



British Transport Police Out of Court Disposal Scrutiny Panel

Meeting notes: 13th April 2022

UPDATES

General

- Enhancement work is being undertaken on BTP's OoCD data dashboard by the Analytics and Insight Team to ensure it is as user-friendly and complete as possible: this may in the long term benefit the Scrutiny Panel so will potentially use as part of future meetings
- Work is also being undertaken around improving feedback to OICs and decision-makers following the Panels which can highlight to the Divisions themes and areas of performance improvement to build on, as well as feeding back good practice for onward sharing benefitting as many officers as possible

Legal Update

Covid-19 Legislation/Regulations

- **England:** All regulations have been revoked; face covering regulations revoked on 27th January, self-isolation regulations revoked on 24th February, international travel regulations revoked on 18th March, and all other regulations revoked on 24th March
- **Wales:** Most regulations and offences have been revoked. The only relevant offence that is still in force is the failure to wear face coverings in health and care settings (which is also due to be revoked on 9th May)

Further Commencement of the Offensive Weapons Act 2019

- **On 6th April 2022**, more provisions of the **Offensive Weapons Act 2019** came into force. These included:
 - A new offence of possessing 'corrosive substances' in a public place and related search powers
 - A new offence of selling 'corrosive products' to persons under 18, and of delivering corrosive products to residential premises where sale is made remotely
 - New offences of delivering bladed products to residential premises, or to those who are not 18 or over
 - A new offence of threatening another with an offensive weapon, bladed or pointed article, or corrosive substance in a private place
 - Amendments to the legal test for the offence of threatening with an offensive weapon in public
 - Closing an existing gap to prevent the sale of more offensive weapons (butterfly knives, knuckledusters etc.) to a person under 18

Changes to Misuse of Drugs Act 1971

- **From 13th April**, three controlled drugs under the Misuse of Drugs Act 1971 were reclassified from Class C to Class B: 1,4-Butanediol (1,4-BD), Gamma-butyrolactone (GBL), and 4-Hydroxy-n-butyric acid (i.e. Gamma-Hydroxy butyric Acid/GHB)

Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020

- **On 21st March**, in Wales, the statutory and common law defence of 'reasonable punishment' was abolished in circumstances where a parent (or person in charge of a child) uses corporal punishment against their child

Police, Crime, Sentencing, and Courts (PCSC) Bill

- The bill is currently being ping ponged between the House of Commons and Lords as various amendments are re-considered. The bill touches on matters such as pre-charge bail, encampments, and changes to the OoCD process (see below)
- Royal assent is expected at the end of April. Most of the relevant provisions will not be in force on the date of royal assent but will commence with subsequent regulations. BTP are taking the necessary preparatory steps and future panels will contain the relevant updates as the sections of the Act come into force

Other Updates

BTP Streamlined Community Resolutions (CR) Pilot

- This pilot started in July 2021 and is trialling officers completing just the CR Notice and no other OoCD paperwork. This is reserved for 'on the street' CRs which can be authorised by a PC and are resolved at the time of the offence (or soon after) thereby aiming for simplicity of process and attached conditions
- The pilot commenced in Manchester and was extended, currently operating also in Leeds and Birmingham to obtain a bigger sample size of cases to further determine effectiveness
- The findings from the pilot are mixed and as such the BTP is looking closely at its long-term feasibility; several cases purporting to be involved were "over-built" (i.e. included extraneous documents), others failed because officers were not fully completing the forms; there were also knock-on issues around crime recording standards
- Overall, the Pilot case data suggests that the officer's decision to issue a CR was the correct one, but the related recording or data capture requires some performance improvement

OoCD Updates since last Panel

- To build on the work of the Panel and ensure the BTP's OoCD position is as strong as possible, there are several strands of work underway around OoCD Compliance Improvement which aim to put the force in the best possible position when the PCSC Bill changes come into force
- The first edition of an **OoCD quarterly bulletin** has been produced, highlighting the forthcoming legislative changes and explains/demystifies the auditing of OoCD; this allows for learning and upskilling, more crucial than ever due to the forthcoming changes. This has been sent out to all force decision-makers and has already led to improved lines of communication, highlighting further performance improvement avenues
- A **feedback template** is being designed to provide uniform guidance and advice to OICs, supervisors and Divisions around the outcomes of the Scrutiny Panel. This will not only highlight learning opportunities and good practice but has potential to distil different thematic aspects of OoCDs/decision-making into a dataset which can be monitored and the basis of a more targeted approach to problem areas
- From a wider data analysis standpoint, work is ongoing on the **Force OoCD Dashboard** to deliver easily understandable figures and metrics around different aspects of OoCD cases; this will inform wider OoCDs initiatives and provide enhanced performance and lessons-learned scrutiny (including from the vital disproportionality perspective), allowing any necessary related action to be identified

OoCD Project

- This project examines the PCSC Bill OoCD provisions which introduce a new OoCD Framework, with only two statutory disposals, "diversionary cautions" and "community cautions" (all others are abolished save for the remaining option at present for forces to continue to use CRs as a "lower level" means of OoCD)
- As a reminder, the project examines the impact on the BTP, identifies optimal ways of working and process streamlining, and allows close partnership work with key internal and external stakeholders
- The BTP has been able to share knowledge from its own experiences of the existing two-tier system with forces which use others, gain access to best practice from a variety of forces and bodies, and set up inter-organisational working groups which collaborate on the best path for the police, victims, and society whilst also keeping local priorities at front of mind
- Innovative digital solutions are being explored, including promising OoCD Apps which aim to enhance the on-street decision-making process, contain in-built procedural safeguards, record fully auditable actions, and allow data collection for future performance improvement analysis

OVERVIEW OF CASES THAT WERE CONSIDERED BY THE PANEL

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

Trespass (4), D&D (3), Possess class B - cannabis (3), s5 Public Order Act (2), Battery (2), Assault Possess bladed article (1), Theft (1), Emergency Worker (1), Ticketless Travel (1), Begging (1), Railway Byelaws (1)

Of the 20 cases reviewed, the panel classified the disposals as follows:

OoCDs:	Appropriate and consistent with guidelines / policy	6
	Appropriate but with observations	5
	Inappropriate and inconsistent with guidelines / policy	8
	Panel fails to agree on appropriateness of decision	0
	Not enough information	1

FPNs: None to include this month

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
- Case specific enquiries to be carried out to update the panel in the next meeting:
 - Ticketless Travel Case – did the offender comply with the condition of the CR?
- Feedback to officers and supervisors will include the following points discussed in the panel:
 - Do the circumstances of the case warrant an OoCD or is prosecution more appropriate, particularly looking at the offender’s offending history and/or wider incident circumstances?
 - Was the appropriate level of authority sought/obtained?
 - Ensuring conditions attached to CCs and CRs are meaningful and appropriate – especially the content of any letters of apology
 - Where there is a victim, full consideration of their views and the impact on them
 - Have all offences/elements of an offence been covered or taken into account in reaching a decision?
- At the start of the July 2022 panel, provide a “round-up” of what was said and what the BTP did after this panel by way of recap on business discussed and anything general left unfinished
- Provide update on progress of the Streamlined CR pilot at July 2022 panel

Date of next meeting: 10:00 Wednesday 20th July 2022, Online via Microsoft Teams (possibly in-person too).