



Out of Court Disposal Scrutiny Panel

Annual Summary 2018

Background: The Cumbria 'Out of Court Disposal Scrutiny Panel' was established in November 2013 and is chaired by the Office of Police and Crime Commissioner. Cases submitted to the panel are selected independently by a representative from the Out of Court Disposal Scrutiny Panel, the Crime Reduction & Criminal Justice Partnership and overseen by a representative from the Office of Police and Crime Commissioner. This ensures transparency, maintains public confidence and allows the system to have credibility in Cumbria Constabulary's desire to be open and accountable.

Out-of-Court Disposals allow the police to deal quickly and proportionately with low level, often first time, offending which can be appropriately resolved without a prosecution at court. Delivered ethically, effectively, to the right people and in the right circumstances they provide swift and meaningful justice for victims, hold offenders accountable for their actions and reduce re-offending. The aim of the panels is to determine whether the method of disposal is considered appropriate, based on a review of the information/evidence available to the decision maker at the time. The panel will consider the offence category and severity of offence, evidence present at the time of disposal and rationale in officers' decision making process and whether decisions were victim focused.

Purpose and processes:

The purpose of the Scrutiny Panel is to independently review a selection of anonymised cases that have been resolved by use of an out of court disposal. The scrutiny panel has no referral or appeals capability and is not intended to re-judge cases. It will assess the relevant processes, interactions and decisions to identify any areas for development and continuous organisational learning.

The panel members discuss each case, identify any areas that could be improved or require additional information and either agree or disagree with the disposal decision. Where the panel has identified learning issues, these are tasked as action points for individual members to take forward.

Key findings of the Panel

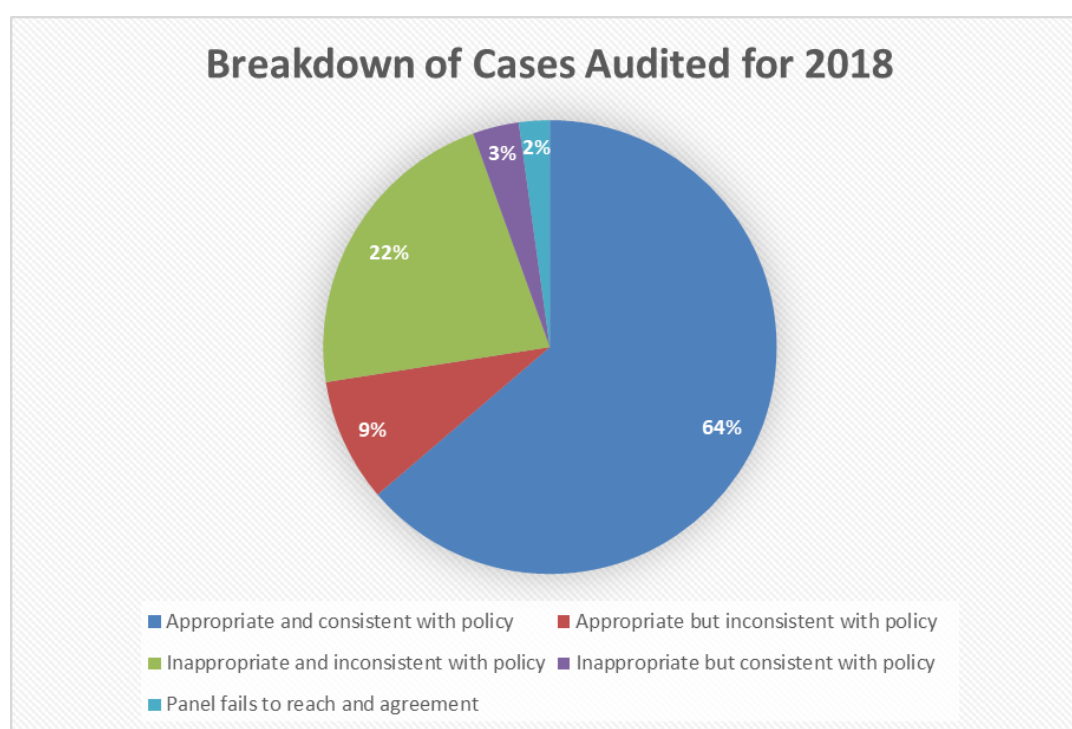
The Panel continues to recognise the implications of conducting dip samples on a small number of overall cases; however it must also be recognised that alongside cases identified as having been handled in line with policy, there are cases where inappropriate and inconsistent disposal options have been identified and these findings have led to improved knowledge and understanding of disposal options.

In 2018 the Out of Court Disposal Panel considered 92 cases, the key findings from the panels observations are listed below:

1. Decisions by police officers as to whether to use OCDs have on the whole been exercised appropriately while at the same time recognising the wide discretion afforded to officers particularly when there may not be a clear right or wrong response to an incident.
2. The panel believes that a high degree of professionalism has been shown by police officers in the manner in which they have investigated crimes and considered appropriate outcomes, although substantive improvement can be made in respect of the options used by officers through Community Remedy.
3. In most cases, police officers are taking into account the views of the victim when deciding whether to implement an OCD. There are however improvements that can be made in terms of how this is recorded and evidenced.
4. Inappropriate and inconsistent disposals associated with domestic abuse cases have been almost eliminated following panel feedback and changes to policy as a result of the OoCD Panel observations.
5. The panel has ensured that 16 to 17 year old's who have committed a traffic offence that attracts a penalty point are prosecuted for those offences as opposed to receiving any form of Out of Court Disposal.
6. Youth Cautions were considered to be more compliant with policy, greater effectiveness of decision-making and appropriate to the level of offending. In almost all of the cases, the outcomes were appropriate and tailored to the offending identified and victim's needs.

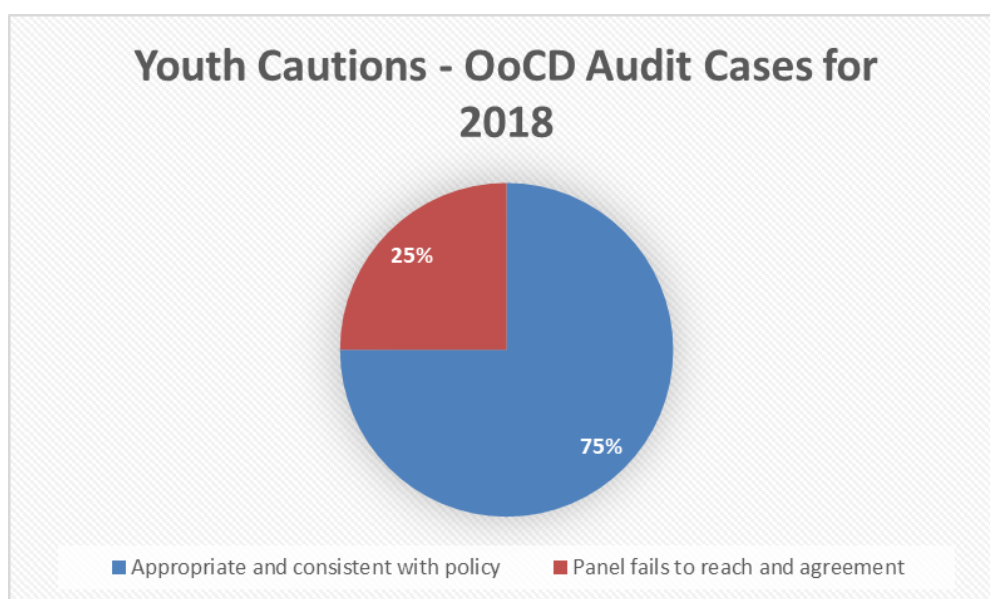
Statistical summary of findings:

In summary 92 cases were audited across 3 meetings during 2018, approximately 30 cases per meeting. Overall 73% of cases randomly selected were found to have a disposal appropriate to the severity of offending and type of offence. In contrast 25% of cases presented to the panel, members raised concerns with how the outcome was recorded leading to the requirement for further clarity or disagreed with the outcome entirely. In all cases where issues were raised guidance and advice was feedback to the Officer and Decision Marker. Breakdown of categories indicates that 64% were deemed appropriate and consistent with policy, 9% were found to be appropriate but inconsistent with policy. Compared to 22% of cases considered inappropriate and inconsistent with policy and 3% inappropriate but consistent with policy. Only 2% of cases the panel failed to reach an agreement; these cases will be reviewed again at the next Out of Courts Disposal Scrutiny Meeting and panel members will be present with additional information.



Youth Cautions:

Youth Cautions were considered to be more compliant with policy, greater effectiveness of decision-making and appropriate to the level of offending. In almost all of the cases, the outcomes were appropriate and tailored to the offending identified and victim's needs. Although consideration should be given to the number of Youth Cautions audited compared to other categories. 4 Youth Cautions audited during 2018, 3 were considered appropriate and consistent with policy and 1 the panel failed to reach an agreement.

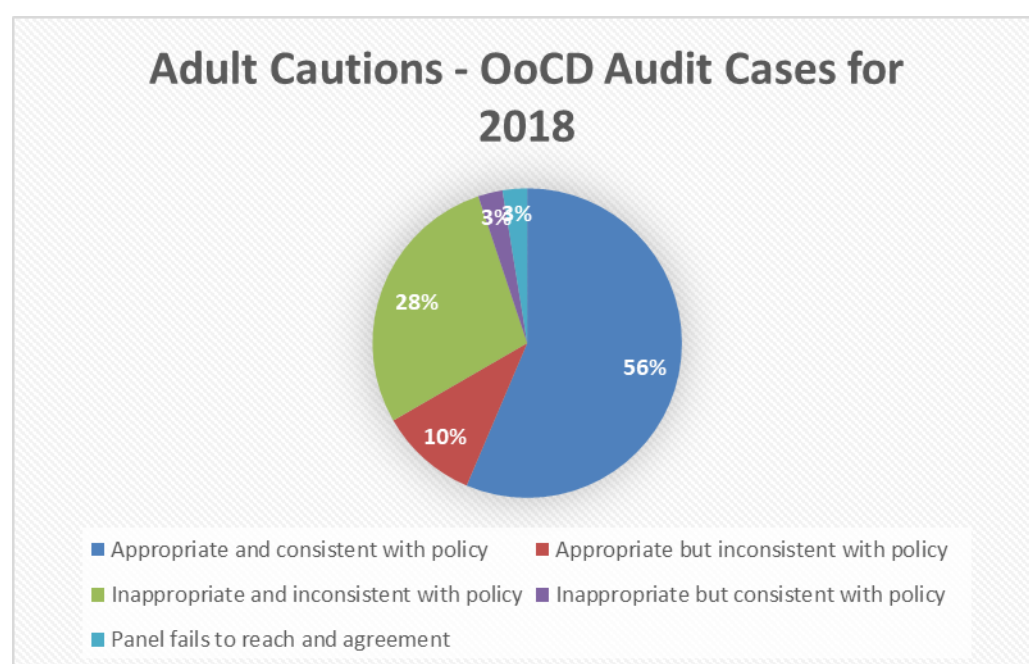


Youth Conditional Cautions:

2 Youth Conditional Cautions were audited in 2018 of which both were considered appropriate and consistent with policy.

Adult Cautions:

Of the 39 Adult Cautions audited 56% (22) were considered to be appropriate and consistent with policy compared to 28% (11) of those deemed inappropriate and inconsistent with policy. 10% (4) of cases were considered Appropriate but inconsistent with policy and 3% (1) the panel failed to reach an agreement.

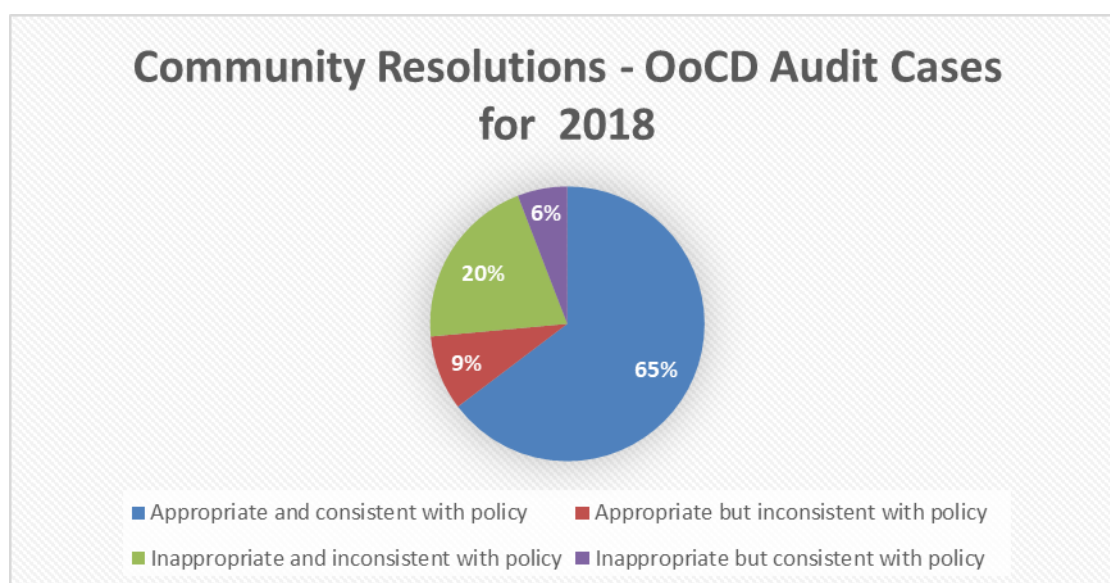


Adult Conditional Caution:

During 2018 there were two cases relating Adult Conditional Cautions, both were determined to be appropriate and consistent.

Community Resolutions:

34 Community Resolutions were audited during 2018, of which 65% were considered to be appropriate and consistent with policy, 9% were appropriated but inconsistent with policy. In comparison 20% were deemed to be inappropriate and inconsistent with policy and 6% were found to be inappropriate and inconsistent with policy.

**PND and Cannabis Warnings:**

Other Disposal considered by the panel included 5 Cannabis Warning of which 3 were deemed by the panel to be appropriate and consistent with policy, 1 appropriate but inconsistent with policy and 1 inappropriate and inconsistent with policy. 3 PND disposals two were considered to be appropriate and consistent with policy and one was considered to be inappropriate and inconsistent with policy.

Examples of Lessons Learned:

Organisational learning is regularly drawn from the scrutiny of cases and embedded in police training. During the panel meetings in 2018 several concerns were raised in relation to Youth Cautions, including the number of out of court disposals that are issued to offenders as opposed to being submitted to court. It was recognised by the panel that in some cases there is a lack of support from Crown Prosecutions Service around the prosecution of young people. Further comments were raised over the inappropriateness of prosecuting without discharging of policy which could be overturned

on judicial review. The panel discussed the need to do additional work with children's homes around protocols and procedures to ensure children are not prosecuted in residential care homes. In the majority of cases incidents being referred to police are of a low level, but impact on police time and resources, there are also in some cases implications for the offender and victim which can affect their future choices and opportunities.

When reviewing adult cautions in one case the panel considered the disposal to be inappropriate and inconsistent with policy since the custody threshold had been met and the case would likely have gone to Crown Court for sentencing. In another case the panel considered the decision maker's rationale to be inaccurate and confusing as it appeared to acknowledge evidential difficulties and contradictory in statement.

Some community resolution cases highlighted issues around the lack of consultation with victims and in some instances community remedy could have been utilised more appropriately to include interventions. Panel members also expressed concerns around offering community resolutions to those offenders with significant offending history. There were cases where officers had missed the opportunity to engage Youth Offending Services interventions which would have benefited the offender and ensured an increase in desistence from crime.

In other cases (PNDs and Cannabis Warnings) the panel considered disposal to be inappropriate and inconsistent with policy due to the offender's history and the fact that they were open to Youth Offending Service at the time of the incident.

Conclusion:

Overall, the majority of cases audited by the panel were deemed as having an appropriate out of court disposal to the severity and type of offence. Specific vulnerable groups including Looked After Children and those with Mental Health issues featured in a number of cases, it was clear that officers had considered the most appropriate and effective outcome when reaching a decision. The panel noted that there was a high level of decision making rationale found in youth cases. Officers had regularly taken into consideration a wide range of information about the background of the young person, offence and views of the victim into account when making the decision.

In cases where the panel had considered an inappropriate disposal had been given, concerns were raised around some cases not being submitted to CPS for advice, in some instances the officer in the case had been influenced by the victims unwillingness to support proceedings. There were views recognising that further work was required to ensure that in all Out of Court Disposal cases the views of the victim were clear and where appropriate taken into account.

The Out of Court Disposal Scrutiny panel continues to operate effectively. Following each panel meeting feedback is given to officers and decision makers, which has then contributed to training and improvements in force policies. In some cases presented to the panel, the officer had not provided a clear rationale to support the decision.

Factors Contributing to an Inappropriate Disposal:

1. Cases not being submitted to CPS for advice
2. Unwillingness of the victim to support the proceedings being used to justify an out of court disposal outcome
3. Inappropriate use of disposal on offenders with previous offending history
4. The severity of the offence and level of offending had not been taken into account at the point of disposal
5. Some cases had not evidenced a clear rationale to support the decision making
6. Lack of follow-up enquires or further investigation in to offenders background
7. In some cases an Inspectors authority had not been sought.

Terms of Reference: Refer to Annex A

Recommendations:

The recommendations resulting from cases audited in 2018 include a continuation of two recommendations from the previous year. Although progress has been made in relation to the knowledge and awareness of Community Remedy amongst officers. There is still further work to do to ensure greater utilisation of Community Remedy and the wider options available to officers at the time of disposal.

The panel noted that in some cases there have been missed opportunities to refer perpetrators and/or victims onto early intervention/prevention programmes. During 2018 comments were raised by panel members around the lack of impact with some disposal options, in some cases the perpetrator and/or victim would have benefited from being referred to early intervention or prevention programmes available which are aimed at reducing re-offending and preventing re-victimisation or others becoming victims. The panel considered officers should refer to the breath and bespoke nature of interventions available for offenders receiving Out of Court Disposals to support their desistance from further offending. The majority of these interventions are supported or funded by the OPCC and an increase in referrals would not only benefit perpetrators and victims, but would also ensure an adequate level of service provision and sustainability in Cumbria.

A further recommendation is to invite Area Inspectors and Custody Inspectors to panel meetings to observe how cases are reviewed and to gain greater understanding of the role of the panel and the rationale for its feedback. This will ensure officers have increased confidence in the process and will help influence current and ongoing training.

1. Greater utilisation of Community Remedy:

That the Constabulary continues to build on the knowledge, understanding and awareness of the options available to officers through Community Remedy. Further consideration should be given to using 'Remedi' as part of a disposal option.

2. Maximising referrals to perpetrator/victim intervention programmes:

Officers should be encouraged and provided with the necessary mechanisms to refer perpetrators/victims onto early interventions programmes aimed at reducing the likelihood of re-offending and/or reducing an escalation in offending behaviour and violence.

3. Extend an invitation to Area Inspectors and Custody Inspectors:

Considerations should be given to inviting custody inspectors and Area Inspectors to observe and to gain a greater understanding of the role of the panel and the rationale for its feedback.

Appendix A

**MULTI-AGENCY
OUT OF COURT DISPOSALS
SCRUTINY PANEL**

**Terms of Reference
2016/17**

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1. Introduction

- 1.1 The intention of the panel is to provide transparency and accountability and increase public understanding, confidence and trust in how Cumbria Constabulary use out of court disposals. There is a particular focus on the delivery of appropriate and proportionate justice and ensuring redress for victims of crime. It provides constructive scrutiny at an organisational and individual level to promote best practices, identify potential policy or staff development needs and more effective working practices between agencies. It works to ensure the voice of victims is heard through the out of court disposal process and provide challenge where it appears not to have been considered.
- 1.2 The Panel may consider cases where the disposal method was determined by either Cumbria Police or the Crown Prosecution Service. In reviewing a case, the Panel will discuss and agree a categorisation against four options:
- a) Appropriate and consistent with Cumbria Police policies / the CPS Code for Crown Prosecutors. (See Appendix B for Policy summary)
 - b) Appropriate with observations.
 - c) Inappropriate and inconsistent with policy.
 - d) Panel fails to reach a conclusion.
- 1.3 The Panel cannot change the outcome of the case, but where it is appropriate to do so, can give feedback at an organisational level or, where fitting to be conveyed to individuals of each agency involved in a particular case. This may in exceptional circumstance result in the removal of a caution from an individual's record where it has been determined that there is insufficient justification for administering the original sanction.
- 1.4 The aim of providing feedback is to promote best practice and identify potential policy development or training needs for consideration by the force or other agencies.

2. Scope

The Scrutiny Panel will conduct reviews of criminal cases concluded by way of an 'out of court disposal'. (See Appendix A – National Out of Court Disposal Framework)

The Scrutiny Panel has no referral or appeals capability

3. Objectives/Aims

3.1 The purpose of the panel is not to re-judge these cases but to assess the process and identify any appropriate learning to assist with continuous improvement.

3.2 The intention is to increase public understanding, confidence and trust in these methods of case disposal, and to maintain criminal justice partner confidence in the Constabularies use of discretionary powers.

3.3 To audit a selection of Out of Court Disposal cases to ensure they are appropriate, within guidelines and that the victim was consulted and their views taken into account where appropriate, and that the offender understood the process and understood the implications of the disposal.

3.4 Identify best practice (*examples of best practice and excellent decision making should be incorporated into future training*)

3.5 Examine the level and appropriateness of supervision (*Constabulary representative are best placed to scrutinise and advise on this area*)

3.6 identify areas in need of improvement and highlight these in clear recommendations in the Annual Report.

4. Panel Membership

- Independent Chairperson – Member of the Police and Crime Commissioner's Office;
- Magistrate;
- Crown Prosecution Service;
- HQ Central Criminal Justice Unit Manager;
- Crime Registrar;
- Representative of Community Safety Dept;
- Lead Diversity Officer;
- Youth Offending team;

- Probation;
- Victim Support;
- Safer Cumbria representative;
- County Domestic Violence lead officer;
- Independent Advisory Group
- A suitable delegated representative should attend in the absence of a panel member.

4.1 Chairperson

The role of the panel Chairperson is to support the selection of cases for review (section 29 below), ensure each panel member has the opportunity and time to provide feedback and views, and facilitate the decision making process (section 33).

4.2 Membership Responsibilities

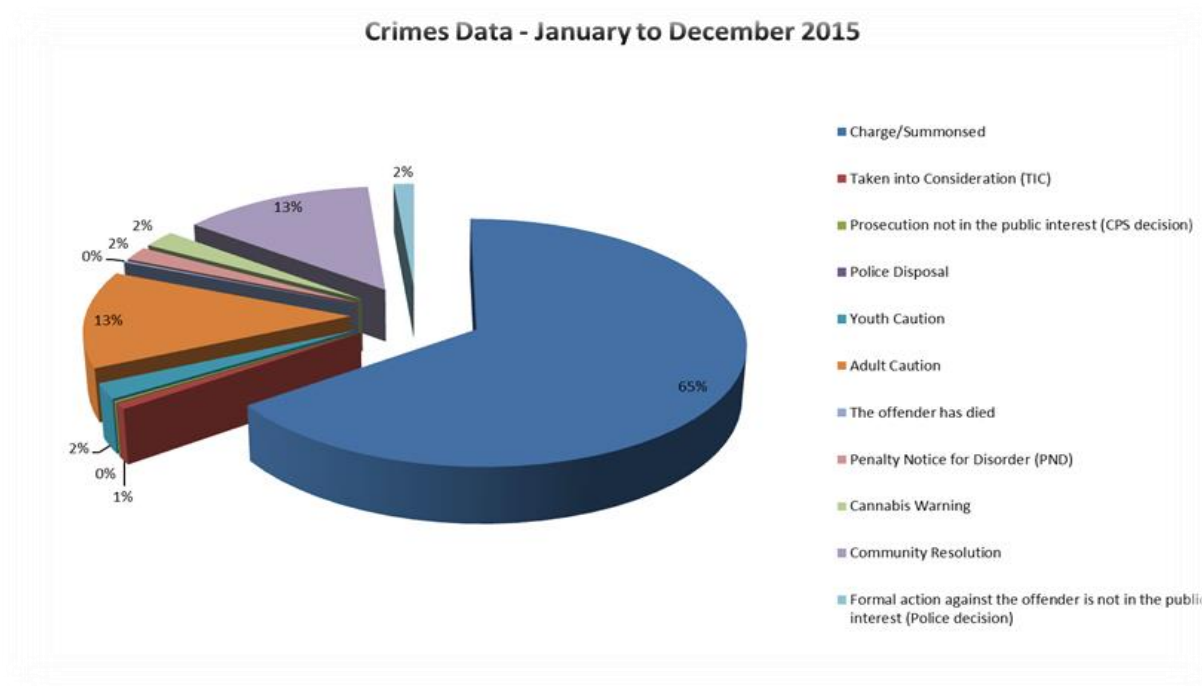
Cases discussed will remain confidential and not open to the public. Panel members must be aware of, and comply with the Scrutiny panel Information Sharing Agreement. They should not disclose details of cases reviewed to their own organisation unless it is an agreed action within the panel meeting, for a recognised 'policing purpose'.

4.2 Vacancies

Where a vacancy on the panel arises, it will be the responsibility of the agency that has the vacancy to identify and provide a suitable replacement.

5. Case Selection

In Cumbria, on average, 300 adult cautions are administered each quarter together with approximately 450 other Out of Court Disposals (Cannabis Warnings; Fixed Penalty Notices; Conditional Cautions; Community Resolutions).



The Cumbria Police Information Management Unit is tasked to provide performance data on out of court disposals to senior managers and the Office of the Police and Crime Commissioner.

Performance report requests vary in frequency, but for the purpose of this panel, the Information Management Unit will collate and analyse relevant data during the second week of January, April, and October leading to Panel meetings on Tuesday of the second week in February, May, and November.

Given the volume of cases within scope of the scrutiny panel, a selection of the below disposals will form the body of cases reviewed quarterly. On production of the data by the Information Management Unit (by the third week of January, April, and October), the Central Criminal Justice Unit Manager will liaise directly with the Panel Chairperson and agree a maximum of thirty cases for review, with a minimum one from each of the below groups (if applicable). The chairperson has discretion in relation to selection of cases, including the option to focus on different category each meeting. The Central Criminal Justice Unit Manager will then liaise with relevant police staff to ensure files and / or other relevant papers are available for the Panel meeting;

- Offences with a classification that a member of the public *might* consider to be outside the scope of the OoCD framework, eg: serious assault; Domestic Violence incidents; burglary offences
- Offences featuring offenders with previous out of court disposals or criminal convictions¹
- Any crime which has any Hate Crime or Domestic Violence marker associated with it.
- A selection of Community Resolution disposal where Restorative Justice has not been utilised.

¹ Within previous two years

- A selection of any out of court disposal where it is indicated that Restorative Justice has been utilised.
- A selection of youth and adult cautions

In addition, the Information Management Unit will provide supplementary data in a chart format showing the total number of cases disposed of in that quarter and by which means of disposal. The data chart will show both the actual number and percentage of each type of disposal method used, including cases where a charge was preferred. This data will provide some contextual detail and enable the Panel to monitor the use of out of court disposals over the course of time

6. Case Scrutiny Process

Panel members are requested to review the cases prior to the meetings; this will ensure a punctual and timely meeting. The chair will verbally summarise each case and panel members will be able to discuss the merits and learning from each case. These cases will not be de-personalised or redacted in any way. At the conclusion of the discussion, the Chair should ask the Panel to consider the following points:

- The outcome should be proportionate to the crime
- The expectations of the victim should be considered when deciding an outcome
- The causes of the criminal behaviour should be considered and any available intervention provided (i.e. substance misuse or mental health issues)
- The history of the offender must be considered
- The community impact of crime should be taken into consideration
- If available, were the views of the victim and offender taken into account
- Compliance with force / CPS policy and procedure
- Rationale for decision and outcome
- Potential alternative options that may have been available

In determining the final outcome, the Chair will attempt to arrive at a consensus. Where this is not possible, the Chair should aim to achieve a majority agreement. Where this is not achievable a finding of Category 4 should be used (see 2.d above).

The Case Information Template will be completed at the time of the meeting by the Community Safety Department representative, recording the outcome of each case. It will be the responsibility of each panel member to feedback to their own organisation or agency on any learning, further intervention work or circulation of best practice. Reports generated by the panel meeting will be stored electronically by the Constabulary by the Community Safety Department representative.

7. Findings and Feedback

When feedback is identified, the panel member for that agency will be responsible for bringing this to the attention of the relevant personnel. Where the feedback is for police officers or staff, this will be taken forward by the Central Criminal Justice Unit Manager, Superintendent of

Uniform Operations or the delegated departmental lead.² Feedback can be written or verbal depending on the circumstances and whatever is appropriate for that particular case.

If the Panel identifies an action or decision taken in a case that they consider to be so poor that an individual's actions may constitute an act of misconduct then the Panel Chairperson will refer the case to the relevant agencies' Professional Standards Department for consideration as to further action if necessary.

An overview of findings may be disclosed as a result of an FOI request.

8. Sharing the Panel Findings

Following the Panel meeting, the CJU Manager will report findings of the review to the Criminal Case Management Group.

The report may contain details of the following:

- The number of cases disposed of in that quarter
- The percentage and number disposed of by way of charge/TIC
- The percentage and number disposed of by way of Out of Court disposal
- The proportion of Community Resolutions involving *Restorative*³ face to face meetings?
- A summary of the Panel's findings in respect of the cases considered.

Copies of the report will also be available to panel members for use, as appropriate, in developing knowledge and practice in their own agencies.

In January of each New Year an Annual Report will be compiled detailing the progress and approach undertaken by the Multi-agency Out of Court Disposal Panel.

The report will contain key findings from the previous year's audit including;

- The number of Out of Court Disposals audit during the year
- The number of cases audited per category
- Factors that contributed to an inappropriate and/or inconsistent disposal
- An overview of All Police Disposal data for the year
- Recommendations for moving forward

² Depending on the seriousness of the case feedback may be managed by the Superintendent of Uniform Operations or by the Lead Officer for Public Protection.

³ Crimes recorded as 'Community Resolutions with Restorative Justice' must involve a face to face meeting between the offender and parties affected by the behaviour, facilitated by a trained police staff member.

Appendix A – National Out of Court Disposal Framework

(Source: -

NOTE - some aspects of the framework may be interpreted differently in Cumbria, for example RJ *may* be used alongside an Adult Caution if appropriate)

1. Adult Out of Court Disposals – Consultation

The Government, in partnership with the police, launched a review of the adult Out of Court Disposal Framework in September 2013. The Youth Out of Court Disposal Framework, which was subject to significant structural reform last year, was excluded from the review.

The review included:

- Mapping the current OoCD landscape to understand gaps and issues
- Identifying opportunities to simplify the landscape and guidance
- Ensuring that the right person makes the right decision at the right time
- Ensuring robust local accountability and scrutiny mechanisms
- Embedding mechanisms for ensuring victims views are considered
- Making sure the sanctions fits the crime and the offender
- Ensuring transparency by clarifying what information is gathered and how it is shared
- Clarifying how OoCDs should be disclosed (for example, as part of employment checks)

The consultation was launched on 14 November 2013 and concluded on 9th January 2014. Since significant changes to adult OoCD framework was envisaged, three police forces volunteered to take part in a pilot. During the review period, the three forces, West Yorkshire, Leicestershire and Staffordshire were asked to focus on two disposal that are most similar to the new framework; Community Resolutions and the Conditional Caution. The three forces will cease using simple cautions, cannabis warnings and khat warnings and restrict the use of PNDs.

The pilot commenced in November 2014 and was expected to last for 12 months.

The findings of the pilot review has not been published by the Government to date (8th March 2016)





























2. Youth Out of Court Disposals:















How and when to use Out of Court Disposal to prevent offending by children and young people can be reviewed from the following source;

Youth Out of Court Disposal Guide for Police and Youth Offending Services - 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/438139/out-court-disposal-guide.pdf

Appendix B: Out of Court Disposal National Framework

Disposal Option	Offence Type	Evidential Standard	Admission of guilt required?	Consultation Agreement with agencies required?	Offender's explicit consent required?	Rehabilitation available?	Reparation Restorative Justice Available?	Punitive available?	Forms part of a criminal record?
Community Resolutions	May be less serious crime or incident	Reasonable suspicion may deal with non-criminal matters	 Acceptance of Responsibility						 But may be disclosed on Enhanced DBS check
Cannabis Warning	1 st offence of cannabis possession for personal use	Reasonable suspicion							 But may be disclosed on Enhanced DBS check
Adult (18+) PND	Defined list of low-level disorder offences	Reason to believe a penalty offence has been committed				 Except if education scheme available locally			 But may be disclosed on Enhanced DBS check
Adult Simple Caution	Any offence	Realistic prospect of conviction		 CPS should authorise					

			indictable only						
Youth Caution	Any offence	Realistic prospect of conviction							
				CPS should authorise indictable only					
Adult and Youth Conditional Caution	Any offence in principle: But some exceptions for offence type in guidance	Realistic prospect of conviction							
				CPS should authorise indictable only					
				YOTS for any offence					

Appendix C – Summary of relevant Cumbria Police policies

Panel members should be conversant with the following Cumbria Police Force Policies

- Community Resolution
- Simple Cautions
- Conditional Cautions
- Youth Caution and Conditional Caution
- Cannabis warnings
- Penalty notices for disorder

Community Resolution

Community Resolutions empower officers to exercise discretion and build upon their existing training and experience to make proportionate common sense decisions.

A Community Resolution is intended to bring proper closure for the victim and conclude all matters to the satisfaction of affected parties. Each case should include agreements between the victim, offender and others involved in the crime or incident. The agreements (actions) should aim to 'repair the harm caused' and be appropriate and proportionate.

Cumbrian officers are actively encouraged to use CR as an alternative form of disposal for appropriate offences, in order to address offending behaviour, reduce crime and foster the improvement of community relations. Officers are also encouraged to utilise Restorative Justice techniques in managing this disposal option, but only trained staff can facilitate a face to face 'Restorative' meeting between victims and offenders.

Primarily Community Resolutions will focus on low level crimes. Low-level crimes are not specifically listed, but will include the more common crimes of theft, damage and minor assault. The victim is at the heart of the decision making process and CR is only appropriate for those offenders who have fully admitted the offence and show a degree of remorse for their actions. This is a matter for the professional judgement and discretion of the officer in the case.

Simple Cautions

The simple caution formerly known as a formal caution is a non-statutory disposal for adult offenders only. It may be used for low-level criminal and non-criminal offences where the public interest can be met by a simple caution. The offender must admit committing the offence and there must be sufficient evidence to charge the offender.

Where the offence is subject of a crime report, making it a notifiable offence, the caution will be treated as a sanctioned detection or an offence brought to justice. The effective use of cautioning can contribute to improved public confidence in the Criminal Justice System as well as reducing the likelihood of re-offending.

The aims of the simple caution are:

- To deal quickly and simply with less serious offences;
- To divert offenders, where appropriate, from appearing in the criminal courts;
- To reduce the likelihood of re-offending;
- To record an individual's criminal conduct for possible reference in future criminal proceedings or relevant security checks.

Conditional Caution

Conditional Cautioning is a statutory disposal for offenders giving the Crown Prosecution Service (CPS), together with the police, an alternative option to use a conditional caution in place of a charge. It can be used where the public interest would be better served by offenders carrying out specific conditions attached to a caution rather than being taken to court. The offender must admit committing the offence and there must be sufficient evidence to charge the offender.

If given a conditional caution, an offender will agree to comply with conditions aimed at addressing their behaviour or making good the harm that they have caused to a victim.

The aims of the conditional cautioning scheme are to:

- Increase public confidence through resolving cases quickly and appropriately;
- Reduce crime by tackling the behaviour of the offender and dealing with offending before it can escalate;
- Deliver justice more effectively on behalf of victims;

Youth Caution and Conditional Caution

The Youth Caution (YC) or Youth Conditional Caution (YCC) is in accordance with Sections 135-138 Legal Aid, Sentencing and Punishment of Offenders Act 2012.

The Act incorporates YC and YCC for offenders aged between 10 -17 years of age. Other 'out of court disposals' continue to be available such as Community Resolutions if they are more appropriate.

YC or YCC can still be given to young persons who have been convicted of an offence or received previous cautions. The principle aim is to prevent further offending.

Police and Youth Offending Teams are required to work closely in deciding a suitable outcome.

Cannabis Warnings

A justifiable and proportionate response to dealing with persons found in possession of cannabis, which can be seen to be ethical and non-discriminatory by the public and therefore gain trust in the criminal justice system from all members of the community.

To outline the approach to policing cannabis possession offences for adults, by way of warning, penalty notice for disorder and arrest.

Maintain an enforcement and prosecution strategy that delivers the national message that cannabis is harmful, and remains illegal.

Penalty Notices for disorder

The purpose of this procedure is to provide operational guidance to officers concerning the issue of Penalty Notices for Disorder. The scheme provides an alternative means by which officers can effectively deal with low level crime, anti-social behaviour or nuisance offending without the need for the offender to appear before a local Magistrates' Court. This will enable officers to spend a greater proportion of their time engaging the public rather than completing paperwork for a potential court appearance.

The penalty notice is issued at the officer's discretion; consequently no one can demand they are issued with such a notice or forced to accept one.

Appendix D – Example of Gravity Score Matrix

The key factors which will be relevant in deciding which out of court disposal is most appropriate to the offence in question are (a) the person's offending history and (b) the seriousness of the offence. The seriousness of the offence relates both to the nature of the offence and the circumstances which surround it. A further factor to be considered is whether or not it is in the public interest for the offender to be prosecuted.

The tables below classify most common offences on a scale of 1 (low gravity) up to 4 (high gravity) based on the seriousness of the individual offences. The classifications in the tables are designed to assist in decision making, but cannot be regarded as a definitive guide and must be considered alongside all the other issues outlined. Factors which can make an offence more serious are shown as aggravating (+) while mitigating factors, making an offence less serious, are shown as (-).

Example of Adult Gravity Matrix – Final Score

FINAL SCORE ⁴	ACTION
4	Normally result in charge (or conditional caution – may need CPS decision if Indictable Offence and exceptional circumstances)
	Normally charge but a 'simple' caution or conditional caution - may need

⁴ Adult Gravity Matrix 2013 – Cumbria Constabulary

3	CPS decision if Indictable Offence and exceptional circumstances, may be appropriate if first offence. PND may be appropriate.
2	Normally 'simple' caution for a first offence but a charge (or conditional caution – may need CPS decision if Indictable Offence and exceptional circumstances) may be appropriate if previous convictions or appropriate to circumstances. PND may be appropriate.
1	Always the minimum response applicable to the individual offender, i.e. NFA, 'simple' caution, PND, Community Resolution (or exceptionally, charge).
4	Normally results in charge
3/2	Normally a youth caution. If the offending behaviour cannot be satisfactorily addressed by a caution consider Youth Conditional Caution. If neither of these address the offending behaviour or provides the necessary support then charge.
1	Always the minimum response applicable to the individual offender, i.e. Community Resolution or caution, youth conditional caution or charge.

The table below list a number of general factors that might aggravate or mitigate the commission of any type of offence, including excluded offences in exceptional circumstances. However further gravity factors are available that are specific to offences that are considered appropriated to aggravate or mitigate each type of offence, according to the particular circumstances surrounding it. Alongside the mitigating and aggravating factors are the offence standard gravity scores.



GRAVITY FACTOR
MATRIX FOR ADULTS



GRAVITY FACTOR
MATRIX YOUTHS Apri

Example of General Factors for All Offences:

(+)	(-)
Conviction is likely to result in significant sentence.	Conviction is likely to result in unusually small or nominal penalty.
Weapon used or violence threatened during commission of offence.	Prosecution is likely to have bad effect on victim's physical or mental health.
Offence against public servant (e.g. police, nurse, council employee, etc.)	Offender supplied information which reduced risk, loss or harm to others.
Offender abused a position of trust - e.g. banker, baby-sitter, shop assistant.	Offender was influenced by others more criminally sophisticated.
Offender was ringleader / organiser.	Genuine mistake or misunderstanding.
Evidence of premeditation.	Vulnerability of the offender.
Offender was part of an organised team or offence was committed by a group.	Provocation from victim or victim's group and offender reacted impulsively.
Victim was vulnerable, deliberately put in considerable fear or suffered personal attack, damage, disturbance, or domestic violence.	The offence is minor and offender has put right harm or loss caused; has expressed regret; offered reparation or compensation.
Offence motivated by discrimination against victim's racial or ethnic origin religious beliefs, gender, political views or sexual preference.	Offender is or was at time of offence suffering from significant mental or physical ill-health and offence is not likely to be repeated.
There are grounds for believing the offence is likely to be repeated or continued - e.g. by a history of recurring conduct.	The offence is so old that the relevance of any response is minimised, i.e. there has been a long delay between the offence occurring and the point of decision making - <u>Unless</u> the offence is
Evidence of exploitation.	Serious; the offender contributed to the delay; the offence only recently came to light; or the complexity of the offence has contributed to long investigation.
The offence, though minor, is prevalent in the local area - as identified in the local crime audit, specified in the youth justice plan or specifically agreed with CPS to warrant more serious response.	
Offence committed with intent to commit a sexual offence	

Appendix E – Case Information Template**Out of Court Disposal Scrutiny Panel
Case Information Template**

Offence	Panel Ref
Brief Outline of Circumstances (to include where applicable value of stolen; property damaged; injuries caused; prevalence of offence in local area; potential community impact)	
Victim's Views	
Decision Maker's Rationale	
Scrutiny Panel Findings	

Appendix E – ACPO Minimum Standards (Restorative Justice)

For a disposal to comply with ACPO minimum standards (Restorative Justice), it must have the following four key elements;

- The offender take responsibility for his / her actions
- Involvement of the victim, community or other affected party
- A structured process that establishes what has occurred and what the impact has been,
- An outcome that seeks to put right the harm that has been caused or an outcome that make other reparation that may not be directly related to the original offence



ACPO Minimum
Standards