Mae'r ddogfen hon ar gael yn Gymraeg yn ogystal â Saesneg.

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Comisiynydd Heddlu a Throseddu
Dyfed-Powys
Police and Crime Commissioner

Police and Crime Commissioner for Dyfed-Powys

Scrutiny Panel

Dip Sampling Exercise

Review of Assaults on an Emergency Worker and Hate Crime Cases

Panel Members' Findings & Feedback

January 2022

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1.0 Overview

On the 31st of January 2022 Members attended the meeting of the Dyfed-Powys Out of Court Disposal Scrutiny Panel. Members reviewed a selection of hate crime cases and assault on an emergency worker cases, which had been dealt with by way of an Out of Court Disposal. The Panel considered a total of 15 cases, 9 involving youth suspects and 6 involving adults.

Due to the Covid-19 pandemic and Government guidelines in terms of social distancing this meeting was conducted virtually via Microsoft Teams.

2.0 Background, purpose and methodology

Panel Members collectively agree an area of focus for each meeting. They receive relevant case files two weeks prior to each meeting which have been randomly selected by the Panel Chair. The Panel then meets to discuss each case and where possible reach a conclusion as to the appropriateness of the disposal. **In deciding this, the Panel considers the following criteria:**

- The views and feedback from the victim and the offender.
- Compliance with force policy.
- Rationale for the decision and outcome.
- Potential community impact.
- Circumstances and seriousness of the offence.
- Potential alternative options that may have been available.

The Panel discuss each case and categorise them as one of the following:

- Appropriate use consistent with policy.
- Appropriate use with Panel Members' reservations.
- Inappropriate use or inconsistent with policy.
- Panel fails to reach a conclusion.

3.0 Approval by Panel Chair

I DAVID EVANS (print name) can confirm that I have read the report, and that it fully represents the views expressed by the Panel during our dip sampling exercise dated 31st January 2022.

Signed: 

Date: 25/4/22

4.0 Actions taken following previous panel meeting

As a result of the Out of Court Disposal Scrutiny Panel's work, the following actions have been completed since the last meeting:

- The positive feedback in relation to case 6 in the last meeting has been passed on to the officer leading on the case.
- Cases deemed as inappropriate were raised with the officer in the case and their supervisor to share learning.
- The intelligence log in case 12 was updated in line with the action and discussions within the last meeting.

5.0 Good practice

The following good practice was identified as a result of the Panel's work this quarter:

- The Panel noted that in youth case 2 the Youth Offending Team had provided an excellent assessment and rationale in relation to the outcome of a Youth Conditional Caution for assault on an emergency worker.

6.0 Areas for improvement

There were three areas for improvement identified as a result of the Panel's work this quarter:

- It was found that cases 9 and 15 had insufficient evidence to warrant being recorded as a hate crime. However, an update was given by Crime Recording that officers had recently been issued with further guidance and criteria in relation to identifying hate crimes. The recording of hate crimes in the future should improve following this.
- Hate crimes were not referred to the Crown Prosecuting Service (CPS) for a charging decision as per the force policy.
- There was a lack of consistency between individual cases and youth and adult cases in relation to the outcomes given to assaults against an emergency worker.

7.0 Consideration of assault on an emergency worker cases – youth suspects

Five assaults on an emergency worker youth cases were considered, the cases were dealt with via: one Youth Caution, one Youth Conditional Caution, two Youth Community Resolutions and a Youth Restorative Disposal.

Members' assessment	Number of cases
Appropriate	1
Appropriate with reservations	2
Panel Fail to reach conclusion	2

Panel Members' observations are detailed below.

Case 1

The suspect in this case was given a Youth Caution for lashing out and hitting a police officer to the nose causing no visible injuries. Members had reservations about how this case was handled. The individual in this case was 17 years old at the time of the offence but was not referred to the Youth Offending Team (YOT) as they were 18 in the following two weeks. This decision resulted in this vulnerable young person not receiving support for their alcohol misuse and other issues. This was the individual's first offence. Whilst consistent with policy, Members felt that a Community Resolution with a referral to YOT would have been more appropriate.

Panel's Assessment: Appropriate use with reservations

Case 2

This incident was in relation to the suspect trying to bite and headbutt a police officer whilst being detained. Members felt that the outcome of a Conditional Caution was appropriate. The individual had a pattern of escalating offending and was receiving support and intervention from YOT. It was noted that there was a very good rationale and assessment provided for this individual in relation to the decisions made for this case.

It was noted by Members that the gravity matrix scores on Youth Offending Team (YOT) referral forms were not always consistent or correct.

Panel's Assessment: Appropriate

Action 1:

YOT to liaise with the Chief Inspector for Custody to review cases where inconsistencies regarding gravity matrix scores had been identified. Any identified areas requiring improvement would be subsequently shared with the Force.

Case 3

The suspect in this case was given a Youth Community Resolution for kicking out and causing a possible broken finger to a police officer. It was noted that this individual was a missing child in care and was therefore extremely vulnerable. The Panel felt that possibly this case should have been escalated due to the seriousness of the offence and the fact that the individual had previously been given Cautions. It was however noted that this case was taken by the YOT in Gwent and therefore the paperwork and rationale was not available for the Panel to review. It was recognised that this was a very vulnerable child and it was felt that Gwent may have provided an appropriate rationale as to why this case was not escalated. It did state within the paperwork that Gwent referred to their 'Gwent Protocol for Child Looked After Children(CLA), so this protocol was considered in deciding this outcome. It was also found that the paperwork in relation to this case had conflicting information in relation to the outcome. It was noted in parts that the suspect was given a Conditional Caution and not a Youth Community Resolution. Due to the unclear outcome and the absence of the Gwent YOT assessment and rationale, the Panel was unable to come to a conclusion in relation to the appropriateness of the outcome.

Panel's Assessment: Panel fail to reach conclusion

Action 2:

For case 3 to be shared with Gwent Police for their views.

Case 4

Members were unsatisfied with the actions taken within the investigation of this case. The suspect was given a Youth Community Resolution for striking officers to the arms. The individual in this case was 15 years old and extremely vulnerable due to their emotional state. The individual had no previous convictions. The Panel queried whether the individual had been appropriately supported through the case, as despite her Solicitor advising her to plead not

guilty the suspect pleaded guilty as they wanted to be removed from police detention as soon as possible. The Panel felt that the case was evidentially unsafe and therefore queried whether the outcome was appropriate. It was felt that the evidence and guidance in relation to this case should be reviewed.

Panel's Assessment: Panel fail to reach conclusion

Action 3:

For the outcome and evidence provided in case 4 to be reviewed.

Case 5

This case was in relation to the suspect kicking and spitting at an officer causing no visible injuries. Members had reservations about a Youth Restorative Disposal being issued for this case. The Panel felt that support and intervention was needed for this 14 year old found to be drinking vodka. The Panel also felt that despite the suspect's age, this case should have been escalated due to the seriousness of the case and the suspect spitting whilst in the middle of the Covid-19 pandemic and whilst the officer was driving the police vehicle.

The Panel felt that there was inconsistency in the outcomes for similar offences when comparing this case (Youth Restorative Disposal given) and case 1 (Youth Caution given).

Panel's Assessment: Appropriate with reservations

7.1 Consideration of hate crime cases – youth suspects

Four hate crime youth cases were considered which were dealt with via two Youth Conditional Cautions, a Youth Community Resolution and a Youth Restorative Disposal.

Members' assessment	Number of cases
Appropriate	1
Appropriate with reservations	2
Inappropriate	1

Case 6

The suspect in this case had shouted abuse towards the victim in relation to their disability and was given a Youth Conditional Caution. Members felt that

although the outcome appeared to be appropriate and that this was the individual's first offence, the YOT Bureau assessment and rationale was not provided, and it was therefore difficult for the Panel to review the outcome.

Panel's Assessment: Appropriate with reservations

Case 7

Members felt that this case had been inappropriately disposed via a Youth Conditional Caution. The suspect in this case had called the victim a name perceived to be racist. The Panel found that the individual had been referred to Youth Offending Bureau twice in the past and that their behaviour seemed to be escalating. The Panel noted that this individual had received a previous Conditional Caution the month before. Giving two Conditional Cautions was against policy. All hate crime cases should also be referred to the Crown Prosecution Service for a charging decision. It was found that this case was not referred to CPS as per guidance.

A discussion also took place in relation to children who commit an offence within the Dyfed-Powys area but are then moved outside the area (by social services) and dealt with by another YOT. The Panel queried if there was a written protocol in place on how these individuals should be supported to ensure consistency and good working practices across the police borders.

Panel's Assessment: Inappropriate

Action 4:

For the OPCC to discuss the cross-border protocol in relation to children in care.

Action 5:

For all hate crime cases to be sent to the CPS for a charging decision as per policy.

Case 8

A 12 year old had drawn offensive graffiti within a school's grounds and was given a Youth Community Resolution. Similarly, to the above case it was noted that this hate crime had not been referred to CPS for a charging decision. Members had reservations as a Youth Community Resolution should not be given

to a crime graded with a gravity score of 2. It was also noted that there were two hate crimes committed within the one incident, one relating to race and the other relating to sexuality. Inconsistencies in the scoring had also been identified within the case file. Members also noted that this was the individual's third offence within the space of a few weeks.

Panel's Assessment: Appropriate with reservations

Case 9

The suspect in this case was given a Youth Restorative Disposal for punching the victim to the nose and the victim's mother believing that this was due to their race. The Panel felt that this outcome was appropriate. The individual had written a letter of apology, had admitted to the offence and was only 10 years old. The Panel also noted that the case had been recorded as a hate crime, however, there was no evidence to support that the playground altercation was because of the victim's race.

Panel's Assessment: Appropriate

8.0 Consideration of assault on emergency worker cases – adult suspects

Panel Members reviewed three such cases. One had been dealt with by way of a Conditional Caution and two via Community Resolutions.

Members' assessments were as follows:

Members' assessment	Number of cases
Appropriate	2
Appropriate use with reservations	1

Panel Members' observations on each case are detailed below:

Case 10

This 19 year old suspect was given a Conditional Caution for pushing a police officer whilst being detained. Members felt that this case was appropriately disposed as the individual was receiving support and intervention.

The Panel felt that when comparing this outcome to the 18 year old in case 1 (Youth caution – no intervention), there was obvious inconsistency in outcomes in relation to assaults on an emergency worker cases.

Panel's Assessment: Appropriate

Case 11

Members were satisfied with a Community Resolution relating to an intoxicated suspect who had lashed out at a police officer, hitting their arm and chest. It was noted that although the suspect's behaviour had escalated, the individual had written a letter of apology and that the officer in the case was happy with the outcome. It was however felt that the further rationale was needed to justify going against policy.

Again, reference was made to Case 1 and the inconsistent use of disposals on assaults against emergency worker cases.

Panel's Assessment: Appropriate

Case 12

The suspect in this case had pushed and punched the police officer in the chest causing no visible injury. This 70 year old suspect was given a Community Resolution. Although no injuries were caused, the Panel had reservations on this outcome due to the case being an assault on an emergency worker.

Panel's Assessment: Appropriate use with reservations

8.1 Consideration of hate crime cases – adult suspects

Panel Members reviewed three hate crime adult cases which had been dealt with by way of a Caution, Conditional Caution and a Community Resolution.

Panel Members' assessments were as follows:

Members' assessment	Number of cases
Appropriate	1
Appropriate use with reservations	1
Inappropriate	1

Members' observations on each case are detailed below:

Case 13

Members felt that the outcome of a Caution was inappropriate for this case where the suspect had shouted racial abuse to the victim. Similarly to the youth hate crime cases it was noted that this case had not been referred to CPS as per the policy. It was noted that the suspect in this case had ongoing issues with the victim. The suspect had also previously received a Caution and therefore the Panel felt that this case should have been escalated as per the policy of only being allowed one Caution.

Panel's Assessment: Inappropriate

Case 14

The suspect in this case had sworn at the victim making homophobic comments. The Panel Members had reservations in relation the Conditional Caution given as it was felt that further information and rationale was required. The suspect had a pattern of similar behaviour and it was felt that this case should have been referred to CPS for advice as per the policy for hate crimes. It was noted that although the victim did not wish to support the case, due to the suspect admitting to the offence fully, this case could have been taken to court and charged on that basis.

Panel's Assessment: Appropriate with reservations

Case 15

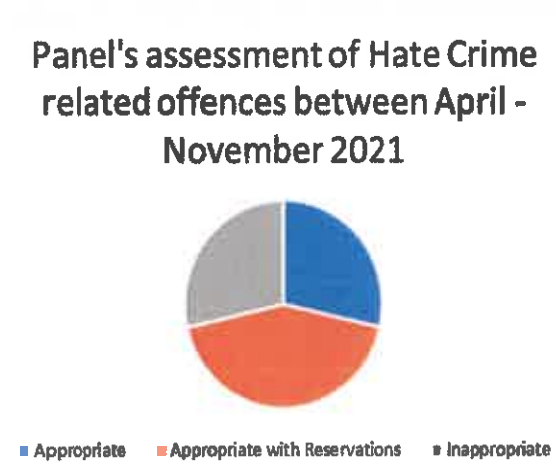
The suspect in this case was given a Community Resolution for taking items from the victim's student accommodation. The victim felt that this was due to his sexual orientation. Members felt that this outcome was appropriate for a low-level theft as the suspect had fully admitted to taking the items. It was noted that this case was recorded as a hate crime, however, similarly to case 9, there was no evidence to support that the theft was a result of the victim's sexual orientation and therefore not a hate crime.

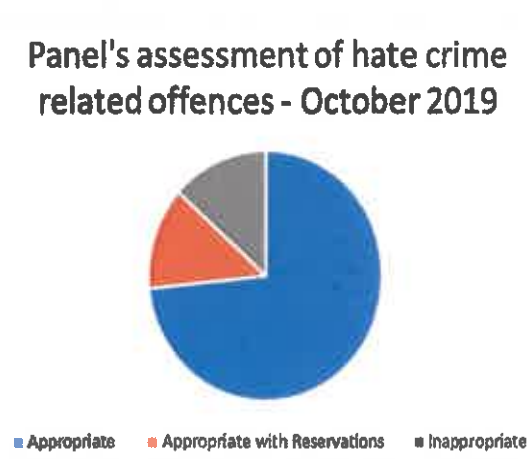
Panel's Assessment: Appropriate

9.0 Panel's assessments to date

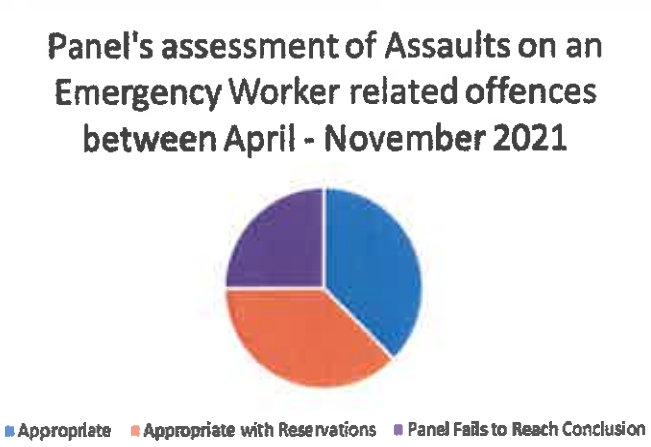
The charts below demonstrate the Panel's assessment of the cases considered at the most recent meeting and the assessments made at the last meetings where hate crimes and assaults against an emergency workers were reviewed.

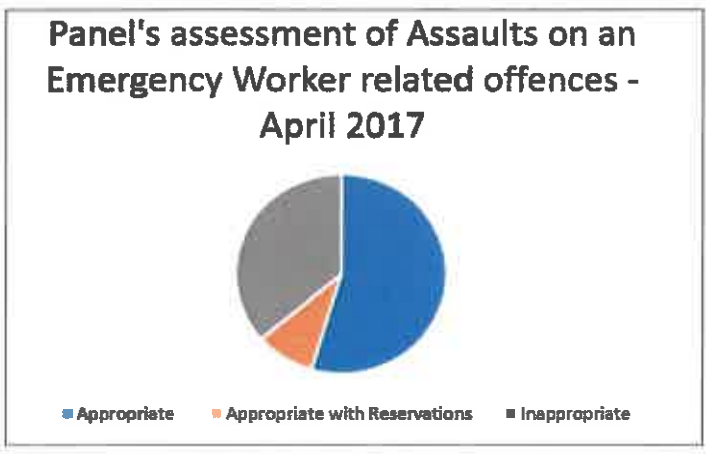
Hate crime related offences:



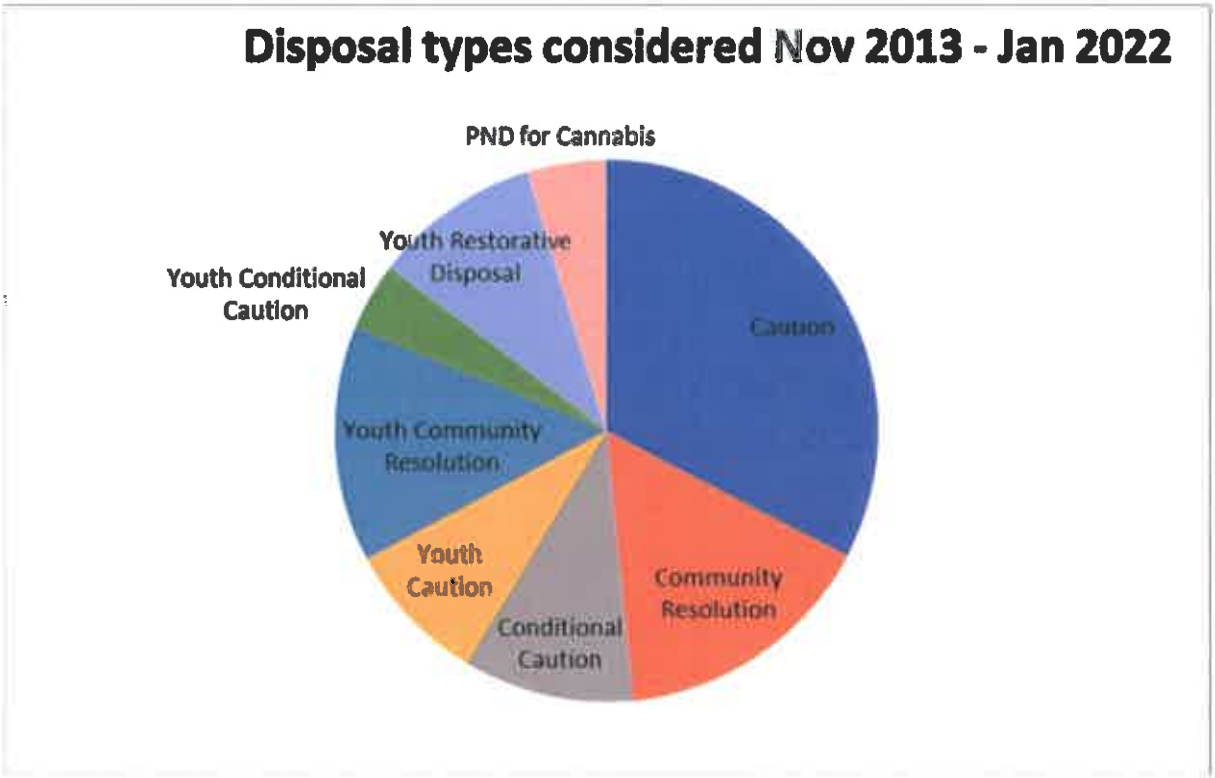


Emergency worker related offences:



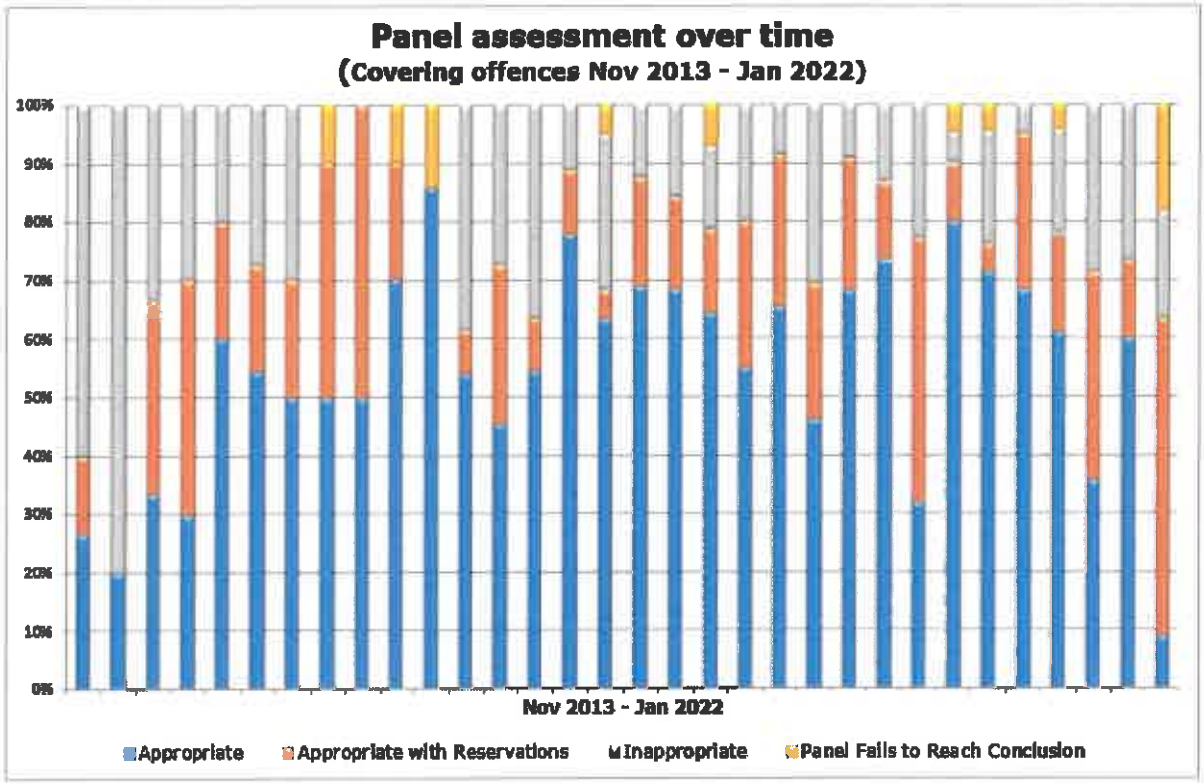


Since November 2013 the Panel has considered a range of disposals, as displayed in the graph below.

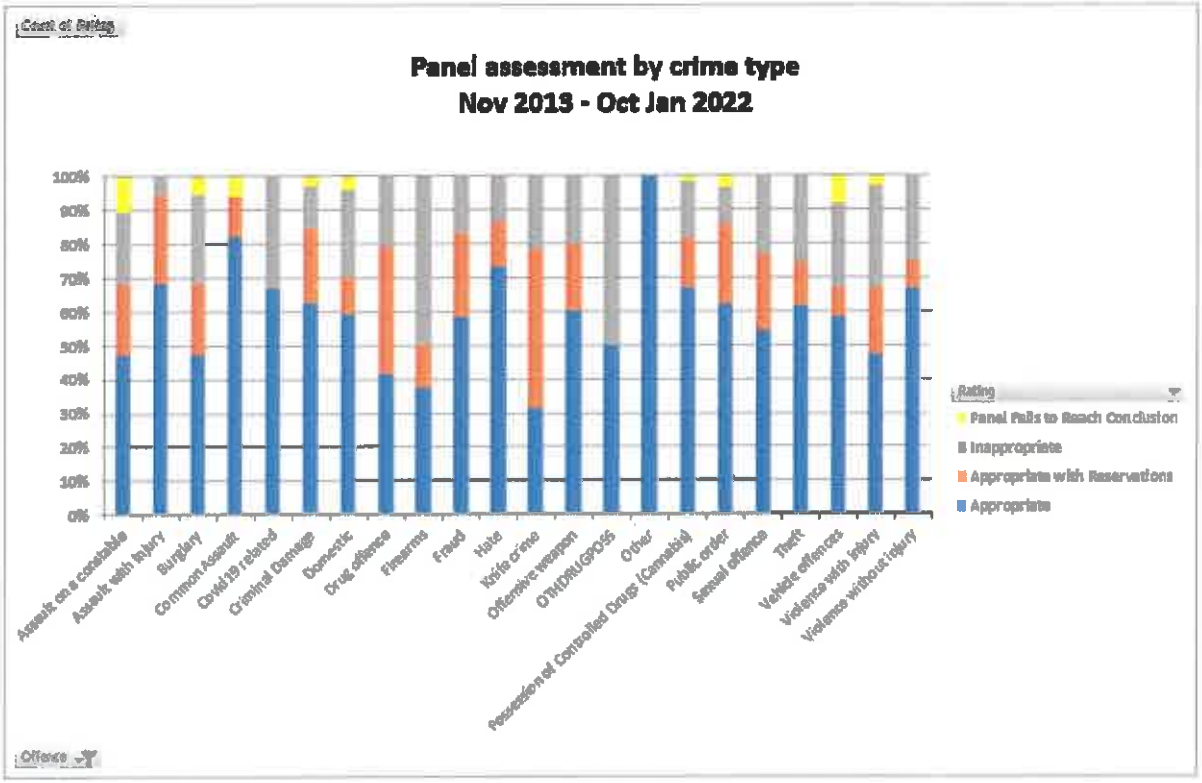


Of the 476 cases examined between April 2013 and January 2022, 57% were assessed as appropriate, 20% as inappropriate, 21% as appropriate with reservations and the panel failed to reach a conclusion in 2% of cases.

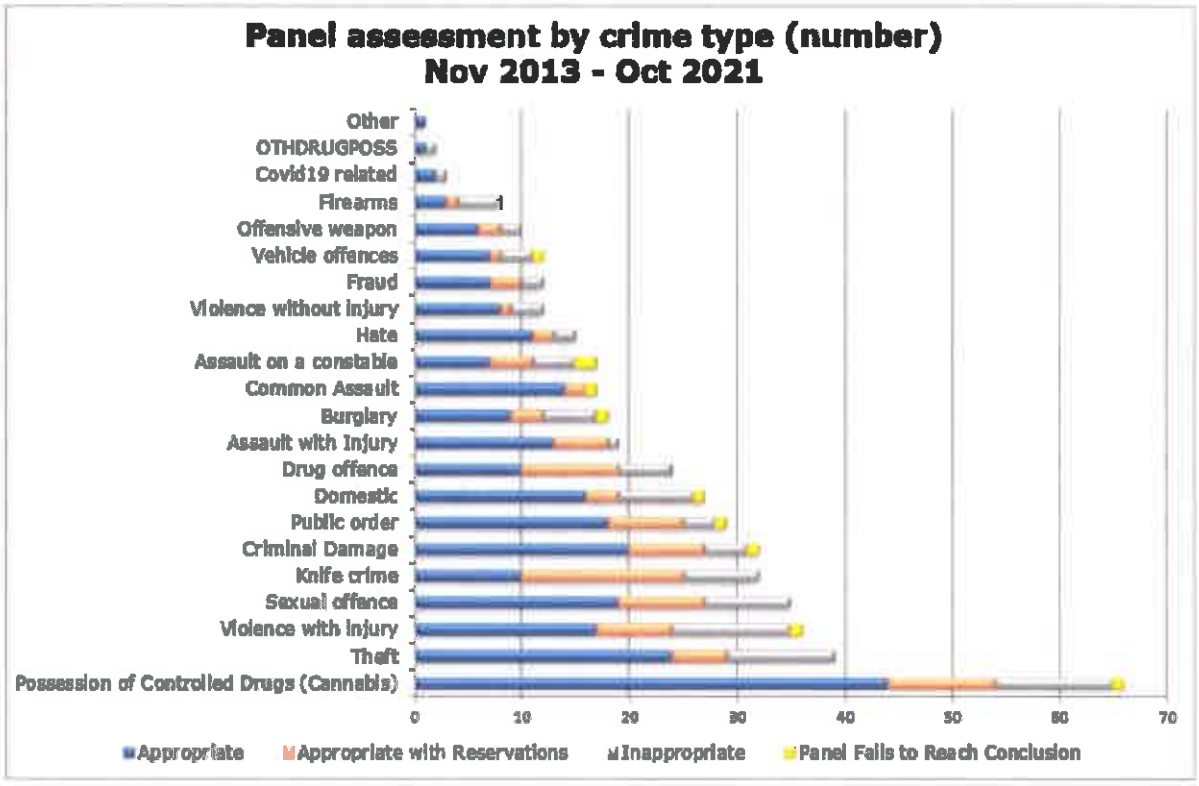
The change in conclusions reached over time can be seen in the graph below:



The graph below shows the breakdown by crime type as a percentage of cases considered between November 2013 and January 2022.

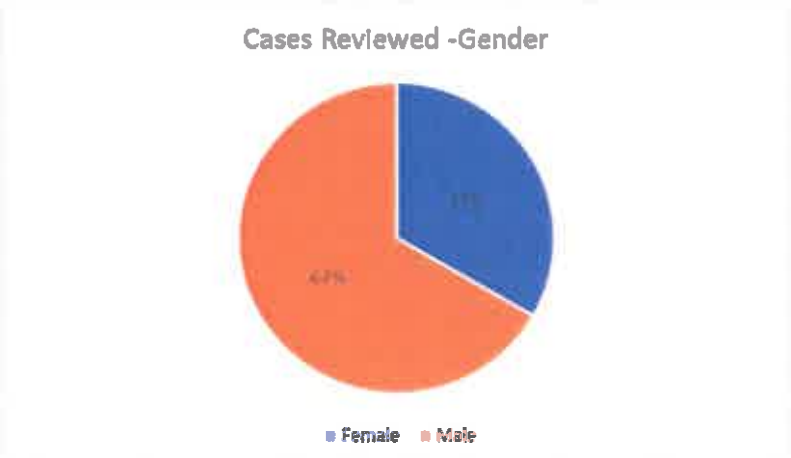


The following graph displays the actual number of cases assessed within each crime type and the resulting Panel opinions at their meetings between November 2013 and January 2022.



10.0 Ethnicity and Gender

The following chart shows the breakdown of cases reviewed within this meeting in terms of their gender:



The following table shows the breakdown of cases reviewed within this meeting in terms of ethnicity.

Ethnicity Noted	Suspect's Self - Assessment	Officer's Assessment
White British	12	0
White - North European	0	13
Not noted	3	2

It was identified that where ethnicity had been recorded, all suspects identified as White - British but officers identified them as White - North European. It was queried whether these fields were being recorded accurately.

Action 6:

For feedback in relation to the recording of suspects' ethnicity to be passed back to the Force.

Total disposals by demographics and protected characteristics 1st January 2021 to 31st December 2021:

	Gender				Ethnicity					
Disposal	Male	Female	Other	Gender Unknown	White	Mixed/ Multiple ethnic	Asian/ Asian British	Black/ African/ Caribbean/ Black British	Other ethnic group	Ethnicity Unknown
Caution	114	36	*	2	138	1	*	1	*	12
Conditional caution	210	111	*	3	284	*	3	*	*	37
Community resolution	531	228	*	15	603	*	6	9	*	156

	Age Group						
Disposal	18-24	25-34	35-44	45-54	55-64	65 and over	Age Unknown
Caution	27	31	53	15	14	10	*
Conditional caution	86	95	71	42	25	5	*
Community resolution	271	203	133	68	59	37	3

11.0 Future Panel focus

In line with the current national focus, the Panel agreed to review violence against women and girls' cases at their next meeting.