

CRIMINAL JUSTICE SYSTEM



Out-of-court disposals for adults

A guide to alternatives to prosecution



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Introduction

This booklet provides a framework for police officers to use when exercising their discretion about the appropriate and proportionate use of out-of-court disposals for adults who have committed non-motoring criminal offences. There is a substantial body of guidance on out-of-court disposals (see Appendix B, the 'Guidance documents' section of this booklet on page 18) and officers should ensure that they are familiar with the national guidance and their local force policies in relation to each disposal. This booklet does not aim to add to that guidance but to summarise it in order to assist officers where appropriate.

An overview of each disposal and examples of when they can be used are given in Appendix A on page 6. This booklet also makes brief reference to out-of-court motoring disposals and interventions as well as the non-criminal anti-social behaviour interventions that police officers can undertake in respect of their more general neighbourhood policing role.

Police discretion

In some circumstances, police action is determined by statute. In other circumstances, police officers have discretion in how they exercise their powers. Decisions must, however, be both appropriate and proportionate to the offence and the offender, whether made on the street or at the police station.

When reaching a decision on the appropriateness of a particular disposal, officers should take into consideration any relevant mitigating or aggravating factors that apply to the offender and/or the offence (as contained in the current Association of Chief Police Officers (ACPO) Gravity Factors Matrix).

Out-of-court disposals

Out-of-court disposals aim to deal with low-risk, low-level and mostly first-time offenders outside of the court system in appropriate circumstances. Out-of-court disposals are not suitable for contested or more serious cases. They would not normally be considered for those who offend repeatedly (subject to relevant guidance).

Decision-making process

This booklet recognises that many officers will be familiar with the different types of disposals available to them and their uses. It is not a legal document or a code of practice and is not legally binding on officers. This does not purport to be a step-by-step guide but raises

the issues that officers should consider when exercising their discretion both on the street and at the police station.

Decision-making on the street

Arrest

An officer should never be prevented from arresting an individual in accordance with the necessary criteria, where the circumstances require it. Arrest does not preclude the use of out-of-court disposals and, if the offence is of a nature that is suitable for an out-of-court disposal, these can be considered at the police station where appropriate.

Offence suitability

The seriousness of an offence must always be the principal consideration in determining suitability for an out-of-court disposal. All serious offences should be considered for charge as only a court has the suitable powers to deal appropriately with the offending behaviour. In determining whether an offence is low risk or low level, officers should consider the harm caused or intended and any aggravating or mitigating factors as well as the impact upon the victim. Officers may wish to use the Gravity Factors Matrix to assist them in making this determination.

An officer must have sufficient evidence to support a charge for the exact offence that they propose to deal with by using an out-of-court disposal. Evidence should be retained and its location documented to ensure that it is available if a matter is contested. This is particularly important where an individual may later decide to contest the matter.

Officers should ensure that where the use of out-of-court disposals is governed by statute, these limits are observed.

Offender suitability

A suspect must be able to understand what is happening. If a suspect is unable to understand what is happening, because they are impaired by alcohol or drugs or because they have language or hearing difficulties, they should not be issued with a disposal on the street.

A suspect's previous offending history will also be relevant to their suitability for an out-of-court disposal. In cases where a suspect has previous convictions, it is unlikely that they will be suitable for an out-of-court disposal. Officers should, however, use their discretion where previous convictions are spent or of a completely different nature.

Disposal type

An officer on the street, when considering an alternative to arresting or issuing street bail with a view to charge, has a number of different options available. The decision could be to take no further action or give an informal warning, or to issue a Cannabis Warning (previously known as a Formal Warning for Cannabis) or Penalty Notice for Disorder (PND). An officer needs to be aware of the types of disposal that are available for the particular offence that has been committed.

When an officer decides to issue a PND or Cannabis Warning on the street, they need to ensure that they are aware of and have considered all of the exceptions that prevent these being an appropriate disposal.

Decision-making in the police station

Custody officers and other decision makers at the police station should be aware that all relevant and permissible disposal options remain available to them. Frequently, the same issues and considerations that apply on the street will also apply in the custody suite where decisions on disposal options are being made. Custody officers will be aware of their obligations to refer all decisions on Conditional Cautions and on charging where required to the Crown Prosecution Service (CPS).

Recording decisions

Most police computer systems (such as custody, command and control and crime recording) require police decisions to be properly recorded. These records act as a control measure for supervisors and managers to ensure that appropriate decisions are made and that the reasons for them are recorded. For example, police officers should be aware that police operational guidance in relation to PNDs requires an officer who charges an offence for which a PND may be issued to record on the MG6 form why they chose not to issue a penalty notice (Criminal Justice and Police Act 2001, Penalty Notices for Disorder: Police Operational Guidance).

Officers should ensure that they complete fully all sections of the PND form (failure to do so may result in the PND being cancelled) or make an accurate record of any Cannabis Warning that they issue on the street. As stated above, evidence should be retained

and its location documented to ensure that it is available if a matter is contested. It is important that accurate and full records are kept to ensure the appropriate use of penalties and to aid officers if matters are contested.

Reducing bureaucracy

This booklet does not require any further police documentation to be created or completed by officers; it does not create any additional layer of bureaucracy.

Notes on the tables

The following tables are not ordered in any hierarchy but are simply presented in alphabetical order.

Motoring: This booklet does not cover motoring offences in detail; officers should refer to the relevant guidance. Brief descriptions of Motoring FPNs, the Vehicle Driver Rectification Scheme (VDRS) and Driver Improvement Schemes are given on page 15.

Anti-social behaviour: There is a reference to non-criminal justice interventions, specifically to Acceptable Behaviour Contracts (ABCs), on page 16. This information is included to reflect the wider interventions available to the police as part of their neighbourhood policing role.

Appendix A

An overview of available disposals

DISPOSAL: CANNABIS WARNING	
Description of the disposal	<ul style="list-style-type: none"> A non-statutory disposal introduced in 2004, with the reclassification of cannabis to a Class C drug. A verbal warning is given and the cannabis is confiscated. Cannabis Warnings can be issued by police on the street or at the custody suite.
Factors which prevent the disposal being used include but are not limited to:	<p>A Cannabis Warning cannot be given where:</p> <ul style="list-style-type: none"> the individual is under 18 years of age; the offender has not made a clear and reliable admission to possession in a manner that is compliant with the Police and Criminal Evidence (PACE) Act 1984;¹ there is evidence of dealing or possession with intent to supply; or the individual has previously received two Cannabis Warnings.
Circumstances when the disposal may not be given on the street	<p>A Cannabis Warning cannot be given on the street but, if appropriate, can be given at the police station post-arrest when:</p> <ul style="list-style-type: none"> a person is smoking cannabis in the company or vicinity of young or vulnerable people; the name and/or address of the suspect are not known or there are reasonable grounds for doubting whether a name that is given is a real name; the individual is not capable of understanding the warning procedure; or there are circumstances that are causing a locally identified policing problem.
Circumstances when the disposal may be used	<ul style="list-style-type: none"> Possession of a small amount of cannabis commensurate with personal use. The offender makes a clear and reliable admission to all elements of the offence, which is recorded and PACE compliant.
Offender implications	<ul style="list-style-type: none"> The cannabis is confiscated and a record of the Cannabis Warning is kept locally. A Cannabis Warning is not a conviction and does not count as a part of a formal criminal record. However, a Cannabis Warning can be used as evidence of bad character² and may be disclosed in an Enhanced Disclosure Certificate requested from the Criminal Records Bureau (CRB).³
Victim implications	<ul style="list-style-type: none"> No specific victim.

¹ To be an adequate record of an independent admission of the offence, the details of the admission should be recorded by any of the following methods:

- Tape-recorded interview.
- Record of the admission in the officer's notebook and signed by the suspect as an accurate record. This could cover any statement made by the suspect on arrest, after being cautioned.
- A statement made by the suspect while in police detention (after being reminded that they are still under caution) recorded in the custody record and signed by the suspect as an accurate record.
- A contemporaneous interview under caution conducted if the suspect does not make a voluntary statement of admission, or for clarification where the statement does not meet the required evidential standard. The notes should be fully documented.

² See Part 11 of the Criminal Justice Act 2003.

³ For further information on disclosure of records from the CRB, see Part V of the Police Act 1997 and the relevant guidance in Home Office Circular 5/2005. Individuals employed in notifiable occupations should be aware of the guidance in Home Office Circular 6/2006.

Notes

DISPOSAL: CAUTION (SIMPLE CAUTION)			
Description of the disposal	<ul style="list-style-type: none"> A non-statutory disposal for adult offenders designed for circumstances where it is in the public interest not to prosecute but instead to issue a formal warning. Simple Cautions are issued by the police, but issuing for indictable-only offences is subject to a CPS decision. 		
Factors which prevent the disposal being used include but are not limited to:	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> The offender is under 18 years of age. There is insufficient evidence of the offender's guilt to meet the Code for Crown Prosecutors' threshold test. The offender has a defence. The offender cannot or will not give informed consent to the administering of a Simple Caution. There are doubts as to the offender's mental health or intellectual capacity. The offender has not made a clear and reliable admission to all elements of the offence.¹ The offender is a serving prisoner. </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> The offence is serious and the public interest cannot be met by the administration of a Simple Caution. The offence is indictable only and the prosecutor has not consented to the Simple Caution. May not be appropriate when the officer has been unable to check national and local records for previous convictions, cautions, reprimands or warnings. May not be appropriate when the offender has received a Simple Caution, reprimand or warning for a related or similar offence in the past two years.² In exceptional circumstances, where the matter is trivial or unrelated, a second Simple Caution may be given. </td> </tr> </table>	<ul style="list-style-type: none"> The offender is under 18 years of age. There is insufficient evidence of the offender's guilt to meet the Code for Crown Prosecutors' threshold test. The offender has a defence. The offender cannot or will not give informed consent to the administering of a Simple Caution. There are doubts as to the offender's mental health or intellectual capacity. The offender has not made a clear and reliable admission to all elements of the offence.¹ The offender is a serving prisoner. 	<ul style="list-style-type: none"> The offence is serious and the public interest cannot be met by the administration of a Simple Caution. The offence is indictable only and the prosecutor has not consented to the Simple Caution. May not be appropriate when the officer has been unable to check national and local records for previous convictions, cautions, reprimands or warnings. May not be appropriate when the offender has received a Simple Caution, reprimand or warning for a related or similar offence in the past two years.² In exceptional circumstances, where the matter is trivial or unrelated, a second Simple Caution may be given.
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Circumstances when the disposal may be used	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Simple Cautions are generally used for first-time, low-level offences although they can be issued for any offence where it is in the public interest to do so. Suitability for a Simple Caution is determined according to its appropriateness in relation to the offender and offence and the likelihood of it being effective, in light of all the circumstances, at reducing the risk of reoffending. </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> The offender makes a clear and reliable admission to all elements of the offence. The admission should be recorded and must be PACE compliant. There is sufficient evidence to charge the offender with the offence. The offender agrees to the caution. The offender is 18 years of age or older. </td> </tr> </table>	<ul style="list-style-type: none"> Simple Cautions are generally used for first-time, low-level offences although they can be issued for any offence where it is in the public interest to do so. Suitability for a Simple Caution is determined according to its appropriateness in relation to the offender and offence and the likelihood of it being effective, in light of all the circumstances, at reducing the risk of reoffending. 	<ul style="list-style-type: none"> The offender makes a clear and reliable admission to all elements of the offence. The admission should be recorded and must be PACE compliant. There is sufficient evidence to charge the offender with the offence. The offender agrees to the caution. The offender is 18 years of age or older.
<ul style="list-style-type: none"> Simple Cautions are generally used for first-time, low-level offences although they can be issued for any offence where it is in the public interest to do so. Suitability for a Simple Caution is determined according to its appropriateness in relation to the offender and offence and the likelihood of it being effective, in light of all the circumstances, at reducing the risk of reoffending. 	<ul style="list-style-type: none"> The offender makes a clear and reliable admission to all elements of the offence. The admission should be recorded and must be PACE compliant. There is sufficient evidence to charge the offender with the offence. The offender agrees to the caution. The offender is 18 years of age or older. 		
Offender implications	<ul style="list-style-type: none"> A Simple Caution is not a conviction. Simple Cautions given for recordable offences are entered on the Police National Computer (PNC) (along with any fingerprint or DNA information taken). A Simple Caution may be cited in any subsequent court proceedings. A Simple Caution forms part of an offender's formal criminal record. A Simple Caution can be quoted on Standard and Enhanced Disclosure Certificates issued by the CRB and can therefore be made known to a prospective employer. A Simple Caution will be disclosed to an employer by the police if the offender is employed in a notifiable occupation.³ Simple Cautions do not fall within the remit of the Rehabilitation of Offenders Act 1974. An offender who is specifically asked if they have any previous cautions must declare them irrespective of when the caution was administered. A Simple Caution for a relevant sexual offence could result in an offender being placed on the Sex Offenders Register. 		
Victim implications	<ul style="list-style-type: none"> The victim is consulted on the issuing of the disposal, but cannot insist that the matter is disposed of in a particular way. The victim's views may be relevant to determining seriousness. If the victim wants to pursue a civil action, the offender's details can be requested. 		

¹ To be an adequate record of an independent admission of the offence, the details of the admission should be recorded by any of the following methods:

- Tape-recorded interview.
- Record of the admission in the officer's notebook and signed by the suspect as an accurate record. This could cover any statement made by the suspect on arrest, after being cautioned.
- A statement made by the suspect while in police detention (after being reminded they are still under caution) recorded in the custody record and signed by the suspect as an accurate record.
- A contemporaneous interview under caution conducted if the suspect does not make a voluntary statement of admission, or for clarification where the statement does not meet the required evidential standard. The notes should be fully documented.

² See parts 17, 38 and 39 of Home Office Circular 30/2005.

³ For further information on disclosure of records from the CRB, see Part V of the Police Act 1997 and the relevant guidance in Home Office Circular 5/2005. Individuals employed in notifiable occupations should be aware of the guidance in Home Office Circular 6/2006.

Notes

DISPOSAL: CONDITIONAL CAUTION			
<p>Description of the disposal</p>	<ul style="list-style-type: none"> A statutory disposal introduced by the Criminal Justice Act 2003.¹ Conditional Cautions may be used where sufficient evidence exists to prosecute the offender for the offence but it is determined by the Crown Prosecutor that it is in the victim's and the community's interest for the case to be dealt with outside the court process. The CPS must determine whether a Conditional Caution can be issued to an offender, as well as the relevant conditions to be applied. 		
<p>Factors which prevent the disposal being used include but are not limited to:</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> The offender is under 18 years of age. There is insufficient evidence of the offender's guilt to meet the Code for Crown Prosecutors' threshold test. The offender has a defence. The offender does not make a clear admission to all of the elements of the offence.² The offender does not agree to the caution or the conditions put forward by the prosecutor. The offender cannot or will not give informed consent. There are doubts as to the offender's mental health or intellectual capacity. The prosecutor does not consider that a Conditional Caution is an appropriate response to the offence. </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> The offence is an indictable-only offence. The offence is an either-way offence that is not specified in the Director of Public Prosecutions' (DPP) guidance. The offence is specifically excluded in the DPP's guidance. The offence is racially or religiously motivated. May not be appropriate when conditions cannot be devised that are proportionate and appropriate to address the offender's behaviour. May not be appropriate when the individual has recently been cautioned for a similar offence, unless exceptionally it is believed that conditions might be effective in breaking the pattern of offending,³ or where the individual has previously failed to complete a Conditional Caution.⁴ </td> </tr> </table>	<ul style="list-style-type: none"> The offender is under 18 years of age. There is insufficient evidence of the offender's guilt to meet the Code for Crown Prosecutors' threshold test. The offender has a defence. The offender does not make a clear admission to all of the elements of the offence.² The offender does not agree to the caution or the conditions put forward by the prosecutor. The offender cannot or will not give informed consent. There are doubts as to the offender's mental health or intellectual capacity. The prosecutor does not consider that a Conditional Caution is an appropriate response to the offence. 	<ul style="list-style-type: none"> The offence is an indictable-only offence. The offence is an either-way offence that is not specified in the Director of Public Prosecutions' (DPP) guidance. The offence is specifically excluded in the DPP's guidance. The offence is racially or religiously motivated. May not be appropriate when conditions cannot be devised that are proportionate and appropriate to address the offender's behaviour. May not be appropriate when the individual has recently been cautioned for a similar offence, unless exceptionally it is believed that conditions might be effective in breaking the pattern of offending,³ or where the individual has previously failed to complete a Conditional Caution.⁴
<ul style="list-style-type: none"> The offender is under 18 years of age. There is insufficient evidence of the offender's guilt to meet the Code for Crown Prosecutors' threshold test. The offender has a defence. The offender does not make a clear admission to all of the elements of the offence.² The offender does not agree to the caution or the conditions put forward by the prosecutor. The offender cannot or will not give informed consent. There are doubts as to the offender's mental health or intellectual capacity. The prosecutor does not consider that a Conditional Caution is an appropriate response to the offence. 	<ul style="list-style-type: none"> The offence is an indictable-only offence. The offence is an either-way offence that is not specified in the Director of Public Prosecutions' (DPP) guidance. The offence is specifically excluded in the DPP's guidance. The offence is racially or religiously motivated. May not be appropriate when conditions cannot be devised that are proportionate and appropriate to address the offender's behaviour. May not be appropriate when the individual has recently been cautioned for a similar offence, unless exceptionally it is believed that conditions might be effective in breaking the pattern of offending,³ or where the individual has previously failed to complete a Conditional Caution.⁴ 		
<p>Circumstances when the disposal may be used</p>	<ul style="list-style-type: none"> Conditional Cautions are limited by DPP guidance to summary offences, excluding motoring offences and specified either-way offences. The offender makes a clear and reliable admission to all elements of the offence. The admission should be recorded and must be PACE compliant. There is sufficient evidence to charge the offender with the offence. The offender agrees to the caution and the conditions put forward by the prosecutor. The offender is 18 years of age or older. 		
<p>Offender implications</p>	<ul style="list-style-type: none"> A Conditional Caution is not a conviction. Conditional Cautions given for recordable offences are entered on the PNC (along with any fingerprint or DNA information taken). Conditional Cautions may be cited in any subsequent court proceedings. A Conditional Caution forms part of an offender's formal criminal record. If an offender fails to complete the conditions set, they can be prosecuted for the original offence. A Conditional Caution can be quoted on Standard and Enhanced Disclosure Certificates issued by the CRB and can therefore be made known to a prospective employer. A Conditional Caution will be disclosed to an employer by the police if the offender is employed in a notifiable occupation.⁵ Conditional Cautions do not fall within the remit of the Rehabilitation of Offenders Act 1974. An offender who is specifically asked if they have any previous cautions must declare them irrespective of when the caution was administered. 		

DISPOSAL: CONDITIONAL CAUTION	
<p>Victim implications</p>	<ul style="list-style-type: none"> The victim is consulted on the issuing of the disposal but cannot insist that the matter is disposed of in a particular way. If appropriate, the victim can be awarded compensation or reparation and/or take part in restorative justice. The victim's views may be relevant to determining seriousness. If the victim wants to pursue a civil action, the offender's details can be requested.

¹ Being commenced regionally, planned for national coverage by March 2008.

² To be an adequate record of an independent admission of the offence, the details of the admission should be recorded by any of the following methods:

- Tape-recorded interview.
- Record of the admission in the officer's notebook and signed by the suspect as an accurate record. This could cover any statement made by the suspect on arrest, after being cautioned.
- A statement made by the suspect while in police detention (after being reminded they are still under caution) recorded in the custody record and signed by the suspect as an accurate record.
- A contemporaneous interview under caution conducted if the suspect does not make a voluntary statement of admission, or for clarification where the statement does not meet the required evidential standard. The notes should be fully documented.

³ Someone who has recently been cautioned (or given a Reprimand or Final Warning) for a similar offence should not be given a Conditional Caution, unless exceptionally it is believed that the condition might be effective in breaking the pattern of offending (Conditional Cautioning Code of Practice, Section 3, part 3).

⁴ Conditional Cautioning Code of Practice, Section 3, part 3.

⁵ For further information on disclosure of records from the CRB, see Part V of the Police Act 1997 and the relevant guidance in Home Office Circular 5/2005. Individuals employed in notifiable occupations should be aware of the guidance in Home Office Circular 6/2006.

Notes

DISPOSAL: PENALTY NOTICE FOR DISORDER (PND)		
Description of the disposal	<ul style="list-style-type: none"> The PND is a statutory disposal introduced by the Criminal Justice and Police Act 2001. The suspect is offered the opportunity, by paying a specified penalty, to discharge any liability to be convicted of the offence to which the notice relates.¹ No formal admission of guilt is required. PNDs are issued by police officers and, in a limited capacity, by community support officers and other accredited persons. The disposal can be issued either on the street² or at a police station following arrest.³ A suspect can pay the penalty or request a court hearing. If the penalty is not paid or the suspect does not request a hearing within the 21-day suspended enforcement period, a fine of one and a half times the penalty is issued in default.⁴ 	
Factors which may prevent the disposal being used include but are not limited to:	<ul style="list-style-type: none"> The offence is not specified as one for which a PND may apply.⁵ The seriousness of the offence is such that a PND is not a suitable disposal. The offender is under 16 years of age. There is insufficient evidence of the identity, age and place of residence of the suspect. The suspect is unable to understand what is going on, either due to drink or drugs or because there are doubts as to the offender's ability to understand English or because of their mental health or intellectual capacity. The suspect repeatedly offends and prosecution is considered more suitable. The suspect is known to be already subject to a custodial sentence, including Home Detention Curfew, or a community penalty other than a fine, including Anti-Social Behaviour Orders (ASBOs) (which may constitute a breach). The offence is part of a pattern of offending, intimidation or harassment. 	<ul style="list-style-type: none"> A second or subsequent offence, which is known, overlaps with the PND offence. Retail/commercial theft of more than £100 (PNDs may be issued for retail theft up to a value of £200 only with the consent of the retailer). Damage to property of more than £300 (or more than £500 in the case of public property); PNDs may be issued for criminal damage up to a value of £500 only with the consent of the victim/retailer. There are aggravating factors to the offence. The offence is related to known substance misuse (drug or alcohol) by the suspect. The suspect has previous convictions for disorder offences, or where it is known that the suspect has been issued with a number of PNDs for disorder offences in the recent past or been cautioned for such offences.

DISPOSAL: PENALTY NOTICE FOR DISORDER (PND)	
Pre-conditions for issuing a penalty notice	<ul style="list-style-type: none"> An officer has reason to believe that an offence has been committed and that it is an offence covered by the PND scheme. There is sufficient evidence to support a successful prosecution in accordance with the Code for Crown Prosecutors. There is sufficient evidence of the age, identity and place of residence of the suspect. The suspect understands what is happening. The suspect is aged 16 years or older. A second or subsequent offence, which is known, does not overlap with a PND offence.
Offender implications	<ul style="list-style-type: none"> By paying the penalty, the recipient discharges all liability to conviction for the offence. PNDs for recordable offences are recorded on the PNC (along with any fingerprint or DNA information taken) and may be disclosed on an Enhanced Disclosure Certificate from the CRB, if it is concluded that the behaviour leading to the PND was relevant to the matter at hand, for example the applicant's suitability to work with children. However, the mere fact that a PND has been issued would not make it relevant. A PND may be cited as evidence of bad character in subsequent criminal proceedings.⁶ A PND may also be relied upon as evidence at court in civil proceedings, for example ASBO applications.
Victim implications	<ul style="list-style-type: none"> The victim is consulted on the issuing of the disposal. While the victim cannot insist on the method of disposal, a PND should not be issued where the victim is opposed to this. PND disposal removes the possibility of the criminal court awarding a Compensation Order in favour of the victim.

¹ See Section 2(4) of the Criminal Justice and Police Act 2001.

² When a PND is issued on the street, a police officer must be in uniform; see Section 2(2) of the Criminal Justice and Police Act 2001.

³ The issuing of a penalty notice outside the custody office can include on the street, in the offender's home or at any other suitable place.

⁴ See Section 4(5) of the Criminal Justice and Police Act 2001.

⁵ These are issued for specific offences that are set out in Section 1 of the Criminal Justice and Police Act 2001, which is amended by regulation and reviewed on an annual basis.

⁶ See Part 11 of the Criminal Justice Act 2003.

DISPOSAL: CHARGE	
Description of the disposal	<ul style="list-style-type: none"> Charging decisions are made by the CPS and, for a specified set of offences, the police. The individual is prosecuted and the court process begins.
Factors which prevent the disposal being used include but are not limited to:	<ul style="list-style-type: none"> The evidence is insufficient, unreliable or cannot be used in court. It is not in the public interest to charge as set out in the Code for Crown Prosecutors.
Circumstances when the disposal may be used	<ul style="list-style-type: none"> Any criminal offence.
Offender implications	<p>There is the possibility of conviction.</p> <p>If convicted, the conviction:</p> <ul style="list-style-type: none"> is recorded on the PNC; can be cited in any subsequent court proceedings; can be quoted on Standard and Enhanced Disclosure Certificates issued by the CRB and thus can be made known to a prospective employer; and will be notified to the offender's employer if the offender is employed in a notifiable occupation.¹ <p>Fingerprints, photographs and DNA will be recorded on the PNC with a record of the offender's arrest if for a recordable offence, irrespective of the final disposal of the matter, for example an acquittal.</p>
Victim implications	<ul style="list-style-type: none"> The victim is consulted. A court can make a Compensation Order in favour of the victim.

¹ For further information on disclosure of records from the CRB, see Part V of the Police Act 1997 and the relevant guidance in Home Office Circular 5/2005. Individuals employed in notifiable occupations should be aware of the guidance in Home Office Circular 6/2006.

MOTORING INTERVENTIONS
<p>This booklet does not cover motoring interventions in detail. However, the following interventions are available to the police in respect of uncontested, low-level motoring offences.</p> <p>Fixed Penalty Notices (FPNs)</p> <p>The scheme is governed by the provisions of Part III of the Road Traffic Offenders Act 1988 (as amended). The offender is offered the opportunity, by paying a specified penalty, to discharge any liability to be convicted of the motoring offence to which the notice relates. FPNs can be given for certain endorsable offences, for example speeding, which involve points being added to a driver's licence. FPNs, without the issue of penalty points, are available to the police for offences including documentary offences and driving without a seatbelt. In accordance with the national guidance, FPNs can also be issued conditionally for certain offences. For further details as to when motoring FPNs can and cannot be used, please see the appropriate guidance.¹</p> <p>The guidance document on motoring FPNs also includes the following non-statutory interventions</p> <p>Driver Improvement Scheme: This involves a person attending an approved course, designed to correct poor driving behaviour, at their own expense. The course can only be offered to individuals committing an offence arising from an error of judgement, under Section 3 of the Road Traffic Act 1988. There must be a reasonable chance of a successful prosecution if the person refuses to attend the scheme. The driver must be the holder of a full current driving licence. The course cannot be offered when a person has been referred to such a scheme within the past three years or when there is evidence of recklessness or deliberate action, when serious injury or death has resulted or when other offences have been committed. If the driver does not successfully complete the course, a prosecution will normally follow. Offenders' details are recorded and kept for three years.</p> <p>Speed awareness course: This course is designed to explore with offenders the possible reasons why drivers exceed speed limits and to try to prevent future recurrence. The person attends at their own expense. The course includes both theory and practical training. The driver cannot have attended a previous course within the previous three years and cannot have been driving at a speed greater than 10% + 6mph above the speed limit. These courses have not been implemented by all police forces and are subject to local force guidance.</p> <p>Vehicle Defect Rectification Scheme: This scheme is governed by local police guidance. A Vehicle Driver Rectification Scheme Notice is issued to motorists whose vehicle has a minor fault, requiring them to remedy that fault and provide confirmation of the repair from an MOT-approved garage within a certain period, usually 14 days.</p>

¹ Revised Guidance on the Operation of the Fixed Penalty System for Offences in Respect of a Vehicle (Home Office, 2006).

ACCEPTABLE BEHAVIOUR CONTRACTS

Note: Acceptable Behaviour Contracts (ABCs) are not criminal justice disposals; they are included here for completeness and can be used by the police as part of their neighbourhood policing role in respect of anti-social behaviour.

An ABC is an informal, voluntary agreement that a person is asked to make with one or more local agencies (the police, housing department, registered social landlord or school) about how they are going to avoid committing anti-social behaviour in the future. It is discussed at a meeting with the relevant parties and the terms are agreed upon.

An ABC is recorded by those agencies monitoring that the conditions of the contract are met. The disposal is not recordable and does not appear on the PNC. If the anti-social behaviour persists, the issue of an ABC can be cited in court as evidence in ASBO applications or in eviction or possession proceedings.

Notes

Appendix B

Guidance documents relating to out-of-court disposals

DISPOSAL	GUIDANCE DOCUMENT	DATE	WEBSITE
Cannabis Warning	Guidance on Policing Cannabis – Use of Cannabis Warnings (ACPO)	January 2007	www.acpo.police.uk/asp/policies/Data/Cannabis%20_Warnings_website_17x01x2007.doc
Caution (Simple Caution)	Home Office Circular 30/2005: Cautioning Of Adult Offenders	January 2007	www.knowledgenetwork.gov.uk/HO/circular.nsf/79755433dd36a66980256d4f004d1514/d820bbad9e5edd8680257013004d1cc?OpenDocument
Conditional Caution	Conditional Cautioning Code of Practice (Home Office, CPS and Department for Constitutional Affairs)	October 2004	www.cps.gov.uk/publications/docs/conditionalcautioningcode2004.pdf
	The Director's Guidance on Conditional Cautioning (CPS)	February 2007	www.cps.gov.uk/publications/directors_guidance/conditional_cautioning.html

DISPOSAL	GUIDANCE DOCUMENT	DATE	WEBSITE
Penalty Notice for Disorder	Penalty Notices for Disorder: Supplementary Operational Guidance for Community Support Officers (Home Office)	November 2003	http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/pndappendix.pdf
	Criminal Justice and Police Act 2001 (s.1-11) Penalty Notices for Disorder: Police Operational Guidance (Home Office)	March 2005	http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/PenaltyNotices_March105.pdf
	The Use of Penalty Notices for Disorder for Offences Committed by Young People aged 16 and 17: Supplementary Operational Guidance for Police Officers (Home Office)	July 2005	http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/penalty-notice-16-17-guidance?view=Binary
	Criminal Justice and Police Act 2001 (s.1-11): Supplementary Operational Guidance for Accredited Persons (Home Office)	September 2005	http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/supplementary_opp_guidance.pdf

DISPOSAL	GUIDANCE DOCUMENT	DATE	WEBSITE
Charge	The Director's Guidance on Charging (CPS)	February 2007	www.cps.gov.uk/publications/docs/dpp_guidance.pdf
	The Code for Crown Prosecutors (CPS)	November 2004	www.cps.gov.uk/publications/docs/code2004english.pdf
Fixed Penalty Notice (motoring)	Revised guidance on the operation of the fixed penalty system for offences in respect of a vehicle	April 2006	http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/HO_00395_GFinalVersion.pdf
Driver Improvement Scheme and speed awareness course	Guidance on Driver Improvement Schemes and Speed Awareness Courses (ACPO and National Driver Improvement Scheme)	April 2005	www.acpo.police.ulc/asp/policies/data/nat_driver_improvementscheme_v4_april05_09x05x05.doc www.driver-improvement.org.uk
Vehicle Driver Rectification Scheme	Guidance is available from individual forces		<i>See individual force websites.</i>
Acceptable Behaviour Contract	A Guide to Anti-Social Behaviour Orders and Acceptable Behaviour Contracts (Home Office)	March 2003 (Note: this guidance will be updated in summer 2007)	www.crimereduction.gov.uk/asbos/asbos9.pdf
Neighbourhood policing	Neighbourhood policing	2006	www.neighbourhoodpolicing.co.uk/publication.asp

Notes



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