following:

1. Appropriate and consistent with Dorset Police policies, the CPS Code for Crown Prosecutors and the Victim Code.
2. Appropriate with observations from the Panel.
3. Inappropriate use of OoCD.
4. Panel fails to agree on the appropriateness of the decision made.



The table below indicates the chosen theme for panel meetings and summarises the conclusions reached by the panel in respect of cases considered at meetings.

<b>Panel theme</b>			
<b>Domestic violence cases</b> <i>8 February 2017</i>	<b>Shoplifting cases</b> <i>17 May 2017</i>	<b>Harassment cases</b> <i>16 August 2017</i>	<b>Sexual offences plus random cases</b> <i>15 November 2017</i>
8 youth cases	5 youth cases	0 youth cases	5 youth cases
2 adult cases	15 adult cases	18 adult cases	14 adult cases
<b>Outcomes</b>			
Level 1 x 7	Level 1 x 12	Level 1 x 15	Level 1 x 10
Level 2 x 2	Level 2 x 3	Level 2 x 2	Level 2 x 5
Level 3 x 1	Level 3 x 5	Level 3 x 1	Level 3 x 3
Level 4 x 0	Level 4 x 0	Level 4 x 0	Level 4 x 1
<b>Total cases</b>			
10	20	18	19

There was only 1 case in 2017 that the panel failed to agree on. This case concerned an offender with mental health issues, a previous conviction and history of alleged offending behaviour. The victim in this case was not prepared to go to court.

### **Benchmarking**

An Inspector from Hampshire Constabulary attended the meeting on 15 November 2017 and provided additional rigour and challenge to the discussions. Peer review enables best practice to be shared and critique based on professional experience.

### **Legal updates**

The Policing and Crime Act 2017 is likely to have an impact on the number and type of disposals issued. The impact of this is yet unknown but will be reviewed by the panel in the course of the year.

### **Emerging themes**

- There has been greater emphasis by the panel and Dorset Police to consider victims' views where possible in all cases where OoCDs are issued and this 'golden thread' has become more evident in recent meetings.
- There were several occasions when Dorset Police informed the panel that they could not offer Conditional Caution disposals because Dorset as a county did not have access to diversionary schemes to facilitate this, for example drug and alcohol courses.
- There does not appear to be a formal and systematic way of ensuring that the feedback provided by the panel to officers is widely shared with others as a learning opportunity. Equally there is no way to audit the implementation of the feedback given to the police and youth justice teams.
- At the November 2017 panel meeting, harassment cases (under section 2 of the Protection from Harassment Act 1997) were considered. However, the cases presented initially appeared to be public order offences (section 4 and 5 of the Public Order Act 1986). Following further discussion, it was confirmed that this was due to a combination of factors, which include the way that crime is recorded as well as differences between Home Office Counting Rules (HOCR) and CPS charging standards.



- There appears to be seasonal upward trends with OoCDs for Dorset, and this may be due to the transient population and holiday makers visiting.
- There were also more OoCDs issued in rural parts of the county such as Bridport, North Dorset and Purbeck. Roughly half of the total disposals issued were in rural areas. Panel members commented that the accessibility of two custody suites (Bournemouth and Weymouth) may unconsciously influence police officers decision making, as well as the types of crime that are predominant in rural versus urban areas influencing the appropriateness of OoCDs versus traditional prosecutions.

## Summary

The OoCD Scrutiny Panel met 4 times in 2017. Minutes are produced for each meeting, as well as a redacted public facing summary, which is published on the Dorset OPCC and the Dorset Police websites for transparency and accountability.

The panel discussed and made changes to the governance arrangements to ensure that the independent members held the police to account. This aims provide public assurance that the police explain and account for issuing OoCDs.

Where the panel disagreed with the police decision, feedback was given. The panel also checks that actions that have been agreed at meetings are completed and holds those responsible to account. The Panel has made progress to build constructive, working relationships with all partners who contribute to the effectiveness of the panel, namely the police and youth teams.

### **Will Chakawhata**

Independent Chair of the OoCD Scrutiny Panel

*21 February 2018*