



British Transport Police Out of Court Disposal Scrutiny Panel Meeting Notes: Wednesday 18th January 2024

UPDATES

Legal Updates

BILLS IN PARLIAMENT:

Criminal Justice Bill: Reform Policing and Justice

- Increased power for courts to issue offenders mandatory notice to attend court, extension of various measures relating to anti-social behaviour.

Sentencing Bill: A bill proposing the introduction of:

- A new duty for the courts to impose a whole life order in murder cases, which currently have a starting point of a WLO unless exceptional circumstances.
- Ensuring individuals convicted of rape and serious sexual offenses serve the entire custodial term in prison, without referral to the parole board.
- Establishing a presumption that courts when issuing a custodial sentence of 12 months or less, should opt for a Suspended Sentence Order (SSO) instead of immediate custody, unless there are exceptional circumstances.

[The Misuse of Drugs Act 1971 \(Amendment\) Order 2023](#) – Commencement: 8th November 2023. Nitrous Oxide is now classed as a Class C Controlled drug under the Misuse of Drugs Act 1971.

[Public Order Act 2023, s.10 and s.11](#) – Commencement: 20th December 2023.

New stop & search powers on items made, adapted or intended for use in relation to specific protest-related offences, new powers based on 'reasonable suspicion' as per s.1 of PACE 1984 and 'without suspicion' powers authorised by an inspector for a certain period of time.

[The Dangerous Dogs \(England and Wales\) Order 2023; Exemption Scheme and Miscellaneous Provisions \(Amendment Order 2024\)](#). An order proposing the introduction of:

- XL Bully Dogs to be allocated as per s.1 of the Dangerous Dogs Act 1991 (Commences 31st October 2023).
- Owners of XL Bully dogs due to be euthanised to apply for compensation to the SOS (Commencement 12th November).
- Owners of XL bully dogs to apply for an exemption from prohibition.
- Provision for neutering and microchipping by a certain date.
- A rehoming organisation that was established for any XL bully Dog that was taken into its care before 31st December 2023 to apply for an exemption. (Commences 12th January 2024).

[The Online Safety Act 2023: Regulations 2024](#) – Commencement 31st January 2024

Regulations proposing the following:

- **False communications offence (s.179)**
- **Threatening communications offence (s.181)**

- **Offences of sending or showing flashing images electronically (183)**
- **Encouraging or assisting serious self-harm offence (s.184)**
- **Sending etc photograph or film of genitals (s.187) (inserts new section – s.66A - into the Sexual Offences Act 2003)**
- **New section to SOA 2003: Sharing intimate photograph or film without consent (s.66B(1)):**
- **Sharing intimate photograph or film without consent with the intention to cause alarm, distress or humiliation (s.66B(2)):**
- **Threatening to share an intimate photograph or film of a person (s.66B(4))**
- **REPEALS: s.127 communication Act 2003- false messages, s.1 malicious Communications Act 1988- threatening or false messages, s.33-s.35 of the CJ and courts Act 2015- disclosing private sexual photos/films with the intention to cause distress**

Protection from Sex-based Harassment in Public Act 2023 – Commencement TBC

This Act introduces Section 4B into the public Order Act 1986, outlining the offenses of 'international harassment, alarm or distress on the account of sex'. This occurs when an individual commits a Section 4A offense and engages in conduct specified in Section 4A(1), such as threatening words or behaviours, based on the persons sex or presumed sex. (Although received royal assent, relevant provisions are not yet in force).

The Police Act 1997 England and Wales Order 2023 – Commencement 28th October 2023

This order modifies the definition of 'relevant matter' in Section 113A Of The Police Act 1997. If recorded in central records, relevant matters must be disclosed by the Disclosure and Barring Service when responding to applications for criminal record certificate or an enhanced criminal record certificate. The amendment Specifically impacts cautions or convictions that are not spent, as defined by the Rehabilitation of Offenders Act 1974 and will be disclosed on every relevant certificate.

The Judicial Review and Courts Act 2022 – Commencement 7th November 2023

Section 3 of the 2022 Act introduces new section 16G to 16M into the Magistrates Court Act 1918, enabling the use of automatic online procedures for handling specified summary offences exclusively in England and Wales. This system, termed "Automatic Online Conviction and Penalty for Certain Summary Offences," is outlined in the newly added sections. Sections 16G to 16M define the framework of the system and grant powers to the Lord Counsellor to identify applicable offences and set financial penalty levels through regulatory measures.

OoCD Updates since last Panel

ADULTS

1. As a reminder, the PCSC Act will introduce a new OoCD Framework for adults, with only two statutory OoCD, diversionary cautions and community cautions - all other are abolished aside from CRs which forces can continue to use
2. Go-Live was initially 01/04/2023, however this date has been moved: last Panel the update was that the MoJ indicated a July 2024 "switch-on" however the Ministry has now confirmed that it will not be in 2024 but instead at some point in 2025
3. In the last Scrutiny Panel we reported that BTP submitted a response (and contributed to responses of other working groups) to the Draft Code of Practice for Cautions – the outcome of the Consultation is expected in around April 2024 according to the MoJ (one of the key reasons for the delay was the level of response to the Consultation)

4. We continue, however, to await from the MoJ and NPCC key documents and details to accompany the legislation in advance of go-live – such as information around fines and financial penalties, DPP guidance on DA cases, and how measures will be captured on RMS
5. BTP has volunteered to support the College of Policing with their “Learning Standards” work around the legislative changes which will form a vital part of Forces’ strategies around training: this work is expected to commence later in 2024 (further updates in due course)
6. BTP also continues to be a key part of a working group examining possible changes/updates to the Adult Gravity Matrix (a tool used by decision-makers to assist with selecting appropriate disposals) – this work is due to conclude at the end of this month
7. BTP has been live with the “Consider” OoCD intervention in August 2023 – a joint initiative with BTP’s VIAWG team; it is available as part of a CC to those offenders with no previous offending who make full admissions to relevant offences; it addresses sexualised behaviour in public settings which fall short of offences under the Sexual Offences Act and will be closely monitored for compliance and the suitability of referrals – the first referral was made in December so may well feature more heavily in future Panels
8. Work is finishing on the adult **Force Outcomes Dashboard** which JS are scrutinising closely to ensure it provides the necessary metrics around crucial aspects of OoCDs, again for scrutiny from a performance and lessons-learned standpoint. This is particularly the case as it can potentially identify disproportionality from a gender or ethnicity perspective, allowing for any necessary action to be taken in this vital area
9. On that point, a more focused piece of work is ongoing around disproportionality led by CR particularly in relation to OoCD outcomes – we expect to be able to report on this soon and should have an update either at the next Panel or in advance

CHILDREN

10. The updated Child GM was released by the NPCC in September 2023. Since then issues were noted and fed back to the NPCC and YJB about railway offending: for example, the score for trespass increased from which appeared to rule out BTP’s bespoke trespass CR intervention for relevant cases; dispensation for continued use received from NPCC and work ongoing with YJB and NPCC to ensure railways offences are properly represented in CGM – the updated version is expected at the end of January
11. The YJB reports that they should be publishing their OoCD Case Management Guidance this month and will share with BTP once published
12. BTP’s Child First project continues – working with Divisions to promote the “Child First” approach to cases, increase optimal progression of cases involving children through the BTP, ensuring YJS involvement at every stage, and “myth busting” common misconceptions about relevant cases – combination of web-based resources, in person delivery, webinars and traditional messaging via available methods.

OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

The cases which were discussed at the panel consisted of the following offences:

Possession of Class B (3), Drunk & Disorderly (2), Assault by Beating/Common Assault (1), Drunk in charge of a child (1), Common Assault and Drunk & Disorderly (1), Theft (2), Railway Trespass (1), Possession of Class A (1), Criminal Damage (1), Fare Evasion (3)

Of the 16 cases reviewed, the panel classified the disposals as follows:

Appropriate and consistent with guidelines / policy	6
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OoCDs:	Appropriate but with observations	3
	Inappropriate and inconsistent with guidelines / policy	6
	Panel fails to agree on appropriateness of decision	1
	Not enough information	

Actions:

Each of the individual cases discussed by the panel will be fed back to the decision makers with appropriate guidance to both officers in the case and their supervisors, in terms of both lessons learned and best practice: this will follow and use a bespoke feedback template which has been developed.

Feedback to officers and supervisors will include the following points discussed in the panel:

- The panel collectively recommends providing constructive feedback to the Officer in Charge (OIC) by emphasising the need for standardised effort and comprehensive information in case paperwork. Consistent documentation is crucial for enabling the panel to make informed judgments on out-of-court disposal (OoCD) decisions.
- The panel expressed concerns regarding the appropriateness of conditions attached to Conditional Cautions (CCs) and Community Resolutions (CRs). An example highlighted was the condition 'seek professional help,' which the panel deemed inadequate. Officers are urged to assess the enforceability, contribution to preventing further offenses, and relevance to the offender's behaviour when setting conditions, avoiding the mere prohibition of future offenses.
- Officers are advised to explicitly consider aggregating factors when making disposal decisions, as this strategic approach can enhance the overall outcome of the disposal process.
- Thorough assessment of the excuses provided in specific cases is crucial. Officers should carefully evaluate each case, ensuring that excuses are thoroughly examined and validated to maintain the integrity of the decision-making process.

Date of next meeting: 10:00am Thursday 18th April 2024, online via MS Teams.