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DYFED-POWYS
POLICE AND CRIME
COMMISSIONER**

Dyfed-Powys

Terms of Reference

Out of Court Disposals Scrutiny Panel

Version Control

Version	Date	Author	Reason for Change
1.0	September 2016	Karys Thomas	First version
1.1	December 2016	Claire Bryant	Minor amendments
1.2	February 2017	Claire Bryant	Action tracking included
2.0	April 2017	Claire Bryant	Removal of need to redact Updated reporting process

1.1 Introduction

Scrutiny Panels are intended to bring greater transparency and consistency in the use of Out of Court Disposals (OoCD), increasing public understanding, confidence and trust. They should be sufficiently high-level to give scope for localised approaches and to allow for the exercise of professional discretion by individual officers. Initially the focus of the Dyfed-Powys panel will be on Cautions and Youth Restorative Disposals with a view to extending this incrementally to encompass all out of court disposal types.

1.2 Purpose

The purpose of the panel is to independently assess, scrutinise and quality control the use of OoCD by Dyfed-Powys Police. The panel can make recommendations, feedback on individual cases to officers, communicate findings, promote best practice and identify potential policy development or training needs for consideration by the force or other agencies involved. The panel cannot change the original outcome of the case.

1.3 Membership

- 1) Bench Chairman (Panel Chair)
- 2) Youth Offending Team representative
- 3) Crown Prosecution Service lawyer
- 4) Chief Inspector, Custody
- 5) Force Crime and Incident Registrar
- 6) Independent Advisory Group representative
- 7) Office of the Police and Crime Commissioner representative
- 8) Head of Criminal Justice
- 9) National Probation Service representative
- 10) Magistrates' Bench Chair
- 11) Chief Superintendent

As panel members will discuss confidential closed crime cases, which are not open to the public, they will agree not to disclose personal details of the cases to organisations or individuals outside of the meeting. Members can, however, share the key themes and learning with their colleagues and to aid this, a summary of the panel's findings will be made available. A Confidentiality Agreement is outlined at '[Appendix D](#)' and members will agree to be bound by this.

Panel members should do their utmost to attend panel meetings, however if absence is unavoidable a representative, appropriately briefed, may attend in their place.

The panel will meet quarterly with a quorum of five, which should include the chair, police, CPS and a YOT representative. In the event of the chair being unavailable the panel will identify a chair for the

purpose of that meeting. After discussion, each case will normally fall into one of four categories – although panel members would have prior opinions, these may change during discussions.

1. Appropriate use and consistent with policy/guidance
2. Appropriate use with panel members' reservations
3. Inappropriate use or inconsistent with policy/guidance
4. Panel fails to reach a conclusion

1.4 Vacant Positions

When vacant positions arise within the panel it will be at the discretion of the agency creating the vacant position to identify a suitable replacement. Panel membership can be reviewed at any time to ensure all relevant agencies are represented to assist in the scrutiny process.

1.5 Chair Person

The role of the chair is to first select the cases to be considered and then ensure that each panel member has equal opportunity and time to provide verbal feedback and views. When there are mixed views, the case will be discussed with the aim of achieving a majority agreement and learning for members. When this is not achieved, the case will be recorded as 'category 4' and no feedback offered.

When either positive or developmental feedback is identified for officers and staff, this will be taken forward by the Criminal Justice representative of Dyfed-Powys Police. The feedback may be verbal, written or a combination of the two depending upon what is appropriate and proportionate in the circumstances.

1.6 Panel Meetings

Dates and venue for the panel meeting will be agreed and circulated in advance by Dyfed-Powys Police and Crime Commissioner's Office. It is anticipated that panel meetings will be quarterly. Between eight and ten cases of two specified out of court disposal types will be selected at least three weeks prior to the date of the scrutiny panel meeting.

A list of cases showing URN, Offence and circumstances and dealt with in the previous 3 months will be presented to the Panel Chair. The Chair will independently and randomly select the cases to be considered by the panel. The selection may be thematic, by offences type or area, as agreed by the panel, or may be based on any offence that would not normally be associated with OoCD's. If these are found to be too few, random dip sampling can be undertaken to increase numbers.

The selected cases will be researched and case information will be sent to panel members for assessment prior to the panel meeting. Victim satisfaction surveys can be included as part of the case information, as can any views or feedback available from the offender.

1.7 Functions

Case information will in most cases be sent to panel members 2 weeks prior to the panel meeting. On receipt of the case information, panel members will review the material and complete the template with comments and initial category (see above 1–4). Panel members are invited to raise any queries in advance of the panel meeting to the Police and Crime Commissioner's representative at least one week prior to the panel meeting date. If questions are raised these will be investigated and dealt with at the panel meeting.

The scrutiny panel then meets to discuss each case and where possible reach a conclusion. In deciding which category the case falls, the panel should consider the following criteria –

1. If available, the views and feedback from the victim and offender
2. Compliance with force policy/Guidance and procedure
3. Rationale for the decision and outcome
4. Potential community impact
5. Circumstances and seriousness of the offence – not by title or definition
6. Potential alternative options that may have been available

The scrutiny panel has no referral or appeals capability. The TOR can be revisited and amended if necessary as the panel evolves. Examples of good practice, trends and organisational learning can be progressed through Force Performance Structures, Operations meeting and the Learning the Lessons Committee and communicated to staff when necessary. Feedback and members' completed forms will be collected at the meeting. A report will be written highlighting key findings and actions. This will be provided to a Policing Board meeting for consideration. Actions from the meeting will be logged on the OPCC's tracking system. Actions should be completed within 6 weeks of the meeting and an update provided to the OPCC. Reminders will be sent approximately 6 weeks before the date of the next meeting.

Panel members should be conversant with Guidance on OoCD's as appertains to the area they are looking at. Panel members need to familiarise themselves with the ACPO Decision making Matrix for adults and Youth offenders and the Out of Court Disposal Framework, which can be found at [Appendix E](#).

A Flow Chart summarising the Scrutiny Panel Process is shown at [Appendix B](#). Magistrates should acquaint themselves with guidelines set by the Justices Clerk. [\(Partly shown at Appendix C\)](#).

SCRUTINY PANEL
CASE FEEDBACK

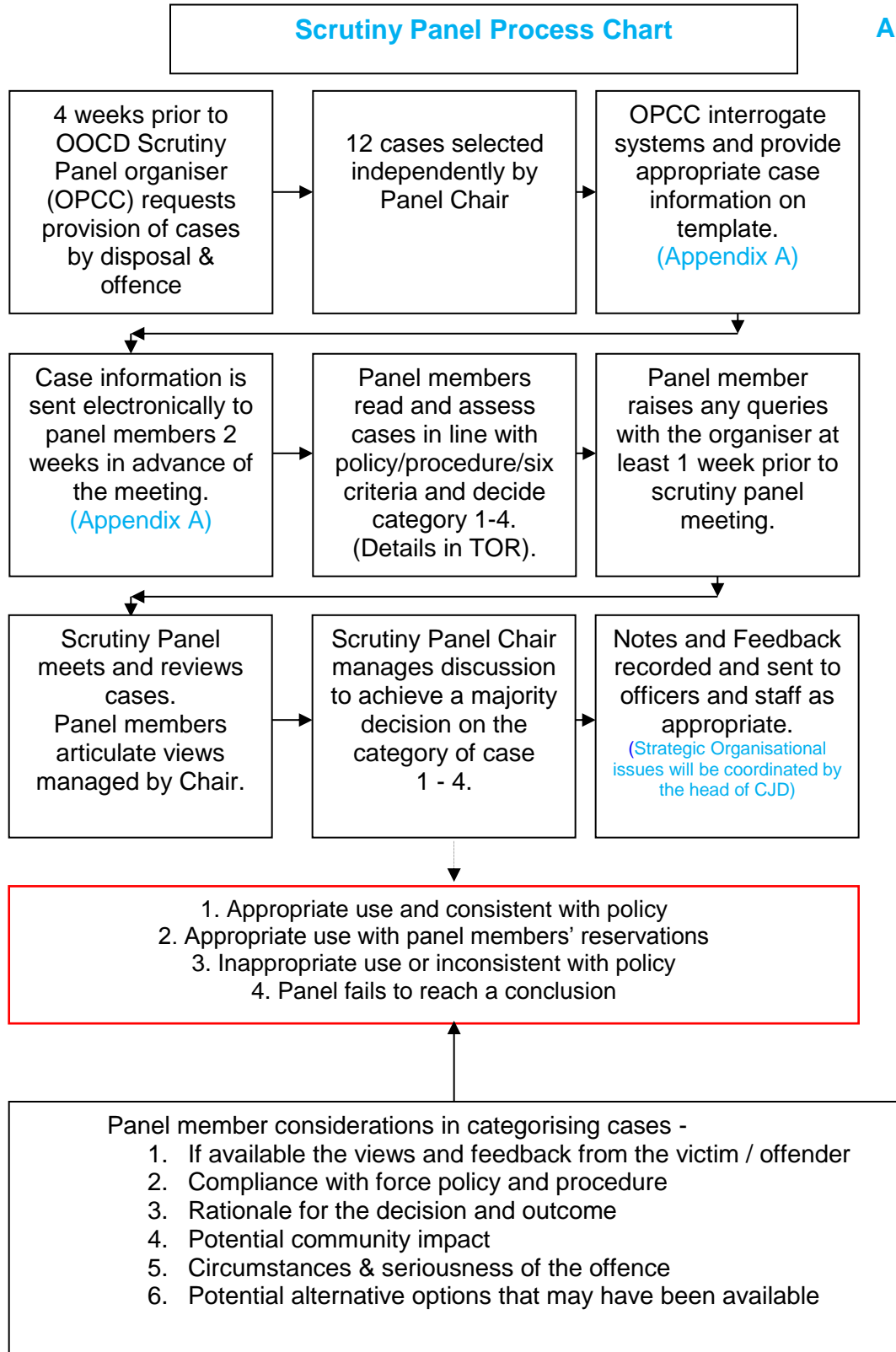
Panel:	Out of Court Disposal
Focus theme:	
Meeting date:	
Case reference:	
Case type: e.g. complaint / offence etc.	

Case file contents	<i>This section should have been completed for you in advance of the meeting and provides a list of documents enclosed in the file</i>
Case information / circumstances	<i>This section should have been completed for you in advance of the meeting and provides an overview of the case being considered</i>
Positives	<i>Use this section to describe positive points that you feel should be highlighted</i>
Negatives	<i>Use this section to describe negative points that you feel should be highlighted</i>

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Category	1 – <i>Appropriate use and consistent with policy</i> 2 – <i>Appropriate use with reservations</i> 3 – <i>Inappropriate use or inconsistent with policy</i> 4 – <i>Fail to reach conclusion</i>	
Please explain your response.		
Queries raised	Use this section to note down questions you have for the panel from reviewing this file	
Actions	Use this section to note down actions you think the panel should take following your review of this file	
(Empty space for recording actions)		

Panel Member (in case of queries):



Abstract from Guidance for magistrates' involvement in scrutiny of out-of-court disposals document

Responsibilities of magistrates who are involved

1. Magistrates' involvement in scrutiny of out of court disposals stems from their position as judicial office holders and as such they must uphold and exemplify judicial independence and bear in mind that impartiality is essential to the proper discharge of judicial office. For example, it is not envisaged that magistrates would individually enter into direct engagement with Police and Crime Commissioners on local policing priorities or policy under these arrangements. Any feedback to police forces or PCCs should be through the local scrutiny panel arrangements
2. All matters considered within the scrutiny arrangements should remain confidential, except for those matters which might be published in appropriate ways as might be defined by the individual terms of reference of the local scrutiny arrangements.
3. Any concerns whatsoever about the arrangements should be raised through the police's own internal routes with appropriate involvement of the relevant Bench Chairman and Justices' Clerk where necessary.
4. On the rare occasion where circumstances which a magistrate has considered as part of scrutiny arrangements might come before them in a magistrates' court (perhaps for non-compliance with the out-of-court disposal), they should recuse themselves from those matters. Different matters involving the same defendant do not create a similar barrier.
5. A summary of the work by local scrutiny arrangements will be presented to the Annual General Meeting of the relevant Bench(s) each year.

Scope and nature of scrutiny arrangements which include magistrates

6. All discussions of out-of-court disposals should be retrospective.
7. Magistrates involved in scrutiny arrangements are there to gain an understanding of the decisions that were made and through discussion to inform future Police policy in relation to out of court disposals.
8. Magistrates involved in scrutiny will not be able to change disposals which have already been made.

Dyfed-Powys Police

UNDERTAKING OF CONFIDENTIALITY

All members of the Out of Court Disposal scrutiny Panel, by agreeing to be members also agree to this Confidentiality requirement.

The purpose of the scrutiny panel is to independently assess, scrutinise and quality control the use of OoCD, by Dyfed-Powys Police.

I understand that my part in fulfilling the Purpose means that I will have access to Dyfed-Powys Police data and that such access shall include:

- a) the processing of information held on computer or displayed by some other electronic means, or
- b) the processing of manually held information in written, printed or photographic form.

I undertake that; -

1. I shall not communicate to nor discuss with any other person any personal details from the data except to those members involved in the panel. It is agreed that the findings of the panel can be shared with members of the organisation to which the panel member belongs. To aid this, a report of findings will be completed after each meeting.
2. I shall not retain, extract, copy or in any way use any of the Dyfed-Powys Police data to which I have been afforded access during the course of my duties for any other purpose.
3. I will comply with the appropriate physical and system security procedures made known to me as a member of the panel.
4. I will not share, publicise or make public any data produced using Dyfed-Powys Police data without the prior consent of the Data Controller.

I understand that Dyfed-Powys Police data is subject to the provisions of the Data Protection Act 1998 and that by knowingly or recklessly acting outside the scope of this Agreement I may incur criminal and/or civil liabilities.

I undertake to seek advice and guidance from the named individual acting on behalf of the Data Controller in the event that I have any doubts or concerns about my responsibilities or the authorised use of the data and/or aggregate data defined in the Agreement

By accepting the Terms of Reference and being part of the Scrutiny Panel I confirm that I have read, understood and accept the above.

Signed:

Date :.....

Print name:

APPENDIX E

PostLAPSO Act2012 OUT-OF-COURT DISPOSALS FRAMEWORK

Disposal option	Offence type	Evidential standard	Admission of guilt required?	Agreement with agencies required?	Offender's explicit consent required?	Victim consent required?	Reparation/restorative justice available?	Forms part of a criminal record?
COMMUNITY RESOLUTION	May be lower level crime or incident	Reasonable suspicion, may deal with non-criminal matters	Acceptance of responsibility			May proceed without but must have supervisor's agreement & record rationale		May be disclosed on Enhanced CRB check
CANNABIS WARNING	1 st offence of cannabis possession for personal use.	Reasonable suspicion			Compliant with procedure			May be disclosed on Enhanced CRB check
PND	29 penalty offences	Reasonable suspicion			Compliant, must receive notice	For theft or damage if value exceeds threshold		May be disclosed on Enhanced CRB check
ADULT or YOUTH CAUTION	Any offence (refer to gravity matrix)	Realistic prospect of conviction		CPS if indictable only inform YOT Summary and triable either way				
YOUTH CONDITIONAL CAUTION	Any offence (refer to gravity matrix)	Realistic prospect of conviction		YOTS for assessment & agree conditions CPS if indictable only				
ADULT CONDITIONAL CAUTION	Selected offences in DPP guidance	Realistic prospect of conviction		CPS				