



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY



Final Warning Scheme

**Guidance for the Police
and Youth Offending Teams**

Final Warning Scheme

Guidance for the Police and Youth Offending Teams

Home Office/Youth Justice Board
November 2002

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14. Reference documents

- * An evaluation of the implementation and effectiveness of an initiative in restorative cautioning, Joseph Rowntree Foundation, May 2002
- * ASSET- final warning assessment profile, Youth Justice Board
- * National Standards for Youth Justice, Youth Justice Board
- * Final warning interventions: key elements of effective practice, Youth Justice Board
- * Restorative Justice: key elements of effective practice, Youth Justice Board
- * Guidance for youth offending teams on information sharing, Youth Justice Board
- * Guidance to youth offending teams on developing victim policies, Youth Justice Board (planned)
- * Restorative Justice Assessment Tool, Youth Justice Board (planned)

Home Office/Youth Justice Board

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The Final Warning Scheme guidance for the police and youth offending teams

1. Introduction

1.1 This guidance provides advice for the police and youth offending teams on the operation of the final warning scheme.

1.2 The principal aim of the youth justice system, established by section 37 of the Crime and Disorder Act 1998 (the 1998 Act), is to prevent offending by children and young people.

1.3 The final warning scheme aims to divert children and young people from their offending behaviour before they enter the court system.

1.4 The scheme was designed to do this by:

- ending repeat cautioning and providing a progressive and effective response to offending behaviour;
- providing appropriate and effective interventions to prevent re-offending; and
- ensuring that young people who do re-offend after being warned are dealt with quickly and effectively by the courts.

The scheme

1.5 The legislation governing the final warning scheme is contained in sections 65-66 of the 1998 Act. Following pilots in five areas, the scheme was introduced across England and Wales on 1 June 2000.

1.6 The final warning scheme introduced a system of reprimands and final warnings for 10-17 year old offenders. Depending on the seriousness of the offence, a reprimand is normally given for a first offence and a final warning for a second offence. If a young

person who has been given a final warning commits a further offence he or she must be charged. The only exception is where it is at least two years since the previous warning and the offence is not so serious as to require a charge to be brought, in which case a second warning may be given.

1.7 A final warning goes much further than an old style caution. Following a final warning, the police have a statutory duty to refer the young offender to the youth offending team (Yot). The Yot in turn has a statutory duty to carry out an assessment of the young offender and in most cases to provide an intervention programme aimed at preventing re-offending.

1.8 Compliance with the intervention programme is voluntary. However, if a young person goes to court, their final warning and any failure to participate in an intervention programme may be cited in the same way as previous convictions. Furthermore, if the young offender has received a final warning within the past two years the court can only give a conditional discharge in exceptional circumstances and should give reasons if they do so. The aim is to ensure that action is taken to tackle offending behaviour and to address the needs of victims.

Current position

1.9 The scheme has now been in operation for over two years and is proving its worth. The YJB report that in 2001, 28,339 young people received final warnings and 70% were accompanied by an intervention programme. Research shows that effective intervention at the final warning stage significantly reduces the rate of re-offending. The Youth Justice Board has set a target that 80% of all final warnings should have an intervention programme by 2004.

1.10 But while there is much good practice around the country, this needs to be applied more consistently by police forces and youth offending teams in all areas; and there is more to be done if the final warning scheme is to reach its full potential, particularly in terms of victim satisfaction.

Scope and status of this guidance

1.11 Section 65(6) of the 1998 Act, provides for the publication of guidance by the Secretary of State. Two separate documents, *Guidance for the Police and Guidance for Youth Offending Teams*, were issued, together with a covering circular, in March 2000.

1.12 Two small changes to the legislation were implemented on 1 February 2001. *Further Guidance for the Police and Youth Offending Teams* on these amendments was issued on 24 January 2001.

1.13 This guidance on the final warning scheme for the police and youth offending teams replaces all previous guidance. It should be used by police forces and youth offending teams as the basis for their operation of the final warning scheme.

1.14 It follows a Home Office/Youth Justice Board/Association of Chief Police Officers (ACPO) review of the operation of the scheme and takes account of research commissioned by the Youth Justice Board (YJB).

1.15 The police and Yots will also wish to take account of the independent and comprehensive research by Oxford University published in May 2002 by the Joseph Rowntree Foundation. Its findings are available at www.jrf.org.uk. This was a three year study on restorative conferencing and cautioning. It found that a restorative approach appeared to be significantly more effective than traditional cautioning in reducing the risk of re-offending and in having high levels of victim satisfaction and community support.

1.16 This guidance is issued jointly by the Home Office and the YJB, and is endorsed by ACPO and the Crown Prosecution Service.

1.17 This document is for guidance only and is not a substitute for legal advice. Those responsible for administering the final warning scheme should seek their own legal advice as they consider necessary.

1.18 The guidance in the main consolidates the previous guidance but it goes further in that it:

- sets out the decision-making process;
- provides advice on the use of police bail;
- updates the ACPO gravity factors;
- encourages closer liaison between the police and Yots;
- explains the role of Yot Steering Groups in monitoring the effectiveness of the final warning scheme;
- further encourages a restorative approach to make final warnings more effective and meaningful;
- promotes the greater involvement of victims in both the delivery of warnings and intervention programmes; and
- is more detailed on intervention programmes in support of warnings.

Other initiatives

1.19 The YJB has introduced a new shorter version of ASSET, developed especially for final warning cases, which will be available electronically.

1.20 National Standards on reprimands and final warnings are included in the YJB National Standards for Youth Justice. The YJB is currently revising the Standards. This guidance is consistent with the revised Standards.

1.21 The YJB is also publishing Effective Practice Guidance designed for use by anyone working with young people involved

in the final warning process. The Guidance describes the features that have been found, through research, to be most effective in working with this group of young offenders. It is a working tool that will be updated every two or three years in the light of new or further evidence of effective practice. It contains specific guidance for Yot Steering Groups, managers and practitioners, so it is important that these groups use it to develop and inform their practice.

1.22 The YJB is appointing consultants to act as national developers to provide operational advice and support for police and Yots on final warnings and restorative justice.

1.23 The YJB Board will be supporting these initiatives through the provision of nationally accredited training for Yot and police staff during 2003 to raise standards and reinforce the effective practice guidance.

Enquiries

1.24 Enquiries about this guidance should be addressed to:

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Fax: 020 7273 4345

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London SW1H 9DL

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Electronic version of this guidance

1.25 This guidance is available on the following websites:

www.homeoffice.gov.uk

www.youth-justice-board.gov.uk

www.acpo.police.uk

2. The legislation

2.1 A summary of the relevant provisions in the 1998 Act is at Annex A.

2.2 There have been two legislative amendments to the scheme since it was introduced¹. These were designed to facilitate a restorative approach to the delivery of reprimands and final warnings, as experience has shown that the effect of a reprimand or final warning can be enhanced by delivering it as part of a restorative process involving the young offender, his or her parents and, where appropriate, the victim. The first amendment removed the requirement for reprimands and final warning to be delivered in a police station and the second gave the police an explicit power to bail a young offender pending the delivery of the reprimand or final warning. The amendments came into force on 1 February 2001.

3. The agencies involved in the final warning scheme

3.1 The police have responsibility for making decisions on disposals under the final warning scheme but may ask the Yot to help by carrying out a prior assessment of the young offender. (See section 8).

3.2 The Yot is responsible for ensuring that effective interventions are delivered in support of final warnings.

3.3 The police and Yots must work closely together for the final warning scheme to be fully effective. (See section 6).

¹ The 1998 Act was amended by section 56 of the Criminal Justice and Court Services Act 2000

Role of the Yot Steering Group

3.4 The Yot Steering Group should monitor the effectiveness of the local final warning scheme and:

- agree the local protocol between the Yot and the police on final warning arrangements;
- ensure that YJB targets on final warning interventions are met; and
- regularly consider data evaluating local final warning procedures and outcomes, including completion and re-offending rates.

3.5 Where there is doubt about whether a prosecution should be brought, it may also be useful to seek the opinion of the Crown Prosecution Service at an early stage. As well as advising on points of law and the sufficiency of the evidence, they may also be able to give guidance on public interest considerations.

4. Operation of the Final Warning Scheme

Informal action

4.1 Following the introduction by the 1998 Act of the final warning scheme which has replaced cautioning for young offenders, there is only strictly limited discretion for the police to take informal action, such as ‘firm advice’ to a young person and his or her parents. Informal action should be taken only in exceptional circumstances where the police consider that it will be sufficient to prevent future offending. This will almost always be in cases of anti-social behaviour where the behaviour falls short of being ‘criminal’ or for very minor non-recordable offences. To ensure that the final warning scheme has a real impact on offending behaviour, any informal action should be confined to such circumstances.

4.2 In dealing with any offence committed by under 18s, the police have three options:

- reprimand;
- final warning; or
- charge.

4.3 The 1998 Act requires that a final warning should normally be supported by an intervention programme delivered by the local Yot.

4.4 The final warning scheme is structured and progressive. Depending on the seriousness of the offence, the response will normally be:

First offence	<i>Reprimand</i>
Second offence	<i>Final warning</i>
Third offence	<i>Charge</i>

4.5 But the police must consider a range of factors when deciding which disposal is the most appropriate.

The police decision-making process

4.6 At Annex B is a summary chart of the police decision-making process for action under the final warning scheme.

4.7 Before a reprimand or final warning can be administered, the following criteria must be met (s65(1) of the 1998 Act).

There must be:

- (a) evidence that the young person has committed an offence; and
- (b) the evidence is such that, if prosecuted for the offence, there would be a realistic prospect of a conviction;
- (c) an admission of guilt;
- (d) no previous conviction; and
- (e) the police are satisfied that it would not be in the public interest for the offender to be prosecuted.

4.8 This is a step-by-step guide to the decision-making process.

Step one what is the offence?

4.9 The first step is to decide what offence is supported by the evidence.

Step two: is there sufficient evidence against the young person to give a realistic prospect of conviction if he or she were to be prosecuted?

4.10 For action to be taken under the scheme, the evidence must meet the required standard: that it could be used and would be reliable, such that a jury or bench of magistrates properly directed in accordance with the law would be more likely than not to convict the young person.

4.11 If the police do not have this evidence, either the matter should be dropped or the police should seek further evidence as needed following their normal practice.

Step three: does the young person admit the offence?

4.12 A reprimand or warning can be given only if the young person makes a clear and reliable admission to all elements of the offence. This should include an admission of dishonesty and intent, where applicable.

4.13 Unlike adult cautions, the young person does not “consent” to the reprimand or final warning. Under the legislation, it is a matter for the police to decide the appropriate disposal in accordance with the statutory criteria.

4.14 Young people and their parents/carers or other appropriate adults should have access to information about the options available including the final warning scheme so that they can make an informed decision before the question as to whether they admit the offence is put to them. For instance, they should be aware that the police will decide the appropriate disposal under the final warning scheme in the light of the statutory criteria. The status of a reprimand or final warning should also be explained, including:-

* the fact that a record will be kept for a minimum of five years or until the offender reaches 18 years of age whichever is the longer;

* that it can be cited in criminal proceedings;

* in some cases can be made available to employers;

* if the offence is listed under the Sex Offenders Act 1997, that a reprimand or final warning will also require them to register with the police for inclusion in the sex offenders register. (See paragraphs 12.14-12.16).

4.15 If the young person does not make an admission, he or she cannot be reprimanded or finally warned. The police will decide whether to take no further action or to charge the young person, and may seek the advice of the CPS before taking the decision. The CPS will review the case in accordance with the Code for Crown Prosecutors and will decide whether to continue the prosecution. The relevant extract from the Code is attached at [Annex C](#).

Step four: has the young person previously been convicted of an offence (recordable or non-recordable)?

4.16 The young person’s previous history, convictions, reprimands and final warnings are determined by a Police National Computer (PNC) and local police force and Yot checks.

4.17 The final warning scheme applies to all offences – recordable and non-recordable – committed by under 18s. Recordable² offences are kept on the Police National Computer: non-recordable offences should be checked locally, including records held by the forces of other areas where the young person may have lived previously. **Wherever possible, the police should also check the offending history with the Yot for the young person's home area to ensure that previous offences, particularly non-recordable offences, are not missed.**

² Recordable offences are imprisonable offences plus those offences listed in the National Police Records (Recordable Offences) Regulations 2000.

4.18 If the young person has previously been convicted of an offence, he or she cannot be reprimanded or finally warned and should be charged. The CPS will then consider, in the light of the facts of the case and in line with the Code for Crown Prosecutors, whether to proceed with the prosecution.

Step five: has the young person previously been reprimanded/finally warned?

4.19 If the young person has been finally warned for one offence more than two years previously or reprimanded, he or she cannot be reprimanded but may be warned or charged.

4.20 If the young person has previously been finally warned for two offences or warned at all in the past two years, he or she cannot be reprimanded or warned and should be charged. The CPS will then consider whether to proceed with the prosecution.

Step six: how serious is the offence?

ACPO Gravity Factor System

4.21 The decision whether to reprimand, finally warn or charge will depend on the seriousness of the offence. To help the police assess the seriousness – or gravity – of offences, the Association of Chief Police Officers (ACPO) has devised a Gravity Factor System, under which all offences can be given a gravity score of between ‘1’ for the most minor offences and ‘4’ for the most serious.

4.22 Other factors – either aggravating (e.g. the offence was motivated by the victim’s racial or ethnic origin) or mitigating (e.g. the offender was influenced by others more criminally sophisticated) – may raise or lower the score for a particular offence.

4.23 The Gravity Factors will help in assessing whether a young person should be charged for an offence. They reflect the public interest principles in the Code for Crown Prosecutors.

4.24 The different gravity scores, and the police action that should normally be taken in response to them are:

Gravity score	Police Action
1	<i>Always the minimum response applicable to the individual offender, ie reprimand, warning or charge.</i>
2	<i>Normally reprimand for a first offence. If offender does not qualify for a reprimand but qualifies for a warning then give warning. If offender does not qualify for a warning then charge.</i>
3	<i>Normally warn for a first offence. If offender does not qualify for a warning then charge. Only in exceptional circumstances should a reprimand be given. Decision-maker needs to justify reprimand.</i>
4	<i>Always charge</i>

4.25 The ACPO gravity scores have been updated. Revised guidance on the System, with the updated gravity scores, is at [Annex D](#).

Step seven: is it in the public interest for the young person not to be prosecuted?

Public interest considerations

4.26 A reprimand or final warning may be given only if the police are satisfied that it would not be in the public interest to prosecute.

4.27 Where the option to prosecute has not been ruled out and where there are risk factors present, the police should consider bailing the young person for a Yot assessment to inform the police’s decision (see paragraphs 5.4 – 5.5).

4.28 The use of bail enables full consideration of the public interest test. The Yot can explore whether all the aggravating and mitigating factors have been identified and correctly applied to the gravity score. It also enables information from victims to be taken into account and the final warnings and interventions to be tailored to the offender and the offence.

General issues

Group offences

4.29 The experience and circumstances of offenders involved in group offences can vary greatly, as can the degree of their involvement. Although consistency and equity are important considerations in the decision whether to charge, warn or reprimand, each offender should be considered separately. Different disposals may be justified.

Multiple offences

4.30 The guidelines apply generally to individual offences but more than one offence can be included in a final warning if, overall, a final warning is deemed an appropriate and proportionate response.

4.31 Where multiple offences arise from the same incident, the most serious offence should be considered and the gravity factors applied to it in the decision-making process. Clearly the circumstances of the other offence(s) should also be considered and may aggravate or mitigate the gravity factors.

4.32 Where multiple offences arise from a number of separate incidents that have come to light at the same time (eg reported separately prior to arrest or further offences admitted during interview), the cumulative effect of the offences should be considered when making an overall decision.

18 year olds

4.33 Offenders who were 17 when the offence was committed, but are 18 at time of delivery, and who are eligible for a caution, should be given an adult caution provided they consent to this.

Relevance of previous cautions

4.34 Section 67(8) of the 1998 Act abolished cautions for children and young people. Schedule 9's transitional provisions provided that a previous caution should be treated in the same way as a previous reprimand, and two or more previous cautions in the same way as one previous warning.

4.35 So if the young person's most recent disposal is a caution that is more than two years old, the young person cannot be reprimanded but may be warned or charged.

5. Use of bail

Bail powers

5.1 Section 56(2) of the Criminal Justice and Court Services Act 2000 amended section 34(5) of the Police and Criminal Evidence Act 1984 (PACE) to read:

A person whose release is ordered under subsection (2) above shall be released without bail unless it appears to the custody officer:

- (a) that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or*
- (b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the Crime and Disorder Act 1998, and, if it so appears, he shall be released on bail.*

Reasons for bail

5.2 The police decision whether to bail will depend on the circumstances of each case. Reasons for bail can include:

Prior to decision to reprimand/finally warn/charge

- (i) further investigation into the offence;
- (ii) referral to the Yot to check local records of offending history, where there is no conviction recorded on PNC;
- (iii) referral to the Yot for an assessment of the young person.

Following a decision to reprimand/finally warn

- (iv) to enable the reprimand or warning to be delivered by a trained police officer, possibly at a final warning clinic;
- (v) to enable the reprimand or final warning to be delivered by a trained police officer as part of a restorative process, possibly with the victim present.

5.3 The young person and parent/guardian/appropriate adult should be informed of the reason for bail, e.g. that the police need more information before they can decide whether the young person will be reprimanded, warned or charged.

Bail for assessment

5.4 The amendment to s34 of PACE allows the police to bail a young person pending a decision on whether or not to deliver a reprimand or final warning. That power involves a power to bail pending assessment of whether or not prosecution would be in the public interest as this is one of the criteria for deciding whether or not a reprimand or final warning should be given.

5.5 In particular, the police should consider bailing for a full assessment by the Yot of the risk of re-offending in cases where they have identified risk factors such as homelessness, poor school attendance, mixing with offending peers, substance misuse (including alcohol), unsupportive parents, other offender in the household and unemployment.

Bail for delivery

5.6 Granting a young person a period on bail for the purpose of delivery, gives the police/Yot time to prepare for the delivery of the reprimand or final warning, while ensuring that there is an enforceable means of bringing the young offender back into police custody. It is not possible to impose bail conditions unless a person has been charged. Therefore, if the delivery of a reprimand or final warning is to take place at a venue other than a police station, the young person and his parents/guardian should be invited to the venue within the bail period. If the young person and their parent/guardian attend the venue and the reprimand or final warning is delivered the young person should be released from bail by serving on the young offender a standard letter which has been previously signed by the custody officer.

5.7 If for any reason the reprimand or final warning is not delivered, the young offender will still be required to answer bail or they will be in breach of bail.

5.8 If the reprimand or final warning has not been delivered but the young offender answers to bail, the police will have to decide whether to:

- deliver the standard reprimand or final warning (which if the offender is aged under 17, will still require the presence of a parent or other appropriate adult);
- grant a further period of bail pending the delivery of the reprimand or final warning; or
- charge.

5.9 Whether or not it would be appropriate to charge will be a matter for the police and Crown Prosecution Service to decide, depending on the circumstances of the case.

5.10 If the reprimand or final warning has not been delivered and the young offender does not answer to bail, he or she may be arrested for the substantive offence, as the young offender is still in jeopardy of being charged. The police will then have the options set out in paragraph 5.8. If the police decide to deliver a reprimand or final warning, or charge, this may be for both the substantive and the bail offences.

Length of the bail period

5.11 It is important that the consequences of the offending behaviour are brought home to the young person without delay. Early intervention with the young person may also minimise the chances of further offending whilst on bail. The police should have monitoring processes to minimise delay in youth cases and should require authorisation to exceed maximum permitted timescales.

5.12 The length of the period of bail will depend on the facts of each case and young defendants should be bailed for the minimum period necessary depending on the enquiries/arrangements to be made.

5.13 Where final warnings are being considered, the police should issue the final warning within 20 working days (4 weeks) from the date of bail, giving sufficient time for the Yot assessment and the arrangement of the appropriate delivery method.

5.14 In particular, those identified as high risk should be bailed for 20 working days for a Yot assessment and the Yot notified within one working day. The Yot, working to National Standards, should conduct their ASSET assessment and suitability for a restorative justice approach within 10 working days to engage the young offender while still in the youth justice process. The police should be notified of the ASSET assessment within a maximum of 15 working days so that any relevant issues can inform the final decision on disposal and be incorporated in the delivery of the reprimand or final warning at which the Yot officer should be present. The bail period will also give an opportunity to arrange for restorative processes, if appropriate.

5.15 In some cases, the police may be unsure as to whether a final warning is suitable. This will include occasions when the police have not yet been able to check the previous offending history with the Yot or where there is some question over reliability of certain evidence. On these occasions the police should bail for a decision as to disposal in the same timescales as above. The police decision will then normally be: to take no further action, to finally warn or to charge. During the bail period the Yot should conduct the ASSET assessment and suitability for restorative processes and feed any relevant issues into the police decision-making process.

6. Liaison between the police and Yots

Local protocols

6.1 Police services and Yots should draw up a joint protocol setting out locally agreed practice under the final warning scheme. The protocol should be approved by the Yot Steering Group and implementation regularly monitored. A draft specimen protocol is attached at Annex E.

6.2 The protocol should be agreed between the Yot and the police on the operation of the final warning scheme and should include:

- notification to the Yot by the police for assessment of the suitability of a final warning intervention
- arrangements for bail
- contact with victims by the police
- arrangements for the delivery of reprimands and final warnings
- use of restorative processes
- information to the police on the outcome of interventions
- arrangements for victims to be informed of the outcome
- the provision of information on the impact of the scheme, including completion and re-offending rates
- joint training arrangements for police and Yot staff.

Notification

6.3 The police must notify the Yot within one working day of the arrest of all young people who:

- have been reprimanded or finally warned
- are thought to be appropriate for a final warning intervention and who are being bailed for assessment by the Yot
- have been charged.

6.4 Arrangements should be made by the police to contact victims within 24 hours of the arrest. The joint protocol should include the arrangements for contacting victims. When the victim first reports the crime, where appropriate the police should give him/her appropriate information regarding the role of the Yot and obtain their consent to being contacted by the Yot.

Sharing police information with Yots

6.5 The Youth Justice Board's *Guidance for Youth Offending Teams on Information Sharing* includes guidelines for information-sharing between Yots and partner agencies.

6.6 The police and Yot should develop a protocol for sharing information about young offenders and their victims.

6.7 The police and Yots should clarify their joint information requirements on both individual offenders and at an aggregated level, including agreement on the core data to be collected and the development of common data definitions.

6.8 The type of reprimand and final warning resulting from a police/Yot process (ie. with or without intervention) should be recorded by the Yot. This information is required for the quarterly returns to the YJB.

6.9 Locating the police information systems in the Yot can facilitate the process of final warning and assessments and improve the quality of the information exchanged.

6.10 Aggregated information on the numbers and characteristics of those receiving reprimands, final warnings and prosecutions should be regularly shared between the police and Yots. This should enable a joint evaluation of trends and contribute to any strategic decisions with regard to any changes needed in policy and practice.

6.11 There should be a quality assurance process for information exchange in both agencies.

Offenders

6.12 The police should pass on the following information to the Yot within one working day of the arrest:

- details of the young person;
- details of the offence (including the ACPO gravity score);
- any previous offending history;

- the name and contact details of the police officer responsible for the case or the contact details of the case manager in the file preparation unit or similar; and
- any particular issues that the Yot may wish to bear in mind when carrying out the assessment.
- Victim contact details.

Victims

6.13 The investigating police officer should notify the Yot in writing of the victim's details at the point of referring the young person to the Yot, provided that the victim has already given consent to be referred to the Yot.

6.14 The police should ensure that victims are informed of developments in the case. This function may be performed by the Yot police officer or victim worker according to the local protocol.

6.15 Victims should have the opportunity to give fully informed consent to any involvement in the final warning process. Their involvement can be increased if they receive advanced notification that the Yot will be in contact with victims of the offence unless they request otherwise. Victims should be given the name and contact details of a Yot worker to ask for further information or talk through any concerns.

7. Involvement of victims

7.1 Extensive guidance on involving victims and on restorative processes is given in the Youth Justice Board's Effective Practice Guides for Final Warnings and Restorative Justice and Section 6 of the joint Home Office/YJB Guidance on Referral Orders and Youth Offender Panels. The Board also plans to provide Yots with guidance on developing Victim Policies. The National Standards for the Youth Justice System contains standards for work with victims.

7.2 It is important that the police and Yots make full use of the guidance provided by the

YJB and seek to involve victims more fully under the final warning scheme. Without this involvement, victims can feel ignored and fail to understand that young offenders who have not been brought to court can still be subject to a challenging and rehabilitative process. There is an obligation on police and Yots to ensure that victims are kept fully informed and the process explained to them in order that victims' needs are fully met and that the final warning scheme has public support.

7.3 Police and Yots should ensure that victims are enabled to make informed choices about whether they wish to be involved in the final warning scheme and if so in what way. If victims are involved in a way that is appropriate for them, this can be helpful to their recovery after crime. It is vital that victims are not coerced into participating or that their involvement is simply a means of addressing the offending behaviour needs of the young offender. The victims' rights must be fully respected and the police and Yots must take all necessary steps to prevent further damage being caused to victims as a result of the process.

7.4 All contact with victims should be handled with sensitivity and in accordance with anti-discriminatory practice, ensuring that the needs of diverse communities are appropriately met, including any need for interpreting and translation services. Victims attending a meeting with the offender should be invited to bring someone to support them if they wish.

7.5 The first contact with victims should be made by the police and the victim's consent must be sought to being contacted by the Yot; to being kept informed; or to being involved in restorative processes. Victims need clear information about the options they have and time to make up their minds without pressure. Their decisions must be respected, including the right to change their mind at any stage. Each victim will have different needs for preparation and support in relation to the process and their individual needs must be addressed.

7.6 All staff contacting victims must be trained in victim awareness. Access to information on the victim should be restricted to those who need it and in any event such information should be kept separate from information on the young offender.

7.7 Intervention programmes must contain either an element of direct reparation to the victim or community, or victim awareness input.

8. Yot assessments

Assessing the young person

8.1 Where a young person has been referred to the Yot, the Yot should carry out an assessment of the young person to aid the police decision-making as part of the public interest test, to assess the likelihood and suitability of the young person engaging voluntarily with a Yot intervention and/or to determine the most appropriate intervention for the young person.

Role of the youth offending team

8.2 When the Yot has received a request for a prior assessment, the Yot manager or their nominated representative should allocate a member of staff to deal with the prior assessment of the young person. Once assigned to the case, the Yot team member should contact the young person to make arrangements for a meeting.

8.3 Yots must undertake an assessment of the young person within 10 working days of referral. All assessments must be concluded, and the police informed, within 15 working days from the date of bail in order to minimise delay in decision-making.

Undertaking the assessment

8.4. The Yot should undertake a risk assessment of the young person using the Final Warning ASSET. The assessment should be used to:

- assess the re-offending risk factors;
- determine the nature and content of the intervention programme that would be appropriate to deal with the risk factors;
- explore the young person's attitude to intervention and assess and encourage the likelihood of him or her engaging with an intervention programme;

- explore with the young person the possibility of their participating in a restorative conference for the delivery of the warning;
- if the Yot is assessing a young person who is being considered for a warning for an offence listed in the Sex Offenders Act 1997, explain to the young person and his or her parents the implications of that Act.

8.5 There may be occasions when the shorter Final Warning ASSET is not adequate for a full assessment of risk of serious harm, in these circumstances the full ASSET should be used.

8.6 Participation in an intervention programme or a restorative conference is voluntary and there must be no suggestion of the warning being conditional on agreement to participate.

Views of the victim

8.7 Unless the victim has requested no contact, Yots should contact the victim within five working days of being notified in order to (i) establish their view about the offence and (ii) to carry out an assessment of their willingness to participate in a restorative process.

8.8 In assessing the views of the victim, further information on aggravating or mitigating factors may be uncovered.

8.9 Aggravating factors might include:

- the offence being motivated by the victim's racial or ethnic origin;
- the victim deliberately being put in considerable fear; or
- the young person being the ringleader.

8.10 Mitigating factors might include:

- the offender having reacted impulsively to provocation from the victim (e.g. in some cases where a victim of bullying attacks the bully); or

- the offender having expressed regret and offered reparation to the victim.

8.11 Victims should not be involved in decisions on disposals for young offenders. The police are solely responsible for making the decision to reprimand, warn or charge and although the views of the victim will be an important factor in determining the seriousness of the offence, they will not be conclusive.

8.12 Yots should ensure that the expectations of victims are not raised unrealistically. This is relevant both in relation to the disposal to be used (for example victims must not be led to believe that a young person is going to court when a warning is more likely) and the form of any reparation activity.

8.13 Where the victim does not, for whatever reason, engage in the Yot assessment of the public interest, the Yot may wish to refer to any victim personal statement taken at the time of the offence.

8.14 The Yot assessment should enable the victim to make decisions based on informed consent about participating in a restorative process related to the warning or as part of an intervention programme.

8.15 It should be made clear to victims that they can choose not to have contact with the offender.

9. Delivery of reprimands and final warnings

Use of the bail period

9.1 Where the statutory criteria are met and the police have reached a decision to reprimand or finally warn, there are several options for delivery:

- In straightforward reprimand and final warning cases which do not present any risk factors, or cases where the young offender is only temporarily in the area, the reprimand or final warning may be delivered straightaway.
- However, delivery should be by a police officer who has been given appropriate training.

- Some forces have set up surgeries or clinics where all reprimands and final warnings are given by trained officers (paragraph 9.33-9.34); as explained in section 5, there is power to bail for this purpose.

9.2 Where the young person has been bailed, the bail period may be used to:

- consider whether a mainstream police force officer or Yot police officer should deliver the reprimand or final warning;
- select the most appropriate venue for the delivery of the reprimand or final warning; and
- prepare for the delivery of the reprimand or final warning as part of a restorative process.

9.3 In some areas, police officers in the Yot are responsible for the delivery of reprimands and final warnings and it takes place on Yot premises. Victims may also be involved in the process. Such arrangements have produced high rates of compliance with intervention programmes; reduced re-offending rates locally; and increased victim satisfaction.

9.4 **If the final warning is being given at the police station, it is good practice to have a member of the Yot present who can explain the role of the Yot to the young person and the family and a date fixed to follow up the final warning. Experience has shown that young people are more likely to comply with an intervention programme following a final warning if the Yot has been involved at an early stage.**

Category of police officer

9.5 Under the 1998 Act, all reprimands and final warnings must be given by a police officer.³

9.6 However, there is no prescription as to the rank of police officer able to deliver reprimands and warnings. The expertise of the officer will normally be a more important factor in this consideration than his or her rank.

9.7 Officers delivering reprimands and warnings do not have to be in uniform. However, there is a strong preference from ACPO that officers should normally be in uniform.

9.8 Research shows that emphasis on the formality of a final warning contributes to reducing re-offending.

9.9 The YJB will be delivering a new Learning and Development Programme for all practitioners in the youth justice system during 2003, as part of its commitment to improving standards and raising the skills of staff in Effective Practice. This training is accredited and will form part of a national qualification structure containing specialist elements in Final Warnings, restorative justice and all elements of youth justice. Local police services and Yots should work together in prioritising training need in this area.

Explaining the effect of reprimands and final warnings

9.10 All reprimands and final warnings must be given orally, and supplemented with written information clearly explaining the effect of the reprimand/warning. A standard leaflet on final warnings is at Annex F.

9.11 In giving a reprimand the officer should specify the offence that has led to it and make clear that:

- the reprimand is a serious matter;
- any further offending will result in a final warning or prosecution in all but the most exceptional circumstances;
- a record of the reprimand will be kept by the police until the offender is 18 years old, or for five years, whichever is longer;

³ S65 of the 1998 Act specifies that the decision-making delivery is carried out by a “constable”.

- the young person's reprimand may be cited in any future criminal proceedings;
- if the offence is one covered by the Sex Offenders Act 1997, the young person is required to register with the police for inclusion on the sex offenders register (see paragraphs 12.14-12.16).

9.12 In giving a final warning the officer should specify the offence that has led to it and make clear that:

- the final warning is a serious matter;
- any further offending will result in prosecution in all but the most exceptional circumstances;
- a record of the final warning will be kept by the police until the offender is 18 years old or for five years, whichever is longer;
- the final warning may be cited in any future criminal proceedings;
- if the young person is convicted of a further offence within two years of getting the warning, the option of conditional discharge will only be open to the courts in exceptional circumstances; the young person can expect a more serious sentence;
- if the offence is one covered by the Sex Offenders Act 1997, the young person is required to register with the police for inclusion on the sex offenders register;
- the final warning will be followed up by the local youth offending team (if the Yot is present at the delivery of the final warning, the date, time and venue of the young person's next appointment with the Yot may be fixed);
- the Yot will assess the young person and, unless they consider it inappropriate, devise an intervention

programme designed to tackle the reasons for the offending behaviour, prevent any re-offending and repair some of the harm done (this may involve direct reparation if the victim wishes it, or reparation to the wider community); and

- unreasonable non-compliance with the intervention programme will be recorded and could be cited in any future criminal proceedings.

9.13 Any questions about what will happen next should be put to the Yot. The officer should give the young person contact details for the Yot.

Appropriate adults

9.14 Where the young offender is under 17 years old, the reprimand or final warning must be given in the presence of a parent or guardian or other 'appropriate adult' (as determined by PACE). The parent/guardian or appropriate adult must also be given copies of any written information given to the young person.

9.15 Where a Yot officer is present, as envisaged in para 9.4, their presence is not as an appropriate adult and therefore is not a replacement for the young person's parent or guardian.

Signed records

9.16 Whenever a reprimand or final warning is given, the young person, the officer and any parent, guardian or appropriate adult present must sign a form to confirm that it was given for the offence indicated. In cases involving non-recordable offences in particular, this form will be needed in any subsequent criminal proceedings where decisions as to the availability or otherwise of a conditional discharge are being made. A standard pro forma for recording non-recordable offences is at Annex G. The form should be copied to the Yot.

Venues

9.17 When the 1998 Act was being drafted, it was considered appropriate that reprimands and final warnings should be delivered only in police stations. However, to provide greater flexibility in the delivery of reprimands and final warnings, the 2000 Act removed this requirement.

9.18 Where the young person is bailed for a Yot assessment of the public interest prior to the decision regarding the final warning, the bail period can be used to give consideration to the selection of the venue most appropriate for the delivery of the warning. Bail can also be given for the purpose of arranging delivery.

9.19 The selection of the right venue may have a restorative effect and help bring home to the young person the consequences of his or her behaviour. For example, if the offence was one of criminal damage to a school or youth club, the warning could be delivered on the premises. The local community centre may also be a more accessible and less threatening venue for victims attending a restorative conference than the police station.

9.20 All venues should be assessed for suitability; they must be easily accessible to all participants (in particular the victim); and secure. It would not be appropriate for reprimands or final warnings to be delivered on the street. Nor would it normally be appropriate for them to be delivered in an individual's home.

Yot premises

9.21 Local police services and Yots should give particular consideration to using Yot premises for the delivery of warnings, especially in cases where the young person has been bailed for a Yot assessment. This will provide greater continuity in the final warning process (as the Yot will already have engaged with the young person), and it can also facilitate the involvement of the victim in the delivery of the warning (as the Yot will normally already have been in contact with the victim). This should increase the likelihood both of the young person engaging with the intervention programme after the warning, and of the young person and the victim participating in a

restorative process as part of the intervention programme. However, some victims may not wish to attend at Yot premises and it is important that victims' preferences are taken into account.

Restorative processes

9.22 A restorative approach can make final warnings more meaningful and effective. Experience in areas which have embraced restorative justice principles in this work has been very positive. Research into the delivery of final warnings shows that the use of restorative processes reduces re-offending, particularly when the RJ process is linked to an intervention programme following the final warning, and can be of benefit to victims.

9.23 Wherever appropriate, restorative processes should be used in the delivery of reprimands and warnings. ACPO share the view of the need to use restorative justice processes and trained police officers.

9.24 There are two main options for using a restorative process in the delivery of a warning:

- a restorative warning involving the young person and his or her parents, wherever appropriate any other influential adults as necessary, with the views of the victim conveyed;
- a full restorative meeting/conference with the addition of the victim and victim supporter.

9.25 The impact of a final warning on a young offender can be significantly enhanced by delivering it as part of a restorative conference. If the victim does not want to take part, similar principles can be applied by giving a restorative warning. Delivery of a final warning as part of a restorative process makes the young offender confront the consequences of his or her offence. It also provides a forum in which those affected by the offence – primarily the victim and the victim's supporters but also the offender's parents and supporters – can express their views.

9.26 Victims under 17 should be involved only with the agreement of their parents or primary carer, who should be given the opportunity to come to the conference.

9.27 A restorative warning can be delivered if the victim is willing to have his or her views conveyed by the police officer, a Yot member, or their representative (e.g. a close friend, family member or other representative).

9.28 Even where the victim chooses to have no involvement in the process, police officers should aim to deliver both reprimands and warnings in a way which is consistent with restorative processes (e.g. by talking to the young person about the actual or potential impact of their offending on the victim and the wider community).

9.29 In some cases, police officers may feel that it is appropriate to use a restorative approach when delivering a reprimand. This could be where a young offender is identified as being at high risk of further offending and it is proposed to refer them to the Yot team following the reprimand, or where there appears to be particular potential benefits for the victim. The restorative approach could take the form of a full restorative conference with the victim, or a restorative reprimand in their absence. In making their decision, police officers need to balance the views of the victim with the need not to overload young offenders at their first contact with the police. Final warnings should receive priority in the use of resources for restorative justice processes.

9.30 It is recognised that the use of restorative justice in the delivery of reprimands and warnings has resource implications for police forces and Yots. It will not always be appropriate or possible for the full range of restorative justice processes to be available for every young offender and victim. However the priority must be to deliver reprimands and final warnings in a way that will be most effective in preventing re-offending and in considering the views of victims.

9.31 Where a young person is bailed for a Yot assessment, the Yot should also make an assessment of the appropriateness and type of restorative justice intervention that might be

used either for the delivery of the final warning or as part of the intervention programme. The YJB is developing an RJ Assessment Tool for this purpose.

9.32 Detailed guidance on how to operate both restorative conferences and restorative warnings is contained in the Youth Justice Board's Effective Practice Guides for Final Warnings and Restorative Justice.

Surgeries/clinics

9.33 In some areas, final warning 'surgeries' or 'clinics' have been established where reprimands and final warnings are delivered at regular intervals at one venue, with the Yot present. They are normally held one or two days each week, often on the Yot premises or at a community venue. Warnings are delivered either by specially trained mainstream police officers or Yot police officers. The police officer may be in civilian dress but there is a strong ACPO preference that the police officer should be in uniform.

9.34 Victims are invited to attend and should, if they wish, be invited to participate. There may need to be alternative arrangements to meet the needs of victims for whom the hours or venue of the clinic are unsuitable.

10. Intervention programmes

Assessments

10.1 The 1998 Act made clear that a final warning should normally be supported by an intervention programme delivered by the local Yot. The YJB has set a target for Yots to deliver intervention programmes in support of 80% of warnings by 2004.

10.2 It is important that the young people who do not receive an intervention programme with a final warning are those who are least likely to re-offend.

10.3 There may also be cases of first time offenders who are given a reprimand where risk factors of re-offending have been identified. Such cases should also be referred to the Yot for assessment and consideration of an intervention programme.

10.4 Responsibility for final warning assessments and intervention programmes should not be limited to Yot police officers. Given the complexity of young offenders' needs it would be beneficial for the range of Yot workers/skills to be engaged in the process, as appropriate.

10.5 Yots should aim to assess all young people who normally reside in their area and who have been finally warned within ten working days of being notified by the police.

Citable/non-citable components

10.6 Unreasonable non-compliance with the intervention programme could be cited in any future criminal proceedings, should the young person re-offend and be prosecuted.

10.7 The Yot may offer and the young person may agree to voluntary involvement in addition to or following the ending of the formal part of the final warning intervention. Where the young person fails to complete this voluntary involvement, it is not citable if the young person re-offends.

Devising intervention programmes

10.8 Intervention programmes will vary in their intensity and duration. But an intervention programme must be separate from the assessment and must consist of at least one post-assessment contact.

10.9 The citable components of any intervention programme must not be longer than three months duration (non-citable/voluntary intervention work may continue to be offered for a longer period).

10.10 **Final warning interventions are part of the core work of the Yot and must be given priority.**

10.11 In devising the intervention programme for each individual young person, the Yot must use the ASSET assessment as mentioned in 8.4 above.

10.12 Yots should normally use the (shorter) Final Warning ASSET in most final warning cases. However, where the final warning ASSET score is more than 20, then a more

comprehensive assessment will need to be carried out using the full ASSET.

10.13 The total ASSET score can be used to determine how high or low the risk of re-offending in each case is, and thereby the intensity and duration of the intervention programme (or the number of hours of intervention work) that will normally be appropriate.

10.14 In determining the appropriate levels of intervention, Yots may find it helpful to use the following matrix:

Total ASSET score	Risk of re-offending*	Number of hours on intervention work normally appropriate
0-9	Low	1-4
10-19	Risk Aware	3-9
20+	Risk Concern	10 +

* These are the categories in the ASSET tool.

10.15 Restorative processes should be used in the delivery of intervention programmes wherever possible⁴. The type of restorative justice intervention and level of reparation should be determined by the impact of the offence on the young person's family, victim and the wider community, and the needs and wishes of individual victims. The YJB's Restorative Justice Assessment Tool which is being developed, may be of assistance in determining the most appropriate restorative justice intervention.

10.16 When the Yot has made the final decision on the contents of the intervention programme, this should be documented and a copy given to the young person and appropriate adult. The document should set out:

⁴ The YJB targets for Yots for 2002-03 include i) to ensure that restorative processes are used in 100% of referral orders and in at least 75 % of other Yot interventions by Mar 2003 and ii) that 70% of victims by 2004 who have been consulted or who have participated in RJ processes are either satisfied or very satisfied with the outcome.

- the citable components of the intervention programme that must be complied with for successful completion of the programme;
- the non-citable voluntary intervention work that has been offered; and
- the consequences of unreasonable non-compliance with the citable components of the programme.

10.17 Where the intervention programmes are run by organisations external to the Yot, it is important that the Yot retains responsibility for these programmes and therefore maintains close links with the programme providers through meetings and regular progress reports.

10.18 The Yot must ensure that there is a contract or protocol with the programme provider that addresses such arrangements as:

- criteria for referral
- health and safety
- Criminal Records Bureau checks
- the role and responsibilities of the Yot and emphasises the Yot's role in reducing offending behaviour.
- record keeping
- regular feedback/progress reports to the Yot
- feedback to victims and the police

Closure

10.19 The case must be closed when reasonable attempts have been made to enable the young offender to complete the programme. Attempts to engage the young person in an assessment and in an intervention programme should be recorded. Where a young offender has failed to attend appointments, this should be followed up by the Yot, preferably by making personal contact.

10.20 Case closure following final warning intervention programmes must be managed by the Yot. Such closure should document:

- whether or not the young person has successfully completed the intervention programme (i.e. compliance or non-compliance with the citable components of the intervention programme);
- the young person's views of the intervention work;
- the victim's views of the intervention work; and
- a manager's review of the case.

10.21 A re-assessment of the young person and his or her risk of re-offending should normally be carried out using the closure summary of the Final Warning ASSET.

10.22 If the victim requests or agrees to receive a progress report, this should be provided on completion of the intervention programme by the young person. During this process the victim's views can be sought.

10.23 The police should be routinely notified of the completion of all intervention programmes.

11. Monitoring and evaluation

11.1 It is important to establish local processes to monitor and evaluate the impact of intervention programmes delivered in support of warnings, including completion and re-offending rates. The annual re-offending cohort framework required by the YJB might contribute to this.

11.2 Findings from the evaluation should be examined by the:

- police and Yot officers responsible for the local protocol;
- Yot steering group; and
- Yot members with responsibility for final warnings.

11.3 In the light of the evaluation, local final warning procedures and intervention programmes should be regularly reviewed and appropriate changes made.

11.4 Yots must complete quarterly returns to the YJB, including, for final warnings, data on the number of final warnings supported by intervention programmes. Percentage improvements in tackling offending behaviour can be demonstrated using analysis of ASSET data. Overall data is published annually in the YJB's annual review. Local data is published in area youth justice plans.

12. Other issues

Fingerprinting

12.1 Where a reprimand or warning is given for an offence, supporting fingerprints are needed so that the warning can be cited in any future criminal proceedings or form part of the criminal record for employment purposes.

12.2 Under current law, if fingerprints are not taken from the young offender when he or she is reported for a recordable offence, it is not possible to obtain fingerprints at a later stage should the police decide to proceed with a reprimand or warning. Changes to PACE contained in the Criminal Justice and Police Act 2001 will allow them to be taken without consent when a person is cautioned, reprimanded or finally warned for recordable offences. However, these changes will not be implemented until early 2003.

12.3 Measures in the 2001 Act, amending PACE, allow for the retention of all fingerprints and DNA samples taken on suspicion of involvement in a recordable offence.

Recording reprimands and final warnings

Recordable offences

12.4 The National Police Records (Recordable Offences) Regulations 2000 require the police to keep on Police National Computer (PNC) details of reprimands and warnings given for those offences for which they currently record convictions, (recordable offences).

12.5. Reprimands and warnings for recordable offences should be recorded in the same way as cautions for recordable offences.

12.6 All reprimands and warnings for all offences should therefore be recorded as soon as possible after they are administered. If necessary Chief Officers should give priority to recording cases involving young offenders. The effective operation of the final warning scheme relies on accurate records, to ensure appropriate decisions if there is a further offence.

12.7 The record made shall cover only the offence(s) for which the reprimand or warning was given, not any more serious offence which was not pursued.

Non-recordable offences

12.8 All police forces should have their own central systems to record reprimands and warnings for non-recordable offences given by their own and other forces. Its information will need to mirror that kept on PNC in relation to reprimands and warnings for recordable offences and records will need to be weeded in the same way. A model form is attached at Annex G. It will also need to cover convictions of juveniles for non-recordable offences by courts in their own area and (where passed on) outside, because they would preclude the use of a reprimand or warning for any future offence.

12.9 Because of the importance of the young person's previous record to the operation of the final warning scheme, we recommend that where forces are dealing with a young person whose home is (or has recently been) in a different force area, the officer handling the case should, in addition to checking the PNC and any local records, ask any other force likely to have dealt with the young person whether they have previously received a reprimand, warning or conviction for a non-recordable offence. Checks should also be made of the Yot in the area where the young person lives.

Retention of records

12.10 Police records of reprimands and final warnings are held until the offender is 18 years old or for a minimum of five years, whichever is the longer.

12.11 To ensure the effective operation of the scheme, records of reprimands and final warnings given for recordable offences will be

retained on the PNC in line with the principles outlined in the current ACPO weeding guidance.

Rehabilitation of Offenders Act 1974

12.12 At present, reprimands and final warnings are not covered by the provisions of the 1974 Act. It is proposed that amending legislation should bring reprimands and final warnings within the scope of the Act with the disposals becoming spent as soon as they are given. There would be no requirement to disclose them except in respect of those circumstances excepted from the scheme (which are currently set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order, as amended).

12.13 A reprimand or final warning is not a conviction. Young offenders receiving a reprimand or final warning should be told that if asked by employers or insurers they are entitled to say that they do not have a criminal conviction. But if asked whether they have a caution, reprimand or final warning, they should not say they do not. The police record of their reprimand or final warning can be made available to potential employers in certain circumstances ie if relating broadly to work with children, the sick, the vulnerable, the administration of justice or where issues of financial probity are in question.

Sex offenders register

12.14 Part 1 of the Sex Offenders Act 1997 requires those convicted or cautioned for relevant sex offences listed in Schedule 1 to the Act to notify the police of their name and address and certain other details. This includes young offenders who have been reprimanded or finally warned.

12.15 The police officer must explain to a young offender and their parent/guardian/appropriate adult that on receiving a reprimand or final warning for such an offence they will be subject to the requirements of the Sex Offenders Act ('the register'). Where the Yot has carried out a prior assessment of a young person who has been reported for a sex offence, this is an opportunity for them to explain about the

register to the young person and his or her parents.

12.16 Registration following a reprimand or final warning is required for a period of two and a half years.

Children/young persons involved in prostitution

12.17 Young persons under the age of 18 who come to notice as being involved in prostitution should be dealt with in accordance with the joint guidance "Safeguarding Children in Prostitution*" published by the Home Office/Department of Health/Department of Education and Employment and the Welsh Assembly in May 2000. That guidance emphasises that males and females under 18 who are involved in prostitution are primarily victims of abuse who do not consent freely to prostitution. As such, they should if at all possible be diverted away from prostitution without recourse to the criminal justice system.

12.18 However, the guidance makes it clear that in exceptional cases, where diversion has repeatedly failed, the police may, after consultation with others in the multi-agency group, take criminal action against a person under the age of 18 for loitering, soliciting or importuning. Where the offence is admitted, the young person can be dealt with under the final warning scheme. The final warning scheme replaces all cautions for young people which means that a prostitute's caution can no longer be issued to females under 18.

12.19 There is a wide range of sanctions available to deal with those who seek to encourage or exploit the prostitution of children under the age of 18. One of the principal aims of the criminal law in this area is to tackle those who control or exploit the prostitution of others.

Non-police prosecuting agencies

12.20 Since 1 June 2000, non-police prosecuting agencies that had previously given cautions to young people have no longer been able to do so eg the Department for Work and Pensions and the RSPCA.

12.21 It is the responsibility of the non-police agency to make contact with their local police. The police need to be prepared to respond to approaches from these agencies and to have the necessary arrangements in place. Protocols should be developed to enable young people to receive reprimands and final warnings as needed. Annex H suggests what should be covered in the protocol.

**Home Office/Youth Justice Board
November 2002**

ANNEX A

Legislative Provisions

The Crime and Disorder Act 1998 introduces, among others, provisions on

- i) the principal aim of the youth justice system
- ii) young offenders: reprimands and warnings
- iii) effect of reprimands and warnings.

i) **Aim of the youth justice system**
(Section 37)

2. The principal aim of the youth justice system will be to prevent offending by children and young people. In addition to any other duty to which they are subject, people working in the youth justice system will be required to have regard to that aim.

ii) **Young offenders: reprimands and warnings** (Section 65)

3. Reprimands and warnings can only be considered where the following criteria are met:

- i) there is evidence that a child or young person has committed an offence
- ii) the evidence is sufficient to give a realistic prospect of conviction if the young person were to be prosecuted
- iii) the young person admits the offence
- iv) the young person has not previously been convicted of an offence
- v) it is not in the public interest for the offender to be prosecuted.

4. The offender may be given a reprimand if he or she has not previously been reprimanded or warned provided that the

offence is not so serious as to require a warning.

5. The offender may be warned if:

- he or she has not previously been warned; or
- where the offender has previously been warned, the offence was committed more than two years after the date of the previous warning and the police officer considers the offence to be not so serious as to require a charge to be brought.

6. In no circumstances, however, can a young person receive more than two warnings.

7. A reprimand or warning must be given by a police officer. Where the young person is aged under 17, the reprimand or warning must be given in the presence of an appropriate adult. The definition of appropriate adult in the legislation reflects that in the Police and Criminal Evidence Act 1984 (PACE) Code C. In addition the police officer must explain to the young person and, if relevant, the appropriate adult, the full consequences of the warning or reprimand.

8. The Secretary of State will publish guidance in relation to:

- the circumstances in which it is appropriate to give reprimands or warnings, including the criteria for determining:
 - whether an offence is so serious as to require a charge to be brought even though the offender has not been reprimanded or warned in the past

- whether an offence is sufficiently serious to require a warning even though the offender has not been reprimanded previously
- whether an offence is sufficiently serious to require a charge to be brought when the offender has previously been warned and the offence was committed more than two years after the date of the previous warning.
- the category of police officer who may give reprimands and warnings.
- the form which reprimands and warnings are to take and the manner in which they are to be given and recorded.

9. The use of cautions for young offenders is abolished, and references in statute to cautions should be understood as including reference to reprimands and warnings.

iii) **Effects of reprimands and warnings**
(Section 66)

10. Following a warning a young offender will be referred to a youth offending team as soon as practicable. A youth offending team will then:

- (a) assess any person referred to them
- (b) arrange for the young offender to participate in a rehabilitation (change) programme, unless it is considered inappropriate to do so.

11. A rehabilitation (change) programme is defined as a programme which is designed to rehabilitate the young people involved and prevent them from re-offending.

12. The Secretary of State will publish guidance in relation to:

- what should be included in a rehabilitation (change) programme arranged for a person who has been referred following a warning;

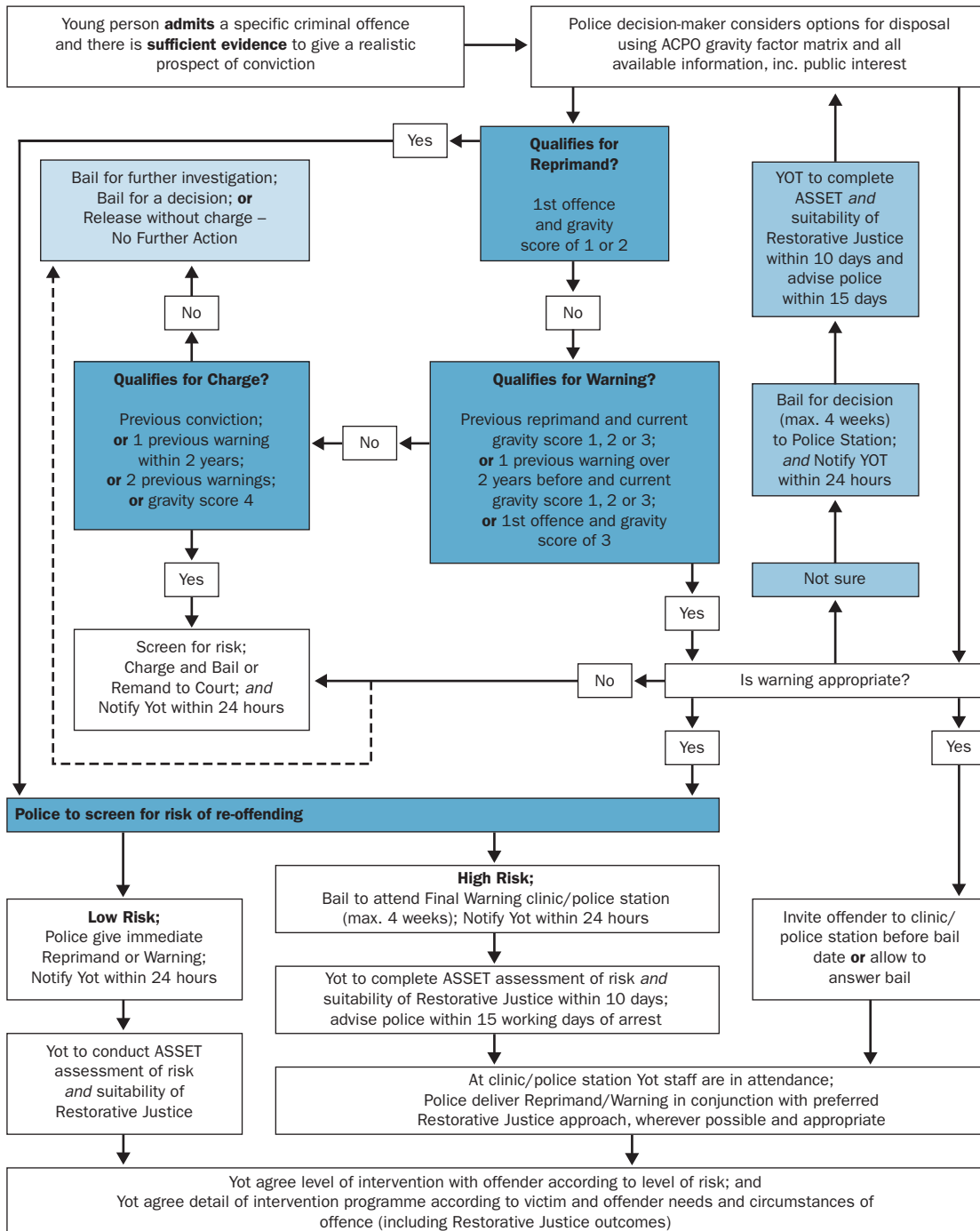
- the manner in which any failure by a person to participate in such a programme is to be recorded; and
- the persons to whom any such failure is to be notified.

13. Unless there are exceptional circumstances, the option of conditional discharge will not be open to the courts if sentencing the offender for a subsequent offence committed within two years of receiving a warning. The exceptional circumstances must be related directly to the offence or the offender; and the court must explain its reasons for believing there to be exceptional circumstances.

14. Any reprimand, warning or report on non-compliance with an arranged rehabilitation (change) programme may be cited, in the same circumstances as a conviction of the young person may be cited, in any subsequent criminal proceedings.

ANNEX B

Final Warning Scheme – Police Decision and Case Disposal Process



ANNEX C

Extract from Code to Crown Prosecutors

The relationship between the victim and the public interest

6.7 The Crown Prosecution Service prosecutes cases on behalf of the public at large and not just in the interests of any particular individual. However, when considering the public interest test Crown Prosecutors should always take into account the consequences for the victim of the decision whether or not to prosecute, and any views expressed by the victim or the victim's family.

6.8 It is important that a victim is told about a decision, which makes a significant difference to the case in which he or she is involved. Crown Prosecutors should ensure that they follow any agreed procedures.

Youths

6.9 Crown Prosecutors must consider the interests of a youth when deciding whether it is in the public interest to prosecute. However Crown Prosecutors should not avoid prosecuting simply because of the defendant's age. The seriousness of the offence or the youth's past behaviour is very important.

6.10 Cases involving youths are usually only referred to the Crown Prosecution Service for prosecution if the youth has already received a reprimand and final warning, unless the offence is so serious that neither of these were appropriate. Reprimands and final warnings are intended to prevent re-offending and the fact that a further offence has occurred indicates that attempts to divert the youth from the court system have not been effective. So the public interest will usually require a prosecution in such cases, unless there are clear public interest factors against prosecution

Some common public interest factors against prosecution

- 6.5** A prosecution is less likely to be needed if:
- a** the court is likely to impose a nominal penalty;
 - b** the defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution;
 - c** the offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
 - d** the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
 - e** there has been a long delay between the offence taking place and the date of the trial, unless:
 - the offence is serious;
 - the delay has been caused in part by the defendant;
 - the offence has only recently come to light; or
 - the complexity of the offence has meant that there has been a long investigation;

- f** a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;
- g** the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated. The Crown Prosecution Service, where necessary, applies Home Office guidelines about how to deal with mentally disordered offenders. Crown Prosecutors must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill health with the need to safeguard the general public;
- h** the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution solely because they pay compensation); or
- i** details may be made public that could harm sources of information, international relations or national security;

ANNEX D

ACPO Youth Offender Case Disposal Gravity Factor System

Introduction

This youth offender case disposal gravity factor system has been drawn up by the Association of Chief Police Officers in consultation with the Crown Prosecution Service, the Home Office and the Youth Justice Board. For further information please contact:

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The key factors which will be relevant in deciding whether to charge, warn or reprimand a young person for an offence are (a) the young person's offending history, and (b) the seriousness of the offence. If the young offender has previously been convicted of any offence, **or** received a warning within the previous two years, these gravity factors are irrelevant since the young offender **must** be charged. The seriousness of any offence relates both to the *nature of the offence and to the circumstances which surround it*. These issues are considered in more detail below. A further factor to be considered is whether or not it is in the public interest for the young offender to be prosecuted. This issue is examined further in the main body of the Final Warning Scheme Guidance.

The tables below classify most common offences on a scale of 1 (low gravity) up to 4 (high gravity) based on the seriousness of the individual offence. The classifications in the

tables are designed to assist in decision-making, but they cannot be regarded as a definitive guide, and must be considered alongside all the other issues outlined below. Factors which can make an offence more serious are shown as aggravating (+) while mitigating factors, making an offence less serious, are shown as (-). Some factors apply to all offences, including excluded offences in exceptional circumstances, and are listed as 'General Factors' while others are only applicable to specific offences and are listed as 'Offence Specific Gravity Factors'.

It is most important that the appropriate offence is determined according to the evidence, and that this is done before any consideration of the gravity factors. Equally, if having applied all the criteria, the police decision-maker is considering a reprimand or warning, care must be taken to ensure the offender stands reported or bailed for the appropriate offence and that there is no up-grading or down-grading simply to circumvent the criteria.

Having decided the appropriate offence, the gravity score can only be up-graded or down-graded by one point irrespective of the number of factors present. However, the mere presence of a (+) or (-) factor does not always mean an offence gravity score will be changed. It signifies a specific issue that **must** be considered by a decision-maker, together with all the other matters and, if significant, can change the decision that would otherwise have been made. As a result it could be the deciding factor for a particular decision or have no bearing on the decision. It is important for decision makers to ensure that both the 'offence specific gravity factors' and the 'general factors for all offences' are considered for each offence for which a decision is made. This will ensure that the seriousness of the offence, the particular circumstances of it, and

the offender's current and previous behaviour are all considered. In every case the consideration given to aggravating and mitigating factors must be noted within the decision recorded.

Offences Not Shown in the Matrix

Not all offences are included within this document. Any offences that are not shown should be dealt with in accordance with the general principles of this document.

Victims

One important factor will be the impact of the offence on the victim. Wherever possible, the victim should be contacted before a decision is made, to establish their view about the offence, the nature and extent of any harm or loss and its significance relative to the victim's circumstances. The victim's view about the offence may have a bearing on how serious the offence is judged to be but cannot be regarded as conclusive.

Racially Aggravated Offences

Another important aggravating factor will be where an offence has a racial motivation. The 1998 Act introduced a range of new offences, based on existing offences, which incorporate this aggravating factor as part of the offence itself. Guidance on Racially Aggravated Offences, part of the Crime & Disorder Act series, is available from the Home Office. The new offences are not included specifically in the matrix because the process of determining the gravity of the offence itself requires that where the victim's race is a motivation, consideration **must** be given to raising the gravity score of the offence. For example, the Act introduces a new offence of racially aggravated ABH (Section 47 OAP Act 1861). ABH attracts a gravity score of 3 in the matrix. Where the offence is racially aggravated ABH consideration **must** be given to raising this to 4.

Values of Property

Some of the criteria include a consideration of monetary value relevant to offences. Flexibility should be demonstrated by police decision-makers in comparing these values to those

recorded against the relevant incident. Estimates of the value of property and of damage are often unreliable and tend to be subjective.

Traffic Related Offences

Where a young person commits a minor road traffic offence a fixed penalty notice remains an appropriate response for 16 and 17 year olds. If a young person receives such a penalty this has no bearing on the capacity of the police to issue reprimands or warnings for any further offences nor does it count as a conviction. Where a traffic offence is dealt with at court and results in a conviction this will, as with any other conviction, preclude the administration of a reprimand or warning for a further offence. Where offenders guilty of road traffic offences are dealt with by means of a caution, in the case of young offenders, this should result in a reprimand, warning or charge as appropriate.

Children and Young People Involved in Prostitution

The final warning scheme replaces all cautioning for young people, which means that the prostitute's cautions will no longer be available as a disposal for prostitutes under the age of 18.

Young persons under the age of 18 who come to notice as being involved in prostitution should be dealt with in accordance with the joint Home Office/Department of Health guidance on the issue. That guidance emphasises that males and females under 18 are primarily victims of abuse who do not consent freely to prostitution. As such, they should if at all possible be diverted away from prostitution without recourse to the criminal justice system. However, the guidance makes it clear that in exceptional cases, where diversion has repeatedly failed, the police may, after consultation with others in the multi-agency group, take criminal action against a person under the age of 18 for loitering, soliciting or importuning. Where the offence is admitted, the young person can be dealt with under the final warning scheme. The guidance also sets out the approach to take where the person under 18 does not admit the offence.

Breaches of Anti-Social Behaviour Orders

Where an Anti-Social Behaviour Order (ASBO) has been obtained for a juvenile any breach of that ASBO should be dealt with in line with normal procedures for dealing with juvenile offenders. The police, in consultation with the youth offending team, should make an assessment of both the seriousness of the breach and of the young person's offending history. Where the breach of an ASBO is effectively a first criminal offence by the juvenile then a final warning may be appropriate, provided the breach was not a flagrant one. Where the breach was flagrant, then the expectation would be to charge, unless there were some very unusual circumstances.

The Final Gravity Score

The presumptions applicable to the final gravity score reached, when all the relevant factors have been applied to the circumstances of a particular offence, are listed in the following table. This must be used in conjunction with the legislation in relation to the offender's qualification for reprimand, warning or charge. Where this assessment leads the police officer to consider a warning or charge there is also the option to ask the youth offending team to undertake a prior assessment of the young offender to inform their decision-making process.

Final score	Action
4	<i>Always charge.</i>
3	<i>Normally warn for a first offence. If offender does not qualify for a warning then charge. Only in exceptional circumstances should a reprimand be given. Decision maker needs to justify reprimand.</i>
2	<i>Normally reprimand for a first offence. If offender does not qualify for a reprimand but qualifies for a warning then give warning. If offender does not qualify for a warning then charge.</i>
1	<i>Always the minimum response applicable to the individual offender, i.e. reprimand, warning or charge.</i>

Discretion does exist to deviate from the normal response, as indicated above, but only in exceptional circumstances, and such action would need to be justified by the decision maker. It would be impossible to articulate those circumstances which could be deemed to be exceptional, but police decision-makers will be aware that even the most serious of offences could amount to technical offences, the circumstances of which might appropriately attract a reprimand or warning. It would often be inappropriate to charge in such cases.

An 'informal warning', which falls outside the parameters of the table above, should only be given in exceptional circumstances where a minimal response is appropriate and usually when anti-social behaviour falls short of a substantive criminal offence. It may be administered instantly by the officer in the case, or by letter if the decision is made by a police decision-maker, when the case against the young person is unlikely to be proceeded with in the Youth Court.

'No Further Action' also has not been included in the above table as it is not so much a method of disposal for an admitted case of a young offender, as an acknowledgement that no action is appropriate or warranted in a particular case. No substantive offence can be mitigated down to warrant no further action, using the gravity factor decision process alone.

Recording the final gravity score

Where an offence attracts a reprimand or a warning, the final gravity score attributed to the offence should be clearly indicated on the record that is passed to the Youth Offending Team.

Using the ACPO gravity factors

The following sections show various tables that can be applied to the gravity factor system; the first deals with offences that would usually be excluded from the options of reprimand or warning, though in exceptional circumstances the general factors may be so significant that they could influence a reduction in gravity; the second and third list a number of general factors that might aggravate or mitigate the commission of any type of offence, including

excluded offences in exceptional circumstances; and the remaining table shows a list of offences together with their standard gravity scores and those offence specific gravity factors that are considered appropriate to aggravate or mitigate each type of offence, according to the particular circumstances surrounding it. However, it should be remembered throughout the process that each case must be considered on its own merits.

Monitoring use of the ACP0 gravity factors

It is important that police apply the gravity factors accurately and consistently when undertaking gravity assessments. We recommend that Chief Officers put in place procedures to monitor how their staff administer the gravity assessment tool.

LIST OF EXCLUDED OFFENCES

Abduction – girl under 16 years	Infanticide
Arson – reckless whether life endangered	Kidnap
Arson – with intent to endanger life	Manslaughter
Assault – GBH/wounding with intent	Murder
Assault – GBH/wounding with intent to resist/prevent arrest	Perjury
Bail personation	Pervert course of justice
Blackmail	Poison – administer/cause to be administered noxious substances with intent to injure etc.
Buggery offences – most – age/consent intent to commit buggery	Prison – escape/aid/assist
Burglary – aggravated/with intent	Procuration – sex by threat/drugs
Burglary with intent to commit indictable only offence	Prostitution – cause woman to become prostitute
Child destruction	Rape
Corrosive fluid etc. throw with intent to maim etc.	Riot
Criminal damage – reckless as to whether life endangered	Robbery & assault with intent to rob
Criminal damage – with intent to endanger life	Sexual intercourse with mental defective
Dangerous Dog (Order to be kept under control or destroyed)	Suicide/attempted – aid/abet/counsel
Escape – from lawful custody	Traffic:
Explosive substances offences (most)	<ul style="list-style-type: none"> • death by dangerous driving • death by careless driving aggravated by drugs or drink • drink/drive • drive under the influence of drink or drugs • driving whilst disqualified • drunk in charge • wanton and furious driving
False imprisonment	
Firearm – use to resist arrest	

General factors for consideration

The circumstances surrounding the offence should always be taken into account in determining the most appropriate response. There are a number of general factors that can affect the decision about how to proceed. These are set out in the next two tables.

Important: only one reprimand may be given. Where an offender has already received a reprimand, the minimum response will be a warning. Only one warning may normally be given. A second warning is only available where the previous offence was committed more than 2 years ago, and the offence is minor. Where an offender has already been warned, a further offence should normally result in a charge.

GENERAL FACTORS FOR ALL OFFENCES EXCEPT TRAFFIC OFFENCES

(+)	(-)
Conviction is likely to result in significant sentence.	Conviction is likely to result in unusually small or nominal penalty.
Weapon used or violence threatened during commission of offence.	Prosecution is likely to have bad effect on victim's physical or mental health.
Offence against public servant (e.g. police, nurse, council employee, etc.).	Offender supplied information which reduced risk, loss or harm to others.
Offender abused a position of trust – e.g. banker, baby-sitter, shop assistant.	Offender was influenced by others more criminally sophisticated.
Offender was ringleader/organiser.	Genuine mistake or misunderstanding.
Evidence of premeditation.	Vulnerability of the offender.
Offender was part of an organised team or offence was committed by a group.	Provocation from victim or victim's group and offender reacted impulsively.
Victim was vulnerable, deliberately put in considerable fear or suffered personal attack, damage, disturbance, or domestic violence.	The offence is minor and offender has put right harm or loss caused; has expressed regret; offered reparation or compensation.
Offence motivated by discrimination against victim's racial or ethnic origin, religious beliefs, gender, political views or sexual preference.	Offender is or was at time of offence suffering from significant mental or physical ill-health and offence is not likely to be repeated.

(+)	(-)
<p>There are grounds for believing the offence is likely to be repeated or continued – e.g. by a history of recurring conduct.</p>	<p>The offence is so old that the relevance of any response is minimised, i.e. there has been a long delay between the offence occurring and the point of decision making – <u>Unless</u> the offence is serious; the offender contributed to the delay; the offence only recently came to light; or the complexity of the offence has contributed to long investigation.</p>
<p>Evidence of exploitation.</p>	
<p>The offence, though minor, is prevalent in the local area – as identified in the local crime audit, specified in the youth justice plan or specifically agreed with CPS to warrant more serious response.</p>	

GENERAL FACTORS FOR TRAFFIC OFFENCES

(+)	(-)
<p>serious injury caused to public or significant damage caused</p>	<p>genuine oversight, technicality of the offence or emergency circumstances</p>
<p>multiple offenders involved in similar offences at same time/location</p>	<p>no danger caused to public</p>
<p>potential risk to public or resultant danger</p>	<p>lack of knowledge</p>

OFFENCE SPECIFIC GRAVITY FACTORS FOR ALL OFFENCES

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
ABDUCTION			
Abduction of Girl Under 16 Yrs	4		
Kidnap	4		
False Imprisonment	4		
ANIMALS			
Causing unnecessary suffering by doing any act (Protection of Animals Act 1911)	3	*serious injury	*minor injury
Causing unnecessary suffering by omitting to do any act (1911 Act)	2	*not following instructions	*instructions not given
Cruelly ill-treat etc (1911 Act)	3	*Premeditated instigator	*Reckless participant
Offences contrary to the Wildlife and Countryside Act 1981	2	*Protected species *Killed inhumanely	
Abandonment (Abandonment of Animals Act 1961)	2	*Animal might have died if not rescued	
Dog Worrying Livestock	2		*No apparent injury
Poaching Offences	2	*Organised team *Commercial purpose *Sophistication	
Dangerous Dog (Order to be kept under control or destroyed)	4		
Abandoning, or allowing to stray, a fighting dog (Sec. 1.2e Dangerous Dogs Act 1991)	4		*Dog destroyed
Possession without exemption of a Pit Bull Terrier, Japanese Tosa or other Designated Fighting Dog (Sec. 1.3 Dangerous Dogs Act 1991)	4		*Dog destroyed
Owner or Person in Charge allowing dog to be dangerously out of control in a Public Place injuring any person (Sec. 3.1 Dangerous Dogs Act 1991)	3	*Serious injury *No effort to control	*Minor Injury *Dog destroyed *Beyond physical limitation of owner/person in charge *First time in charge
Owner or Person in Charge allowing dog to be dangerously out of control in a Public Place, no injury being caused (Sec. 3.1 Dangerous Dogs Act 1991)	3	*Person placed in fear *Intent/disregard	*No injury/fear *Dog destroyed *Circumstances beyond the control of the offender
Owner or Person in Charge allowing dog to enter a Non-Public Place, and injure any person (Sec. 3.3 Dangerous Dogs Act 1991)	3	*Serious injury	*Minor Injury *Dog destroyed

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
ANIMALS (continued)			
Owner or Person in Charge allowing dog enter a Non-Public Place, causing Reasonable Apprehension that it would injure a person (Sec. 3.3 Dangerous Dogs Act 1991)	3	*Intent/disregard	*Dog destroyed *Circumstances beyond the control of the offender
Allowing a Fighting Dog to be in a Public Place without a Muzzle or a Lead (Sec. 1.2d Dangerous Dogs Act 1991)	4	*Fear/injury caused	*Escaped despite precautions *Dog destroyed
ASSAULTS			
Threats to Kill (Section 16 OAP Act 1861)	3	*Calculated	*Threat made in heat of the moment – no likelihood of violence now existing
Poison – Administer/Cause to be Administered noxious substance with Intent to Injure, etc.	4		
Corrosive Fluid etc. – Throw with Intent to Maim etc.	4		
GBH/Wounding with Intent (Section 18 OAP Act 1861)	4		
GBH/Wounding (Section 20 OAP Act 1861)	4		*Impulsive action *Provocation *Nature of the injury (especially where superficial wound)
ABH (Section 47 OAP Act 1861)	3	*Weapon used *More than one blow *Attacked while victim 'vulnerable/ defenceless' e.g., 'on floor' *Unprovoked attack *Nature of the injury (especially where serious/disfiguring injury) *Premeditation *Domestic violence *Group action	*Impulsive action *Provocation *Minor injury
Assault on Police (Section 51 Police Act 1996)	3	*Sustained assault *Attempt to prevent arrest of another *Premeditation *Any injuries caused *Group action	

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
ASSAULTS (continued)			
Common Assault (Section 39 Criminal Justice Act 1988)	2	*Significant injury caused *Deliberate aggression without provocation *Vulnerable victim *Weapon used *Premeditation *Domestic violence *Group action	*Trivial nature of action *Impulsive action *Injury very minor
BURGLARY			
Burglary with Intent to Rape a Woman or inflict GBH	4		
Aggravated Burglary	4		
Burglary with Intent to Steal/Criminal Damage	3	*Night-time *Occupier present *Deliberately frightening occupants *Soiling/ransacking/damage	*Vacant premises *Low value *Coercion from others in group on reluctant offender
Burglary Dwelling	4	*Professional operation	
Burglary Non-Dwelling	3	*Group offence *‘Ram-raiding’ *Unrecovered property of considerable value	
CRIMINAL DAMAGE			
Criminal Damage	2	*Damage deliberate rather than reckless *Potential of greater danger *Group offence *Damage £200+ approx.	*Damage £50 or less
Arson (where life not endangered)	3	*Damage deliberate *Potential of greater danger *Group offence *Damage £200+ (approx.)	*Damage £50 or less
Criminal Damage (including Arson) with Intent to Endanger Life or Reckless as to whether Life is Endangered	4		
Threat to Destroy Property of Another	2	*Intent to cause fear *Potential value of damage £200+ approx.	*Potential value of damage £50 or less
Possession of Articles with Intent to Commit Criminal Damage	2	*Evidence of intent to commit serious criminal damage *Potential value of damage £200+ (approx.)	*Potential value of damage £50 or less

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
CROSSBOWS			
Purchase/Hire of Crossbow or Part by Person Under 17 (Sec. 2 Crossbows Act 1987)	2	*Supply by Dealer *Aware it was an offence *Evidence of firing	
Possession of Crossbow or Part by Person Under 17 (Sec. 3 Crossbows Act 1987)	2	*Aware it was an offence *Evidence of discharge in public place	
CRUELTY			
Cruelty/III Treatment to a child in a manner likely to cause unnecessary suffering or injury	3	*Persistent neglect over long period *Sadistic violence *Repeated violence *Substantial injury *Premeditation	
DEATHS			
Suicide/Attempted Suicide – aid/abet/counsel	4		
Child Destruction	4		
Infanticide	4		
Murder/Manslaughter	4		
DRUGS			
CLASS 'A' DRUG Supply/Possession with intent to supply	4		
CLASS 'B' or 'C' DRUG Supply/Possession with intent to supply	4		*Group of people pooling resources to buy a supply to share between them. *No profit made
CLASS 'A' DRUG Possession	3	*In prison establishment *Large quantity	*Small quantity consistent with personal use
CLASS 'B' or 'C' DRUG Possession	2	*In prison establishment *Large quantity	*Small quantity consistent with personal use
CLASS 'A' DRUG Production	4	*Commercial cultivation *Large quantity	*Small quantity consistent with personal use
CLASS 'B' or 'C' DRUG Production/Cultivation	4		*Small quantity consistent with personal use
Permit use of premises for smoking Cannabis or Cannabis Resin	2	*On commercial basis *Evidence of widespread use	*Vulnerable offender

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
DRUNKENNESS			
Drunk and Disorderly	1	*Risk of escalation *Busy public place *Offensive language or behaviour *Threatening	*Only witnessed by a police officer and little inconvenience to public *Non-threatening
Drunk and Incapable	1	*Appears to have a serious alcohol problem	
FALSE MESSAGES			
Bomb Hoax (Section 51 Criminal Law Act 1977)	3	*'Copy-cat' scenario *Existing climate of fear *Caused dangerous or large scale evacuation i.e. hospital, large sporting event *Serious financial loss	*Obvious to recipient that a hoax
Sending Malicious Communication (Section 1 Malicious Communication Act 1988)	3	*Persistency	*Obvious to recipient that a hoax
False Alarms to Emergency Services (Section 43 Telecomms Act 1984) (Also specific offence of False Fire Alarm under Section 31 Fire Services Act 1947)	2 2	*Persistency *Persistency	*Obvious to recipient that a hoax *Obvious to recipient that a hoax
Other False Emergency Calls (Section 43 Telecomms Act 1984)	2	*Persistency	*Obvious to recipient that a hoax
Improper use of Telecom Systems (Section 43 Telecomms Act 1984)	3	*Persistency *Sexual and/or sadistic in nature	*Obvious to recipient that a hoax
FIREARMS			
Possession of Firearm with intent to Endanger Life/Injure Property (Section 16 Firearms Act 1968)	4	*Type of weapon *Discharge of weapon	
Possession of Firearms while Committing Offence or with intent to Commit Offence (Section 17 & 18 Firearms Act 1968)	4	*Type of weapon *Discharge of weapon	
Carrying Loaded Firearm in Public Place (Section 19 Firearms Act 1968)	3	*Type of weapon *Discharge of weapon	
Trespass in Building with Loaded Firearm (Section 20 Firearms Act 1968)	3	*Type of weapon *Discharge of weapon	
Possession of Firearm within set period of release (Section 21 Firearms Act 1968)	3	*Type of weapon *Discharge of weapon	

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
FIREARMS (continued)			
Person under 17 purchasing firearm or ammunition (Section 22 Firearms Act 1968)	2	*Type of weapon	
Person under 17 having air weapon in public place (Section 22 Firearms Act 1968)	1	*Impact on the public *Aware it was an offence *Evidence of firing	
Supply (including sale) firearm or ammunition to person under 17 (Section 24 Firearms Act 1968)	2	*Supply by firearms dealer	
Possession of firearm/shotgun without certificate (Section 1.1 and Section 2.1) a) No certificate ever held b) Following non-renewal	3 2	*Any form of usage or possession in public *Type/construction of weapons e.g. sawn-off, prohibited etc. *History of lethargic renewing *Deliberate avoidance of renewal procedure	
Making false statement to procure grant/renewal/variation of firearm/shotgun certificate (Sec. 26.5 & 29.3 Firearms Act 1968)	3	*Previous conviction(s) omitted which would affect decision to grant/renew/vary certificate *Deliberate supply of false information	
Failure to comply with condition of certificate relating to security of weapons (Sec. 1.2 & 2.2 Firearms Act 1968)	2	*Degree of carelessness/insecurity *Previous history of insecurity *Certificate held for period of time – therefore knew of the requirement	
FOOTBALL GROUNDS			
Throwing a Missile in Ground (Section 2 Football (Offences) Act 1991)	2	*Likelihood of injury *Incitement factors	*No injury or minor injuries
Taking part in Racial or Indecent Chanting (Section 3 Football (Offences) Act 1991)	3	*Intent to incite others to stir up racial hatred *Risk of escalation	*Isolated incident
Going into the Playing Area or Adjacent Area without Lawful Authority or Excuse (Section 4 Football (Offences) Act 1991)	2	*Risk of escalation	*No threatening circumstances
Enter premises – breach of Exclusion Order (Sec. 32 Public Order Act 1986)	3		

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
FORGERY			
Making a False Document (Section 1 Forgery & Counterfeiting Act 1981)	2	*Nature of document & potential consequences *Organised team *Sophistication	*Poverty/personal need *Coercion from others
Using a False Document (Section 3 Forgery & Counterfeiting Act 1981)	2	*Nature of document & potential consequences *Organised team *Sophistication	*Poverty/personal need *Coercion from others
Possessing a False Document with Intent (Section 5 Forgery & Counterfeiting Act 1981)	2	*Nature of document & potential consequences *Organised team *Sophistication	*Poverty/personal need *Coercion from others
Forgery of Documents etc. (Road Traffic Act 1988)	2	*Nature of document & potential consequences *Organised team *Sophistication	*Poverty/personal need *Coercion from others
INTERFERENCE WITH THE COURSE OF JUSTICE			
Conspiracy/Attempt to Pervert the Course of Justice	4		
Perjury	4		
Bail Personation	4		
Escape from Lawful Custody	4		
Prison – Escape/aid/assist	4		
MISCELLANEOUS			
Most Non-Recordable Offences	1		
Breach of By-Laws	1		*Not a local resident
OBSTRUCTION			
Obstruct Police (Section 51 Police Act 1964)	1	*Attempt to prevent arrest of another *Premeditation *Group action	
Wilful obstruction of highway	2	*Close to traffic hazard e.g. school	*Brief period only *No considerable problems caused to other road users and/or pedestrians
OFFENSIVE WEAPONS			
Possession of Offensive Weapon	3	*Method of use *Concern caused to member(s) of public *Degree of danger	
Possession of Sharp Pointed Blade	2	*Method of use *Concern caused to member(s) of public	*Genuine oversight in retaining blade after a lawful possession

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
PUBLIC ORDER			
Riot (Section 1)	4		
Violent Disorder (Section 2)	3	*Planned/premeditated *Use of weapons *Busy public place *Large group *People put in fear *Damage caused	
Affray (Section 3)	3	*Use of weapons *Busy public place *Group action *People put in fear *Damage caused	
Threatening abusive or insulting words or behaviour intended to cause fear of violence or to provoke violence (Section 4)	2	*Risk of escalation *Use of weapons *Busy public place *Group action *People put in fear	*No risk of escalation
Intentional causing harassment, alarm or distress through threatening abusive or insulting words, behaviour or display (Section 4A)	3	*Racial overtones *Risk of escalation *Group action	*No risk of escalation
Threatening abusive or insulting words or behaviour likely to cause harassment, alarm or distress (Section 5)	2	*Risk of escalation *Group action	*No risk of escalation *Isolated incident
ROAD TRAFFIC			
Causing Death by Dangerous Driving (Section 1 Road Traffic Act 1988)	4		
Causing Death by Careless Driving under the influence of drink or drugs (Section 3 Road Traffic Act 1988)	4		
Driving whilst Disqualified	4		
Excess Alcohol/Driving when unfit through Drink/Drugs	4		
Refusing to provide specimen of breath/blood/urine at police stn.	4		
Drunk in Charge	4		

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
ROAD TRAFFIC (continued)			
Dangerous Driving (Section 2 Road Traffic Act 1988)	4	<ul style="list-style-type: none"> *Avoiding detection or apprehension *Competitive driving, racing, showing off *Disregard of warnings e.g., from passengers or others in vicinity *Evidence alcohol/drugs *Excessive speed *Prolonged, persistent, deliberate bad driving *Serious risk 	<ul style="list-style-type: none"> *Continuing for only a short period *Contributed to by action of another
Failing to Stop after Accident/ Failure to Report Accident	3	<ul style="list-style-type: none"> *Blatant disregard of need *Serious injury & failure to remain at scene *Serious injury and/or serious damage *Evidence of drinking 	<ul style="list-style-type: none"> *No intent to evade liability for the offence *Genuine belief that relevant person aware *Negligible damage
Careless Driving (Section 3 Road Traffic Act 1988)	3	<ul style="list-style-type: none"> *Major error of judgement *Excessive speed *Driving with disregard for road safety taking account of road, weather and/or traffic conditions *Re-Test may be appropriate– Sec.36 Road Traffic Off. Act 1988 *Disability – Section 22 RTOA 1988 *Deliberate act of selfishness, impatience or aggressiveness causing inconvenience 	<ul style="list-style-type: none"> *Minor error of judgement *Defect in road surface/signing, etc. *Momentary lapse *Adverse weather conditions *Both (or more) drivers may have been at fault
Inconsiderate Driving (Section 3 Road Traffic Act 1988)	2		
a) Vehicle left in dangerous position	2	<ul style="list-style-type: none"> *Potential or actual danger intended *Danger of serious injury to other road users 	
b) Tampering with vehicle (Sec. 25 RTA 1988)	3		
c) Causing danger to other road users (Sec. 22a RTA 1988)	3		
Driving after false declaration as to physical fitness/failing to notify disability and refusal or revocation of licence (Sections 92-94 Road Traffic Act 1988)	2		*Voluntary surrender of licence
	2		
Failure to provide roadside test	2		
Speeding (above fixed penalty speed)	4		
Wanton and Furious Driving/Riding	4		

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
ROAD TRAFFIC DOCUMENTS			
Driving other than in accordance with driving licence ie No 'L' plates 'L' driver unaccompanied 'L' driver carrying passengers No driving licence	2 2 2 3	*Blatant disregard of need	
No Insurance	3	*Deliberate offence *Offence involving TWOC or other offence giving rise to danger	*Genuine mistake/technicality *Duty to provide insurance resting with another e.g. parent, company, hirer, etc
No Test Certificate	2	* Blatant disregard of need	*Genuine oversight
Fraudulent Use of Excise Licence	2		*Both vehicles owned by offender
Failure to notify change of ownership	2	*Blatant disregard of need	*Genuine oversight
Construction and use offences	3	*Blatant disregard of need *Seriousness of defect(s)	*Genuine oversight *Minor defect(s)
Drive vehicle subject to Prohibition Notice (Sec 71(1) Road Traffic Act 1988)	4		
Motorway Offences	3	*Blatant disregard of Regulations *Serious risk to offender or other road user	*Genuine mistake
SEXUAL OFFENCES			
Unlawful Sexual Intercourse with mental defective	4		
Unlawful Sexual Intercourse with girl under 13	4	*Facilitated by drugs/ alcohol	*Offender and victim of similar age and no element of coercion or corruption present
Unlawful Sexual Intercourse with girl under 16	2	*Element of coercion *Element of corruption *Considerable age gap *Used drugs/alcohol	*No coercion *No corruption *Relationship in place
Indecent Assault (on male or female)	3	*Force used *Elderly or youth victim *Group action	
Gross Indecency	2	*Genuine chance of public witnessing the offence * Youth victim	*Consenting victim but under legal consent age
Causing woman to become Prostitute	4		

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
SEXUAL OFFENCES (continued)			
Living on earning of Prostitution (male or female)	3		
Common prostitute loitering for prostitution	2		
<i>Before any formal action is considered, the assumption that a child prostitute is a victim must first be acted on by referral to the multi-agency group. Only when advised by them can formal action be considered.</i>			
'Kerb Crawling'	2	*Affects residential areas	
Indecent Exposure	2	*Victim put in fear *Repeat performances	
Rape	4		
Procuration of woman for sex by threat/drugs, etc.	4		
Buggery (Without Consent)	4		*Victim under 16 consents but is technically under age of consent
Buggery (Consensual with Adult)	2	*Observable by person(s) other than the participants	
Assault with intent to commit Buggery	4		
Incest	3	*Victim did not wholly consent *Element of coercion	*Offender & victim are similar in age *Staleness * Both parties over age of consent and no element of coercion/ seduction
SPORTING EVENTS			
Intoxicating liquor in possession on specified vehicle (Section 1.3 & 1A.3)	2	*Group involvement *Large quantity	*Small quantity
Drunk in a specified vehicle (Section 1.4 & 1A.4)	2	*Group involvement *Risk of escalation *Threatening	*Non-threatening
Intoxicating liquor/article in possession whilst entering or inside (viewing area) sports ground (Section 2.1)	2	*Group involvement *Risk of escalation	
Entering or being in a sports ground whilst drunk (Section 2.2)	2	*Group involvement *Risk of escalation *Threatening	*Non-threatening

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
THEFT			
Robbery/Assault with Intent to Rob	4		
Theft – up to £100 in value – over £100 (approx)	2 3	*Planned *Sophistication *Organised team *Adult involving children *Significant related damage *Unrecovered property of considerable value *Value £200+ (approx.)	*Theft for reasons of poverty/personal need *Coercion from others in group on reluctant offender
Going Equipped to Steal	2		
Handling Stolen Property	3	*Property stolen to order *Professional receiver *Youth coercing children *Property of high value	*Very low value *Receiving under pressure from another
Abstracting Electricity	2	*Special equipment *High usage *Prolonged period	*Poverty/personal need *Coercion by others
Obtaining Property by Deception (Section 15 Theft Act 1968)	2	*Sophistication *Two or more involved *Committed over lengthy period *Unrecovered property of considerable value *Value £200+ (approx.)	*Poverty/personal need *Coercion by others in group on reluctant offender *Value £100 or less
Obtaining Services by Deception (Section 1 Theft Act 1978)	2	*Sophistication *Organised team *Unrecovered property of considerable value *Value £200+ (approx.)	*Poverty/personal need *Coercion by others in group on reluctant offender *Value £100 or less
Evasion of Liability by Deception (Section 2 Theft Act 1978)	2	*Sophistication *Organised team *Unrecovered property of considerable value *Value £200+ (approx.)	*Poverty/personal need *Coercion by others of reluctant offender *Value £100 or less
False Accounting	2	*Sophistication *Value £200+ (approx.)	*Value £100 or less
Blackmail	4		
Taking Vehicle without Consent	2	*Premeditated *Group Action *Related damage	*Taken from family member *The taking is a technical offence
Aggravated Vehicle Taking where owing to the Driving of the Vehicle, an Accident occurred causing injury to any person	4		*The taking is a technical offence *Injured is member of driver's family

Offence	Gravity Score	Aggravating/Mitigating Factors	
		+	-
THEFT (continued)			
Aggravated Vehicle Taking where: a) Damage to any Property other than the Vehicle b) Damage was caused to the Vehicle c) the Vehicle was Driven Dangerously on a Road or other Public Place (S1 Aggravated Vehicle – Taking Act 1992)	3	*Avoiding detection or apprehension *Competitive driving: racing, showing off *Disregard for warnings e.g. from passengers or other in vicinity *Excessive speed *Evidence of alcohol or drugs *Group action *Premeditated *Serious risk	*The taking is a technical offence *Damage to own family property *Minor damage
Tampering with Motor Vehicle (S25 RTA 1988)	2	*Potential or actual danger intended	
Interference with Vehicle (S9 Criminal Attempts Act 1981)	2	*Damage to vehicle	
Making Off Without Payment (Section 3 Theft Act 1978)	2	*Deliberate plan *Two or more involved * Large amount involved	*Small amount involved
WASTING POLICE TIME			
Wasting Police Time	2	*Detention of innocent person *Substantial time wasted	*Early retraction and remorse *Innocent prank

ANNEX E

Specimen Draft Local Protocol

Practice protocol between Youth Offending Team and Police Service

This practice protocol is our joint response to the requirements of the Crime and Disorder Act 1998, the Criminal Justice and Court Services Act 2000, the joint Home Office, YJB and ACPO Guidance, which was re-issued in 2002, and the Youth Justice Board's National Standards for Youth Justice. This is a working document for all staff in both Services who are involved at every stage of the pre-court decision making and intervention with young offenders.

1. Process

1.1 The Police will notify the Youth Offending Team (Yot) in writing within **one working day** by fax or email where a reprimand or final warning has been given or is being considered, (or the young person has been charged) detailing:

- the name, address and date of birth of the offender
- the offence, including the ACPO gravity score
- any known previous offending history
- any risk factors that are evident in the young person's life i.e. non-school attendance, family, substance misuse or behavioural problems
- the name and contact details of the police officer responsible for the case and/or the name of the file manager.

1.2 In most cases, before delivery of a reprimand or final warning, the police should check the offending history with the Yot and, where risk factors are evident in the young person's life, refer cases to the Yot for prior assessment of the risks of re-offending.

1.3 In such cases the police will bail the young person. The bail period will be for a maximum of 20 working days (4 weeks) from arrest to cover assessment by the Yot and/or the arrangements for delivery of the reprimand or final warning.

1.4 In a minority of cases, instant reprimands or final warnings may be appropriate eg where there are no risk factors present, or the young person is only temporarily in the area.

1.5 The Yot will make contact with the young person for the purposes of making an assessment. The decision with regard to any form of Yot intervention rests with the Yot Operational Manager.

1.6 The majority of final warnings will be supported by an intervention programme⁵ matched to risk factors identified using ASSET.

1.7 The Yot will carry out an assessment of the young person within **10 working days** of referral. All final warning assessments should be concluded and the police informed within **15 working days**.

1.8 Wherever appropriate, restorative processes will be used for the delivery of reprimands and final warnings. If the victim wants to meet the offender, and the offender is prepared to meet the victim, a restorative conference may be used as part of the delivery of the reprimand or final warning or subsequent intervention programme.

⁵ The Youth Justice Board has set a target of 80% of final warnings supported by intervention programmes by 2004.

1.9 The reprimand or final warning will be delivered by an appropriately trained police officer at premises, and will take place within the bail period.

1.10 Where feasible, the Yot will be present at the delivery of final warnings.

1.11 The Yot will fully document the closure of the case, including non-compliance with an intervention programme.

1.12 The police and Yot will keep a record of the reprimand or final warning until the offender is 18 years old or for a minimum of five years, whichever is longer.

2. Victims

2.1 The Yot and the Police will agree a protocol on victim contact.

2.2 The Police should, where possible, contact the victim within 24 hours of arresting the young person and request permission to pass their details to the Yot.

2.3 The Police should, where it is known, notify the Yot police officer of the victim's details within 24 hours of arrest.

2.4 The Yot will contact the victim within five days of notification by the Police.

2.5 The Yot and the Police undertake to make appropriate arrangements with Victim Support or other relevant local agencies for the ongoing support of victims of youth crime. Referral to other agencies must be with the victim's consent.

2.6 The Yot will ensure that victims who request further support are referred to Victim Support or other relevant agency as soon as practicable.

3. Information Sharing

3.1 In line with the Youth Justice Board's Guidance for Youth Offending Teams on Information Sharing, the Yot and the Police agree to the following:

3.2 The Police will:

- allow the police officer attached to the Yot to share information with named Yot workers, via the police computer system, on any young person with whom the Yot is involved.
- provide the Yot with relevant information on victims as outlined above.
- within 24 hours or before the first court appearance, whichever is the earliest, notify the Yot of any young person who has been charged and bailed to appear in court.
- the next working day, notify the Yot of any young person due to appear in court who has been arrested and charged overnight or over the weekend.

3.3 The Yot undertakes to share information with the police with regard to:-

- those young people to whom a final warning intervention has been offered and the outcome of such interventions.
- high risk offenders who are likely to present a risk to themselves or others in line with the agreed information sharing protocol.
- provide information on young people who have been sentenced in the youth court, committed to the Crown Court and the outcome of Crown Court decisions.
- provide any relevant information that will assist the Police in protecting the public.

3.4 The Yot and the Police undertake to collect and share aggregated information on the numbers and characteristics of those young people who come to police notice for any reason or those receiving reprimands, final warnings and prosecutions. This information will be jointly evaluated on a half yearly basis in order to review and inform practice and the decision-making processes.

Signed:

Designation:.....

..... **Police**

Dated:.....

Signed:

Designation:.....

..... **Youth Offending Team**

Dated:.....

ANNEX F

Standard leaflet on warnings for use with Young People and their Parents

A FINAL WARNING AND HOW IT MIGHT AFFECT YOU¹

Introduction

This leaflet explains the Final Warning.

The purpose of the Final Warning is to stop you from re-offending.

There are two ways in which the Final Warning will help you to stop offending:

1. The Final Warning session itself will help you to understand:
 - what the effects of your offence have been for the victim, you and your family, and others
 - what you need to do to stop offending
 - how you can help to put things right, and
 - how other people (including your parents or others who are important to you) can help you.
2. A special programme of support, activity and advice will normally follow the Final Warning, and will be arranged by the Youth Offending Team. It will be designed to help you to stop offending; to help you to find different things to do; and to help you to put right some of the harm done.

What will a Final Warning be like?

A Final Warning is a serious matter. It is the last opportunity for you to stop offending before being taken to Court. It is recorded by the Police and if you offend again within two years this record will mean the Police will know you must go to Court.

Because it is serious, the Final Warning may involve you in a meeting or conference where you might be asked to apologise to the victim of your crime and agree to take action to put right some of the harm done.

Before a decision is made that you will be Finally Warned you may be visited by a member of a Youth Offending Team. The Youth Offending Team will help to explain what will happen, and offer you any advice that you need to benefit most from the Final Warning.

After a Final Warning has been given you will usually be expected to take part in a special programme, agreed by you with the Youth Offending Team, to stop you offending. It will also help you find alternatives to offending and deal with any related difficulties you may have (such as not getting the most out of school, and drugs or alcohol misuse); and to put right some of the harm done.

Why might I be given a Final Warning as against being taken to Court or given a Reprimand?

All crime is serious and has consequences, but you might be offered a Final Warning before being taken to Court. You will only be offered this last chance if the Police and Youth Offending Team think that you will take part and benefit from the programme designed for you. If you offend again within two years you will be taken to court and your punishment will reflect the number and seriousness of your offences.

¹ Your parents will find reading this leaflet useful in supporting you but the text addresses you – the person who most needs to read it.

Do I have to accept a Final Warning?

Final Warnings are only for people who accept they committed the offence being investigated. If you don't accept that you committed the offence you should talk to the Police or the Youth Offending Team about seeking legal advice.

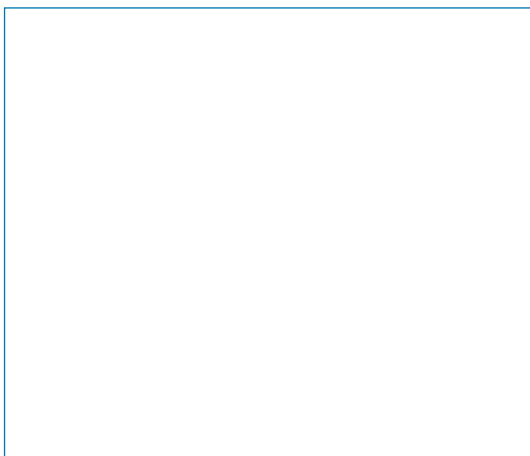
Will I have a Police Record if I accept a Final Warning?

A record of the Final Warning will be kept by the Police until you are 18 years old, or for five years after it is given whichever is the longer. This will help them decide any further action if you offend again.

A Final Warning is not a conviction and you are entitled to say to a potential employer that you do not have a conviction. However, as with cautions, a final warning may be disclosed to employers in certain circumstances eg for work with children.

Further information

If you have any further questions about the Final Warning scheme please contact your local Youth Offending Team at:



ANNEX G

Information to be recorded for reprimands/warnings* issued in respect of non-recordable offences

* (delete as appropriate)

FORCE GIVING REPRIMAND/WARNING:			
DETAILS OF YOUNG OFFENDER:			
Surname:		Forenames:	
Address:			
Alias:		CRO No:	
DOB:		Place of Birth:	
Marks/scars:			
Eye colour:		Height:	Ethnic Code:
OFFENCE(S) CONCERNED (please state): i.e. Criminal Damage – Trampled flowers in flowerbed	Date of offence	Date reprimanded/warned	M.O (in full)
1			
2			
3			
4			
Vehicle details (if appropriate)		Index/Registration No:	
Colour:		Make/Model:	
O.I.C (rank & name):		Station:	
		Telephone No:	
Reprimanded*/Warned* by (rank & name):		Station:	
		Telephone No:	

ANNEX H

NON-POLICE PROSECUTING AGENCIES

REPRIMANDS AND FINAL WARNINGS

Legal position

1. Since the Crime & Disorder Act 1998, only a police officer may issue a reprimand or final warning. Section 65 of the 1998 Act provides that a “constable” makes the decision to reprimand or finally warn and gives the reprimand or final warning. Originally, the legislation also provided that the reprimand or warning must be given at a police station but this requirement has been removed.

2. The 1998 Act also provides that where the offender is under the age of 17, the reprimand or warning must be given in the presence of an appropriate adult. The constable must explain to the offender in ordinary language the effect of a reprimand or a final warning.

3. Following a final warning, the police have a statutory duty to refer the young person to the local Youth Offending Team (Yot) for assessment and consideration of an intervention programme to prevent re-offending.

Guidance

4. Procedures should be put in place for the referral of cases to the police to enable young people to receive reprimands and final warnings as needed. Cases that would normally attract a formal caution should be referred to the police for consideration of a reprimand or final warning.

5. The police and non-police prosecuting agencies should agree the requirements that need to be met before a reprimand or final warning can be given. For instance all the requirements of the offence (paragraph 4.7 of the guidance) must be in place. The police will have to be satisfied that all the conditions have been met before they will administer the reprimand or final warning.

6. Some prosecuting agencies conduct the investigation and interview under PACE rules eg in relation to benefit fraud. In such cases investigations by agencies should proceed to interview under caution. If the result is that an offence has been committed by a person under 18 but a prosecution is not appropriate in the first instance because the offence is classed as minor, the case should be referred to the police.

7. When a case is referred to the police the young person and his parent/carer should be informed that the case has been referred to the police for further consideration regarding the appropriate disposal.

8. The police will check police and Yot records to see if the young person qualifies for a reprimand or final warning. If the police decide not to accept a case under the final warning scheme there need to be procedures in place to notify the non-police prosecuting authorities of the reasons for the decision and, if the case has already been referred, for the return of the evidence so that the prosecuting agency can consider whether the case should be prosecuted. Steps should be taken to ensure that this does not lead to undue delay.

9. Prosecuting agencies should make contact with their local police headquarters to agree a protocol on the process to be followed. Both parties should agree:

- (i) The police point of contact.
- (ii) The information requirements needed by the police.
- (iii) The process for delivery of reprimands and final warnings, including liaison with the Yot. The agency will need to understand the process in order to be able to

- advise young people and their parent/carer of the process which is likely to follow referral to the police.
- (iv) Agreement on who will make the contact with parents, guardians or appropriate adults and how they are to be involved in the reprimand/final warning process.
 - (v) If the agency intends to make contact with the young person, they will need to contact the parents/carer in respect of under 17s to enable the interview under caution to comply with PACE rules regarding appropriate adults.
 - (vi) Agreement on contacting victims. Prosecuting agencies may also have a role in working with victims.
 - (vii) Agreement on possible involvement of the agency in intervention programmes following final warnings. For instance, the Education Department of the RSPCA has developed a resource pack for use by Yots. Other agencies may find it useful to become involved in the intervention process as this process is designed to get the young person to face up to their offending behaviour. Just as major retailers are actively involved in restorative interventions to give their perspective, an agency may wish to stress certain aspects of the offence to a young offender.
 - (viii) Agreement on costs and arrangements for the payment of any costs. There may be costs that fall on the police service in undertaking additional work from non-police agencies. This would need to be considered and determined locally depending on the local requirements.
 - (ix) Agreement on recording process e.g. PNC and/or local recording. The keeping of records and the ability of the police to access them are essential. If there are records kept by the agency, the police and Yots need to be informed.
 - (x) Agreement on timescales. There should be an expectation that the police will issue reprimands and final warnings within 20 working days of the case being referred.

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