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Piloting 'on the spot penalties' for disorder: final results from a one-year pilot

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Penalty notices or 'on the spot penalties' for punishing low-level disorder offences such as 'causing harassment, alarm or distress' and 'disorderly behaviour while drunk' were introduced by the Criminal Justice and Police Act 2001 as one way of dealing speedily with antisocial offending and reducing the workloads of both the police and courts. There are two tariffs – £80 and £40 – according to the offence. From August 2002, pilots took place in four police force areas. These covered 11 disorder offences, for those aged 18 or over. An interim evaluation (Spicer and Kilsby, 2004) reported on the first eight months of the pilots. This Findings covers the full 12-month period and includes outcomes of fines registered at courts.

Key points

- 6,043 penalty notices for disorder (PNDs) were issued in the four pilot areas during the study period. Nine out of 10 were issued for just two offences: 2,951 (49%) for 'causing harassment, alarm or distress', and 2,530 (42%) for 'disorderly behaviour while drunk'.
- 51% of PNDs issued by the end of the project were paid within the statutory period of 21 days. If not paid within the 21 days, a fine is registered. Fines were registered for 46% of PNDs and at least 39% of this group finally paid, making an overall payment rate of nearly 70%.
- Evidence from two pilot areas suggested that between a quarter and a half of PNDs went to offenders who would otherwise have been cautioned or prosecuted. This suggests that there were many new cases which received PNDs.
- Issuing PNDs was less time-consuming than current procedures, with an estimated saving of between 1.5 and 2.5 police hours compared with a caution or prosecution. Fewer than 2% of recipients requested a court hearing.
- Police officers in the pilot areas favoured extending the range of (minor) offences for which PNDs might be used.
- While officers saw deterrent value in increasing the size of the penalties and using them for juveniles, they also expressed concerns about doing so. Given that default rates were slightly worse for £80 than £40 penalties, raising the amount could increase default rates. Others felt that if parents, rather than the juveniles, take on responsibility for payment, the juvenile is essentially 'let off'.

The introduction of PNDs (often referred to as 'on the spot fines') was first considered in the late 1990s as a way of accelerating action on the more serious cases by diverting less serious cases from the court system. Following a Home Office consultation paper, published in September 2000, provisions to issue penalty notices for

offences relating to disorderly behaviour were introduced by Part 1 of the Criminal Justice and Police Act 2001. The legislation allows police to issue penalty notices for a range of minor disorder offences, of which 11 were included in the pilot scheme (Box 1).

Box 1 Offences for which a PND can be issued (at the time of the pilot)

Offences attracting an £80 penalty

- knowingly giving a false alarm to a fire brigade
- wasting police time or giving a false report
- using a public telecommunications system for sending a message known to be false in order to cause annoyance
- causing harassment, alarm or distress (section 5 of the Public Order Act 1986 was added by order in 2002).

Offences attracting a £40 penalty

- being drunk in a highway, other public place or licensed premises
- throwing fireworks in a thoroughfare
- trespassing on a railway
- throwing stones etc. at trains or other things on railways
- buying or attempting to buy alcohol for consumption in licensed premises by a person under 18
- disorderly behaviour while drunk in a public place
- consumption of alcohol in a 'no alcohol' designated public place.

The four pilot areas were:

- West Midlands (including the British Transport Police) – piloted force-wide
- Essex – piloted force-wide
- Metropolitan Police – piloted in Croydon
- North Wales – piloted in the Central division, later force-wide from April 2003.

All four pilots ran for 12 months – three started on 12 August 2002 and North Wales on 2 September. The pilot areas continued to issue PNDs beyond the 12-month period in the lead up to national roll-out.

Evaluation

A range of evidence was used to assess the success of the PND pilot: data extracted from the new IT system used to record PNDs issued in each police force; information on the outcome of a sample of PNDs registered at court as fines; Home Office court proceedings and cautions data from West Midlands and Essex; questionnaires from 100 police officers in pilot areas; comments from intranet sites at Essex and West Midlands; a Metropolitan Police questionnaire issued at training sessions; one-to-one interviews with a sample of 40 police officers from across the pilot areas at the end of the pilot.

Operational guidance for police officers during the pilot

If an officer believed that a person aged 18 years or over had committed a penalty offence, the officer might issue a PND. The notice might be issued either on the spot by an officer in uniform or at a police station by an authorised

officer. The PND option did not preclude the use of other methods of disposal, such as charge or caution. The officer could use discretion as to whether to issue a PND, subject to central guidance (Box 2).

Box 2 Factors to be taken into account before a PND was issued

- there should have been sufficient evidence to bring a charge
- the offence was not too serious
- the suspect was suitable, compliant and able to understand what was going on
- no other more serious or non-penalty offence(s) was known to have taken place
- the suspect was not below 18 years of age
- there was sufficient evidence as to the suspect's age, identity and place of residence in Great Britain.

PND process:

- once a penalty notice has been issued, the recipient has 21 days in which to pay or request a court hearing
- failure to do either should have resulted in the registration of a fine of the original amount plus 50%
- payment involved no admission of guilt and the recipient avoided conviction and a criminal record
- if further evidence emerged as to the seriousness of the offence, or the recipient's full criminal history became known, formal proceedings could be initiated once the 21-day payment period had expired.

Numbers issued

After 12 months, 6,043 PNDs had been issued, most of these in the two forces piloting force-wide (West Midlands and Essex). Table 1 shows that over 90% of PNDs were issued for just two offences: 'causing harassment, alarm or distress' and 'disorderly behaviour while drunk'. About half of Essex and West Midlands PNDs were issued for harassment, alarm or distress, while in North Wales and the Metropolitan Police these were less common than 'disorderly behaviour while drunk'. PNDs for wasting police time were rare, apart from in West Midlands, and only 85 PNDs were issued for seven of the 11 offences. The pattern of offences will to a certain extent reflect the areas chosen for the pilot and the forces involved. For example, trespassing on a railway is likely to be an offence involving the British Transport Police.

Men received 86% of all PNDs issued. Only 12% of PNDs were issued to 18- to 20-year-olds. About a third were issued to 21- to 24-year-olds, about a third to 25- to 34-year-olds and just over a quarter to those aged 35 or more.

Payment rates

Initial payment

The statistics on payment rates (Table 2) are for the 5,437 PNDs issued up to the end of July 2003. Around 51% were

Table 1 Penalty notices issued over 12 months in each force by offence

Offence	Essex	Metropolitan Police	North Wales	West Midlands*	Total	%
Causing harassment, alarm or distress	855	85	126	1,885	2,951	49
Disorderly behaviour while drunk	693	253	308	1,276	2,530	42
Wasting police time	14	7	1	275	297	5
Drunk in highway	59	43	1	77	180	3
Trespassing on a railway	1	–	–	28	29	0.5
Sending false messages	5	–	–	11	16	0.3
Drinking in designated public place	5	3	1	7	16	0.3
Throwing fireworks	4	–	–	5	9	0.1
Knowingly giving false alarm to fire brigade	2	–	–	5	7	0.1
Throwing stones on a railway	5	1	–	–	6	0.1
Buying alcohol for person aged under 18	1	–	1	–	2	–
Force total	1,644	392	438	3,569	6,043	100

Note: * West Midlands figures include PNDs issued by the British Transport Police

paid within the 21-day period without any further official action, 46% were registered as fines and around 2% of recipients requested a court hearing. A small number of PNDs were cancelled or still on the system as unpaid (1%).

Table 2 Initial payment rates for penalty notices

Outcome	No.	%
Paid in full within payment period	2,773	51
Fine registered/acknowledged	2,483	46
Court hearings requested	99	2
Unpaid/cancelled	82	1
Total number issued (to end July 2003)	5,437	100

Fine registration

Record systems at local magistrates' courts are not able to differentiate between PNDs and other fines. Therefore, each area put in place measures to track the payment of PNDs which were registered as fines. Three areas tracked all fines registered in particular months, one force tracked all PNDs issued in one month. The results, when weighted together to reflect the different number of PNDs registered as fines in each area, suggest that 39% of the PNDs registered as fines were paid in full by March 2004 (Table 3). This is a minimum figure, as some may yet be paid following court enforcement action or following remittance to reflect the offender's ability to pay. Those not able to be tracked individually, as their fine had been amalgamated with other fines owed, may also have raised some revenue.

Overall payment rate

Taking all the above information into account suggests that in the pilot areas, nearly 70% of PNDs issued were paid

(either within the 21-day payment period or after court action). This figure may underestimate the true payment rate because of payments received subsequently. The national payment rate may differ from this because the pilot areas may not have been fully representative of England and Wales as a whole.

Diversion from formal criminal proceedings

Savings on police time and court workload were assessed. Cautions and prosecutions for the pilot period for the two main offences were compared with the previous year for the two pilot areas that piloted force-wide. These figures were then compared with PNDs issued (Table 4).

There have been reductions in cautions and prosecutions for those offences in the two pilot areas. Although not conclusive, this pattern suggests that many have been diverted to PNDs. The larger number of PNDs indicates a net widening to recipients who would not otherwise have been dealt with by caution or prosecution. The figures for the two areas suggest that between a half and three-quarters of PNDs issued for disorderly behaviour while drunk and causing harassment, alarm or distress were 'new business'.

Satisfaction with PNDs/ideas for improvement

Feedback was received from questionnaires (one developed by the evaluation team and one issued by the Metropolitan Police at training sessions), comments sent to force websites in Essex and West Midlands and through interview. The evaluation team's questionnaire was sent electronically to contacts in each pilot force who then sent out to police officers – 100 were returned at the interim stage (January/February 2003). Interviews were conducted with 40 officers by the end of the pilots. These exercises helped to assess how operational officers felt about the PNDs rather than yield valid statistical data for quantitative analysis.

Table 3 Outcome of fines registered at court

Area (period sampled)	Essex (Oct 02 – June 03)		North Wales (Dec 02 – June 03)		Croydon (Aug 02 – June 03)		West Midlands (March 03)		Weighted totals	
	No.	%	No.	%	No.	%	No.	%	No.	%
Fines registered	313	100	66	100	146	100	120	100	177	100
Paid	147	47	29	44	57	39	36	30	69	39
Penalty reduced due to offender's income	18	6	0	0	1	1	0	0	6	3
Amalgamated with other fines	84	27	0	0	0	0	3	3	26	15
Written off – one day served	14	4	2	3	7	5	16	13	18	10
In court for means enquiry	2	1	2	3	0	0	3	3	3	2
Warrants issued	25	8	23	35	44	30	9	8	16	9
Distress warrants issued	7	2	4	6	22	15	41	34	27	15
Transferred to other courts	8	3	6	9	2	1	1	1	2	1
Withdrawn by court	6	2	0	0	1	1	10	8	8	5
No action	2	1	0	0	12	8	1	1	2	1

Table 4 Comparison of PND numbers with change in prosecutions and cautions

	Year before pilot	Pilot year	Difference as % of PNDs
Causing harassment, alarm or distress			
Cautions and prosecutions			
Essex	902	659	28%
West Midlands	3,309	2,372	50%
Disorderly behaviour while drunk			
Cautions and prosecutions			
Essex	776	396	55%
West Midlands	817	504	25%

However, this qualitative information suggests that the level of satisfaction with PNDs among those responsible for operating them was very high. Most questionnaires received made favourable comments. Individual examples include:

'... one of the best tools for the job that we have been issued for a long time' (West Midlands)

'I cannot think of any other change in working practice which has reduced the workload of officers and still been effective. This is the best thing to happen to the police for a long time'. (Essex)

There were dissenters at the interim stage, however, and clearly a small number of officers opposed to the scheme in principle:

'it is a soft option' (Essex)

'not a significant deterrent' (Met).

Features of the scheme which officers particularly liked, and ways in which they thought the schemes operation might either be improved or extended, were covered by comments in the questionnaires and during interviews.

Training

Officers saw little need for formal training. The PND forms were self-explanatory. Information was also available in the form of written guidance and IT-based material. Some guidance would be welcomed on one issue – the circumstances in which repeat PNDs should and should not be issued.

Design of the PND form

A number of officers expressed irritation that the form does not allow enough space for a thorough description of the incident to be recorded. As the evidential requirements are the same as for a case to be prosecuted, this is clearly a shortcoming. Good practice included attaching a photocopy of an officer's notebook entry or an Incident Record Book (IRB) statement or statement form (MG11A) as advised on the PND form.

Issuing notices on the street

PNDs cannot be issued on the street for alcohol offences as the suspect may not fully appreciate what is going on. Such suspects must be taken to a police station and (in line with the Police and Criminal Evidence (PACE) Act 1984 and its

codes of practice) must be sober enough to understand the proceedings. Most of the other incidents which would be suitable for PNDs might have, or had actually, resulted in violence. During interviews officers referred to the 'obvious risk' to them and others of attempting to issue a fine on the street when surrounded by the offender's 'mates' and other interested and inebriated parties. In practice, only officers from Essex issued PNDs on the street. In the other three pilot forces PNDs were issued in custody.

Officers interviewed at the end of the pilot were asked if they had ever been unable to issue a PND because of uncertainty about the suspect's identity. All officers said that they would not issue a PND if there were any doubt regarding identification. In most cases the offender was in custody when the PND was issued and checks on identification were easier than they would be on the street. Some officers commented on the fact that it was not possible to take fingerprints on the street. However, since the pilot ended, Lancashire police force have already developed a PND kit with a leather wallet which incorporates a small ink pad and a street issue penalty notice which incorporates a space for fingerprints.

Time saving

Most of those who completed a questionnaire estimated they spent between 10 minutes and one hour to complete and issue each ticket. In interview, the range was 15–30 minutes. A Policing Bureaucracy Task Force report states the average time to issue a PND is approximately 30 minutes (this includes the separate statement).

According to the Policing Bureaucracy Task Force report, the average time taken to prepare an evidential case file for a charge to be heard at court is approximately three hours. The average time to prepare a file for a caution is similar. So, according to the officers' estimates, there is a saving of 1.5–2.5 hours for each PND which replaces a caution or prosecution; and this is before the time required to administer a caution, preparing for and appearing at court or the court's time is taken into account. This overall saving in police time diminishes for every case in which no further action would previously have been taken – which is estimated to be true of more than half the cases in the pilot.

Repeat PNDs

During the pilot some officers expressed concern about the repeat issue of PNDs to the same recipient. In fact, of the 6,043 PNDs issued during the pilot, only 8% (467) were repeat PNDs, issued to 215 recipients. Only 25 individuals (out of nearly 5,800 PND recipients) received three or more PNDs. A few of the officers interviewed saw some value in repeat PNDs:

'I think we need to go out each night and hit these people with PNDs over and over. Eventually they will have mounting debts and court orders hanging over them and maybe then they might treat these offences more seriously and realise that they could go to prison in the end if they don't stop their offending behaviour'.

Many others felt that the deterrent value of PNDs was lost if the offender received a PND on a number of occasions:

'... I can see no value in knowingly issuing large numbers of PNDs without using discretion. The rule of thumb I use is, if they haven't responded to having received two PNDs it is time to raise the stakes and take them to court'.

Officers suggested that a check should be available, either through a PND database or a marker on the Police National Computer (PNC), so that officers could make an informed judgement about whether the suspect should be charged. Since the pilot, a marker has been introduced on the PNC for those arrested.

Extending the scheme to cover other offences

Officers responding to the questionnaire suggested a number of additional offences for which PNDs might be appropriate. Those most commonly suggested were minor shoplifting, dropping litter and possession of small quantities of class B or class C drugs (cannabis was usually quoted – this pre-dated the change in the law affecting cannabis possession).

Extending the scheme to under 18s

Under the pilot scheme, officers were not allowed to issue PNDs to people aged under 18 years. Some officers who completed the questionnaire reported that they had encountered situations where they would/could have issued PNDs but for the age of the potential recipient. These were mainly public order or drunk and disorderly cases. Several respondents in the questionnaire survey suggested issuing PNDs to people under 18 in custody in the presence of their family or issuing PNDs to parents 'on behalf of their child'.

However, during interviews a number of officers warned against extending PNDs to under 18s, noting that this would require the presence of a responsible adult and would reduce time savings. Also, officers did not feel that issuing penalty notices to a parent would provide any deterrent to a child who did not have to pay the bill.

DNA evidence

The ability to gather DNA, fingerprint or photographic evidence would be welcomed by many officers. The remainder felt that this would take too long and remove the advantage of this disposal. At the time of the pilots, PACE regulations required that DNA could only be taken when a suspect was reported or charged, neither of which should occur if they are to be issued with a PND.

Sections 9 and 10 of the Criminal Justice Act 2003 which came into effect from 5 April 2004 allow DNA and fingerprints to be taken on arrest and may address this issue where the officer chooses to arrest the offender. Where DNA is taken, a PNC marker is used to allow the data to be identified with an individual (this will not represent a criminal record). This also enables previous issue of PNDs to be checked on the PNC for those arrested.

The amount of the penalty

Some officers responding to the questionnaire felt the PND amount was too low:

'£40 and £80 is not a lot to the majority of people and the amount they spend at night' (Met).

There were others who felt the amounts were adequate:

'the fine is more than they would get at court anyway' (Met).

At present, around half of PNDs are paid within the statutory period. Whether this would still be the case if the levels were raised is questionable, although there is only a small difference in the payment rate for the £80 offences (50%) compared with the £40 offences (54%).

Conclusions

On the whole the PND project has been a success. Police officers have warmed to this disposal as a way of dealing with antisocial behaviour in a swift, decisive manner.

The 51% initial payment rate for PNDs is somewhat lower than that for penalty notices for motoring offences – 59% of the three million issued by the police in England and Wales in 2001 were paid (Ayres et al., 2004). Given that there is a 28 day payment period for motoring offences and there tends to be more conclusive evidence in many motoring cases, a lower payment rate for PNDs might be expected.

Taking into account fines registered at court, nearly 70% ultimately paid. Since the pilots, the fine, once registered, has been identified for fast tracking in the enforcement process on the grounds that offenders who fail to pay the PND have already shown themselves to be bad payers.

Most PNDs were issued for two offences: 'causing harassment, alarm or distress' and 'disorderly behaviour while drunk'. Those seven offences where few PNDs were

issued may be more common among younger offenders. For example, many of those who throw fireworks or throw stones at trains are likely to be under 18 years. PNDs were extended to 16- to 17-year-olds under powers in the Anti-social Behaviour Act 2003 which were introduced as part of national roll-out. The Act provides for the age to be lowered to 10 years and this will be brought into force later this year. Pilots will take place for under-16s.

Police time was saved by using PNDs. Cautions and prosecutions decreased for PND offences in both West Midlands and Essex but there were a greater number of PNDs, including many cases that would not otherwise have been dealt with.

Taking a person into custody to issue a PND will take up more time than the 'on the spot' fine issued on the street. A number of officers commented on this, saying that the time saving was less than they had hoped. Given that one of the aims of the pilot was to save police time, issuing a PND on the street, especially in rural areas, would seem desirable where this is unlikely to cause trouble. This may be less of an issue when, and if, PNDs are extended to a broader range of offences which do not involve violence or drinking.

Officers made a number of suggestions which might improve the way PNDs operated including redesigning the form to allow a fuller record to be made and extending the range of offences for which it might be used. Their comments suggest that while both raising the amount of the penalties and making them available for juveniles might seem to have deterrent value at first sight, in practice this would be undermined if penalties went unpaid or had to be enforced and parents, rather than the juveniles, took on the debt.

The scheme was rolled out nationally with effect from 1 April 2004 and already some forces have issued large numbers in the first months.

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