



Avon and Somerset Constabulary; Engage, Navigate, Divert

Consultation responses and feedback to the commissioning strategy and change development of out of court disposals

June 2018

Ref	YOU SAID	OUR RESPONSE/ACTION
1.	<p>You would like updates and progress on the project, suggestions were made to a network of delivery providers.</p>	<p><i>The project has a communication strategy that includes regular communication to our partners about the progress of ASCEND. We will also report to boards such as the Local Criminal Justice Board and Criminal Justice Transformation Board, where partners will receive communication and updates on the project.</i></p> <p><i>It has already been identified that an intervention delivery group should be set up for providers to meet on a regular basis to share best practice, progress and develop ASCEND further. We would very much encourage partners delivering in the local landscape to be part of this where possible. There have been no arrangements as to when the first one will run but we would hope that following launch in the autumn we can set this up. Where there is particular interest in being part of this please email the ASCEND team:</i> ASCEND@avonandsomerset.police.uk</p>
2.	<p>You would be encouraged with the continuation of a scrutiny process of Out of Court Disposals (OOCDS) and for partners to receive updates on the findings from these.</p>	<p><i>Continuation of the OOCDS Scrutiny panel is key to the ASCEND project. The process of the panel is being updated and it is being considered as to holding them more frequently (currently every 3 months) in order to review more cases and to specifically review DA and Hate crime cases as part of this. Findings of the panels are transparent and will be communicated through boards such as the Local Criminal Justice Board, in addition the scrutiny panel business reports are published on the OPCC website. In addition the scrutiny process will be a key part to any evaluation.</i></p>
3.	<p>You are positive around the implementation of the ASCEND worker in assuring offender needs are identified. You would expect that the ASCEND worker has a good knowledge of available services across the local area and use them appropriately to address wider needs.</p>	<p><i>To have a good knowledge of the local partner landscape will be imperative to the role of the ASCEND worker, we would expect evidence of this to be shown throughout the recruitment process. In addition, in any training of the ASCEND worker information and tools will be provided to them to enhance their knowledge further. The ASCEND worker will also be expected to build relationships with partners and become a point of contact within the constabulary.</i></p> <p><i>All of the interventions do address attitudes, thinking and behaviour and the ASCEND workers will offer a certain level of mentoring and support, however we do recognise that there are gaps in the interventions offered in this phase of delivery. With a limited budget the project had to prioritise in terms of areas of</i></p>

		<p><i>demand, which influenced the interventions proposed.</i></p> <p><i>ASCEND is a two year pilot and with the monitoring and evaluation that this will bring we hope to be able to evidence where the gaps may lie in behavioural and holistic needs for the cohort of offenders we aim to divert through ASCEND. We hope to work with partners and commissioners over time in order to develop the opportunities ASCEND can offer.</i></p>
4.	<p>Some have offered that where you are a service already working with offenders to assess and address needs you would like the opportunity to second staff to the ASCEND project in order to utilise their existing skills but in also providing increased partnership working and self-development opportunity.</p>	<p><i>Where interest has been presented to do this we have openly discussed options and have worked through potential joint ventures. We recognise the existing skills and experience and aim to avoid duplication as much as possible, throughout the project lifespan this will continue to be explored and developed.</i></p>
5.	<p>You would like reassurance that where a decision is being made around using an OOCd that the tests within the Code for Crown Prosecutors is consulted.</p>	<p><i>The Full Code Test is applied to aid decision making in authorising an OOCd. This occurs more so with regard to conditional cautions in that the level of offence would be somewhat more serious than a community resolution and a much greater chance of going to prosecution.</i></p> <p><i>The Full Code Test will review follow the Evidential Test and Public Interest Test to ensure the outcome is appropriate. Authorising Officers will also use the Gravity Matrix alongside this to further support their decision making.</i></p> <p><i>Nationally OOCd guidance includes reference to the Full Code Test, as does our local guidance. In addition through the training that will be delivered to Officers around this change, this is included within the programme under decision making.</i></p>
6.	<p>You would like to see national recording of OOCd's so that prosecutors are able to review a person's full offending history in order to reliably review the</p>	<p><i>Conditional Cautions are recorded on PNC. A new national recording system called Law enforcement data service (LEDS) is due to be rolled out in 2020 and both Conditional Cautions and Community Resolutions will be recorded on the system.</i></p> <p><i>Although there is obviously a period of time waiting for</i></p>

	<p>public interest to prosecute.</p>	<p><i>this system, current processes outlined in the Public Interest test suggests that the Officer in the case will take into account all offending history that is available to them on local and national police systems (Niche), community resolutions would be included in this.</i></p> <p><i>However it is important to note that a community resolution is an opportunity for the police to give the offender a first chance at resolving their behaviour and diverting them away from the CJS, and in doing so not tainting them in the future – that is the agreement they undertake, so to have a record that is then taken into account sort of goes against that agreement. There is a record that can be disclosed as part of the enhanced DBS process to cover their future involvement in inappropriate employment, depending on the offence for which they received the community resolution.</i></p>
7.	<p>You would like to know whether there has been consideration around a potential increase of breaches as a result of non-compliance to conditional cautions and how any increase in demand of the CPS is supported.</p>	<p><i>The anecdotal breach rate for conditional cautions has been 8% nationally. Breaches do not always result in prosecution. There is currently no evidential figure attached to the two tier framework and an increase in prosecutions, therefore whether or not the demand will increase in terms of prosecutions is difficult to state at this time. One key aim of the two tier framework is to actually reduced demand; we would hope that in time demand will be reduced on all partners following reduced re-offending and therefore fewer offenders escalating through the CJS repeatedly.</i></p> <p><i>ASCEND and the two tier framework will be monitored; any impact on partners and the police will be collectively reviewed.</i></p>
8.	<p>You would like to be confident that in cases where there has been a breach of conditional caution, sufficient time is given to refer the matter to the CPS to commence a prosecution where necessary.</p>	<p><i>We will ensure that our monitoring process includes a flag to indicate when the time limit will expire and ensure that for these cases there is pro-active management of compliance. A robust process will be implemented for breaches, so that officers can build a file and CPS can review to make a charging decision. If a charging decision is made these cases will be prioritised to ensure the statutory time limit is met.</i></p>
9.	<p>You would like clarification around how OOCDS are used with sexual offences and offences committed via social</p>	<p><i>We recognise the sensitive nature of these crimes although there are many instances where it would not be in the public interest to prosecute, nor does the victim wish to take it court. An example recently</i></p>

	<p>media given some of the risks these cases present.</p>	<p><i>reviewed by our scrutiny panel involves an offence classified as a sexual assault which was an incident of groping and a forced kiss towards a female by a known male. The two were not in a relationship but knew each other from a sports club. Both parties were high performers at university and within the sports club. Following the victim reporting the incident she did not wish to prosecute but wanted a formal apology. All factors were taken into consideration including the offender's history, the victim's wishes, the impact a prosecution could have on the offender's future and the fact that the university had also taken punitive action towards the offender; a community resolution was the concluded outcome. The victim also asked to explore restorative justice as part of this, which did go ahead with trained facilitators carrying out the process. This was hugely positive for both parties but importantly the victim felt she was able to draw a line under the incident.</i></p> <p><i>The Officer in the case would always consult with the CPS where serious in nature, an OOCDC would only be considered in the 'lowest' level of cases and in consultation with the victim's wishes.</i></p>
<p>10.</p>	<p>You would like to be confident that DA cases will be fully risk assessed for a potential referral to CARA, in addition any decision making and authorisation is made by a skilled and knowledgeable professional.</p>	<p><i>The use of an OOCDC with DA must be carefully set against conditions that have been agreed by the Director of Public Prosecutions. These conditions ensure a thorough risk assessment process. Any authorisation must be delivered at Police Inspector level who are skilled and experienced in the decision making process. In addition to this The Hamptons Trust who delivers the CARA programme have criteria on appropriate course attendees.</i></p>
<p>11.</p>	<p>You would like to be assured that the use of the new interventions are monitored and evaluated.</p>	<p><i>All interventions will be subject to review and evaluation at a 6 month and 12 month period for year 1. A monitoring process has been designed so that all conditions set will be reviewed for compliance. The scrutiny panel will also form part of this review.</i></p> <p><i>In addition to this we hope that in working with the University of the West of England students will be offered the opportunity to carry out an evaluation of ASCEND and the two tier framework for their dissertation year. The evaluations will be done in 2 phases covering the 2 years of the pilot delivery.</i></p>

<p>12.</p>	<p>You have asked why the Drug Education Programme (DEP) cannot be used with an OOC.</p>	<p><i>The DEP has been designed not to be a criminal justice intervention but to address wider needs, and therefore regardless of the offender's history, it is a one-time opportunity with no criminal sanction to address their drug use. OOC's do form as part of a criminal sanction; a community resolution can be shown on an enhanced DBS check, so therefore potentially has implications around future employment if disclosed. A conditional caution does form part of a criminal record and thus will also potentially hold implications for that individual. Therefore to include the DEP within the OOC framework would go against its original purpose. Although the DEP and OOC's have a similar aims it is something the Constabulary would like to keep separate as a health intervention should not have a criminal justice outcome.</i></p> <p><i>It also provides an escalation process for drug possession offences; DEP could be considered the first stage of intervention where appropriate. However in cases where an individual may re-offend and therefore not eligible for DEP an OOC could be the next appropriate outcome; this provides an opportunity for the next level of intervention and diversion. Where these attempts are ineffective for that individual then prosecution will be the likely outcome.</i></p> <p><i>Finally for those subject to an OOC, drug and alcohol use may not be the central problem to the offence but on the periphery, therefore an intervention is required to address this sort of behaviour and substance use. An example may be a student who has become aggressive on a night out after taking a drug (unknown to others) and assaulted a house mate. The student therefore has not been arrested for any drug offence but is clearly being affected by their peripheral substance misuse.</i></p>
<p>13.</p>	<p>You have asked why the allocation of funding to drug and alcohol intervention is small compared to the area of demand it presents.</p>	<p><i>We recognise there are disparities within the funding allocation, however in working with a relatively small budget and the objective to create available interventions for all key demand areas has made this challenging The Director of Public Prosecutions has mandated that perpetrator pays cannot be used for some crime types (such as domestic abuse) meaning there is less funding for other programmes and the need for perpetrator pays model to be adopted.</i></p>

<p>14.</p>	<p>Suggestion has been made that the perpetrator pays option should not be the only option in particular to those with a drug and alcohol dependency.</p>	<p><i>The project understands the implications that having a cost attached to an intervention may have for an individual. The ASCEND worker will be skilled to assess the needs of the individual and where the implication of a cost is too great, alternative conditions will be considered for that person.</i></p> <p><i>It must also be noted that OOC's currently can have a financial conditions or fine attached to them, for example repaying a store or paying the fine of a PND. Therefore we propose that where a cost may be endured this is part of the punitive sanction that should be part of a conditional caution, yet it will be taken into account with regard to the individual's economic situation.</i></p>
<p>15.</p>	<p>Suggestion has been made that there would be significant benefits in going out to the market to engage a local provider delivering drug and alcohol support.</p>	<p><i>We have taken this suggestion on board; we agree that there are benefits in putting this opportunity to the market to explore the opportunities and expertise that present themselves in relation to a drug and alcohol intervention.</i></p>