

1.0 POLICY IDENTIFICATION PAGE

THIS POLICY HAS BEEN DRAFTED IN ACCORDANCE WITH THE PRINCIPLES OF HUMAN RIGHTS LEGISLATION, PUBLIC DISCLOSURE IS APPROVED UNLESS WHERE OTHERWISE INDICATED AND JUSTIFIED.

POLICY TITLE: Simple Cautioning of Adult Offenders

POLICY REF. NO: 02/06 replaces the previous policy document "Cautioning of Adult Offenders".

POLICY OWNERSHIP: Administration of Justice Department

Portfolio / Business-area Owner:

Department Responsible: Administration of Justice

Person Responsible: Superintendent

Links or overlaps with other policies: Youth Offending Policy

POLICY IMPLEMENTATION DATE: 1st January 2009 this policy document replaces the previous "Cautioning of Adult Offenders".

REQUIRED FREQUENCY OF REVIEW
eg **SIX MONTHLY/ANNUALLY:** Annually

DATE POLICY LAST REVIEWED: January, 2009

POLICY REVIEW DATE: January, 2010

2.0 POLICY STATEMENTS/INTENTIONS

2.1 The principles and scope of the policy

Home Office Circular 30/05 has been replaced by Home Office circular 16/2008 which provides advice to the police and prosecutors on the use of the simple caution and in particular that simple cautions should be used for LOW LEVEL offending.

The purpose of this document is to provide police personnel with guidance in the exercising of these powers, taking into account the rights of the individual and balances the use of these powers against the right of other individuals and the interests of the community as a whole.

2.2 The aims of the policy

The purpose of this policy is to

- Provide guidance on the use of Simple Cautions to ensure effective use in the prevention and detection of crime
- Ensure greater consistency between Criminal Justice Areas in the use of Simple Cautions for adult offenders
- Clarify how the police and CPS responsibilities for simple cautions are affected by the Statutory Charging Scheme.
- Give a clear outline of the practical process of administering a simple caution.
- Emphasise the importance of accurate recording of simple cautions because of the possible impact on the individual offender, to help maintain public confidence and for data collection purposes, and provide a standard simple caution pro forma for operational use.

3.0 INTRODUCTION

3.1 This document is published to provide guidance to divisions.

3.2 The document is based upon the guidance provided by the Office for Criminal Justice Reform to the Police Service and contained within Home Office Circular 16/2008 – Simple Cautioning of Adult Offenders.

3.2 Motivators/Driving Forces

The introduction of this policy is designed to ensure a consistent approach across all divisions to the cautioning of adult offenders.

3.3 The legal basis and legitimate aims

Simple Cautioning of Adult Offenders is a non-statutory disposal. The legitimate aims of the simple cautioning process are to deal with less serious offences quickly and simply, to divert offenders where appropriate from the courts and to reduce the likelihood of re offending.

The accurate recording of adult simple cautions as legitimate sanction detections will contribute to improved public confidence in the criminal justice system.

This policy deals with the cautioning of adult offenders and, as such, may engage the following Articles of the Human Rights Act 1998:-

Article 5: right to liberty and security of the person

Article 6. right to a fair trial

Article 7. no punishment without law

4.0 IMPLICATIONS OF THE POLICY

4.1 Financial implications/Best Value

The financial implications of this policy are that offenders will be diverted from the Criminal Justice Process saving costs in terms of the processing of offenders, preparation of case papers and court time.

There are no additional financial implications.

4.2 Human Resources/Training

This policy ensures a consistent approach to dealing with less serious crime.

Training requirements are minimal.

Policy adoption can be publicised through Routine Orders.

4.3 Diversity

This policy does not have the potential to impact adversely upon any particular grouping, within the police service or society.

4.4 Internal policy links

This policy links The Youth Offending Policy

4.5 Consultation

The formulation of this policy has included consultation with

- ACPO

- Force Solicitor/ Legal Adviser
- Divisional Command Teams
- Heads of Departments
- Head of Training
- Divisional Support Units
- CPS

5.0 HUMAN RIGHTS CONSIDERATIONS/CERTIFICATION

5.1 Auditing for potential interference and discrimination

5.1.1 This policy deals with the cautioning of adult offenders and, as such, may engage the following Articles of the Human Rights Act 1998:-

- *Article 5: right to liberty and security of the person*
- *Article 6: right to a fair trial*
- *Article 7: no punishment without law*

5.1.2 “In the application of this policy Dyfed Powys Police will not discriminate against any persons regardless of sex, race, colour, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention Human Rights (ECHR)”

5.2 Key Human Rights principles

5.2.1 The legitimate aims in respect of this policy, for interfering with an individual’s rights, have been identified and considered as necessary for the following reasons:-

Public Safety and / or Economic Well being to the country

Prevention of disorder and crime

Protection of the rights or freedoms of others.

5.2.2 The policy provides staff with clear guidance on establishing:

- The legal basis of their action
- The aims of their actions
- Whether their actions are justified and proportionate in seeking to achieve their aim(s)
- The need to document clearly the decision-making processes and outcomes of their action

The legal basis for the detention and treatment of detained persons is to be found in PACE and the relevant codes of practice.

5.3 Delineating between Policy and Procedures or Guidance (Tactics)

5.3.1 No tactics are provided in the policy document

5.4 Rights, Publication, Audit and Inspection

5.4.1 This Document will be published and made readily available to all police officers, police staff and volunteers within the Dyfed Powys Police via the Force Intranet system, or where the facility is not available, and at the discretion of Divisional Commanders / Heads of Departments, through paper dissemination.

The document will be made available to the general public via the Force external Internet Site, (www.dyfed-powys.pnn.police.uk) or upon written requests made to the Force Policy Co-ordinator.

Any person (or persons) who has / have cause to feel aggrieved by any matter outlined in this policy may seek redress via the Dyfed Powys Police Professional Standards Department in either of the following ways:

In relation to the content of this policy, any question or complaint will be dealt with in accordance with the Dyfed Powys Police direction and control procedures.

Matters relating to the specific conduct of Police Officers will be dealt with using the Police Misconduct Regulations, and or where appropriate criminal investigations.

In exercising their right as detailed above, the individual will have a right to make representation to the Dyfed Powys Police Professional Standards Department and in so doing may seek legal advice.

The operation of this policy by Dyfed Powys Police Officers may be subject to internal and external review mechanisms. These include Her Majesty's Inspector of Constabulary.

6.0 GUIDANCE/PROCEDURES

6.1 Risk Assessments and Health and Safety considerations

All persons detained in accordance with Code C PACE Codes of Practice will be subjected to a standard risk assessment process, by

the Custody Officer, to ensure risks to themselves, police employees and other are identified at the earliest stages and control measures implemented as appropriate.

6.2 Guidance and Procedures

Police Officers should always be able to justify the use of the 'simple caution' as a disposal option by having a legal and objective basis for their decision.

Such decisions should be proportionate to the circumstances of the offence, victim impact, and criminal history of the subject.

The actions of officers must be legal, reasonable, necessary, justifiable, and proportionate to the circumstances.

The officer will also make a record of the use of the caution in the custody record and A66 recording any relevant decision making reasoning.

6.3 Individual Roles and Responsibilities

It will be the role of the investigating officer to gather evidence of the detainee's guilt.

It will be the role of the custody Sgt or duty Inspector to decide if the detainee is suitable for a simple caution.

If the detainee is suitable for such a disposal it will be the role of an officer of at least the rank of Sergeant to administer it. .

It will be the role of the investigating officer to update the victim in accordance with the Victims Code of Practice, and to complete and submit the necessary documentation in relation to the offence / offender.

6.4 Related Protocols, Practices or Service Agreements with other Agencies

The disposal must comply with the Statutory Charging Scheme arrangements with the Crown Prosecution Service.

6.5 Administration

The reporting officer will complete an A66 Adult Simple Caution Form and forward it with supporting documentation to the DSU before going off duty.

7.0 PROMOTION/DISTRIBUTION

Promoting the policy to achieve understanding, awareness, involvement, support and commitment will be through:

Publication in Routine Orders

Policies Page of the Intranet

Inclusion on the CJU Custody Home Page

- In this way all staff will be informed of, and have access to the policy.
- The Policy will be a public document available for public scrutiny
- The initial and key target audience for this policy are all custody Sgts, Inspectors.

8.0 MONITORING REVIEW

8.1 Monitoring

- The requirements for any ongoing monitoring will be dependant upon changes in Home Office guidance or legislative change. Interim monitoring will take place on an annual basis.

8.2 Review

The next formal review will be 1st September 2010 to consider:

- Its effectiveness
- Any changes to legislation / Home Office Guidance
- Challenges to the policy
- Any identified inefficiencies in relation to implementation

POLICY NAME: Simple Cautioning of Adult Offenders Policy

Policy Owner: **ADMINISTRATION OF JUSTICE DEPARTMENT**

Audited by:

Issue	Question	Response	Page or Paragraph reference
AUDITING FOR POTENTIAL INTERFERENCE AND DISCRIMINATION	Have the contents of this policy (and any attendant powers, authorities and directions contained within it) been audited for potential interference with an individuals rights?	YES	See Para 5.1
	Have the contents of this policy been audited for the potential for it to be discriminatory. In relation to the application or provision of such rights?	YES	See Para. 5.1.2
KEY HUMAN RIGHTS PRINCIPLES	Does the policy contain a statement explaining what the legal basis is for the policy (and any attendant powers, authorities or directions given within it)?	YES	See Para. 3.3
KEY HUMAN RIGHTS PRINCIPLES	Does the policy provide details of what could be considered a legitimate aim(s) for the potential interference with an individual's rights by virtue of exercising the policy and its attendant powers, authorities or directions?	YES	See Para. 3.3
KEY HUMAN RIGHTS PRINCIPLES	Are supervisors and practitioners made aware of the need to follow a clearly defined decision making process in considering all information, and deciding on courses of action?	YES	See Para. 6.2

KEY HUMAN RIGHTS PRINCIPLES	<p>Is it explicit within the policy what the minimum standards are in relation to the documentation of such decision-making?</p>	<p>YES</p>	<p>See Para. 6.2</p>
KEY HUMAN RIGHTS PRINCIPLES	<p>Does the policy provide managers and practitioners with clear guidance on establishing the: -</p> <p>Legal basis of their actions</p> <p>The aim of their actions (legitimate aims can only be established by virtue of the exemptions and derogation's given in the act)</p>	<p>YES</p> <p>YES</p>	<p>See Para. 3.3</p> <p>See Para. 5.2.2</p>
DELINEATING BETWEEN POLICY AND TACTICS	<p>Does the policy incorporate police tactics that would make it impractical to publish the contents? (NB: due to publication requirements it is suggested that tactical material is not included in policy documentation for security reasons).</p>	<p>NO</p>	
RIGHTS, PUBLICATION AUDIT AND INSPECTION	<p>Does the policy contain a statement in favour of public disclosure or, if this is inappropriate, justification of any reservation to this rule on public interest/other grounds?</p> <p>Does the policy contain: -</p> <p>a statement about the availability of the policy (method of proposed publication to public).</p> <p>a recommendation about</p>	<p>YES</p> <p>YES</p> <p>YES</p>	<p>See Para 5.4.1</p> <p>See Para 5.4.1</p>

	maintaining audits and inspection of decision-making?		See Para 5.4.1
CERTIFICATION OF COMPLIANCE	Does the policy contain a certification that it has been drafted in accordance with the Human Rights Act and the principles underpinning it?	YES	
LEGAL VETTING	Has this policy been through legal vetting for human rights compliance?	YES	
POLICY REVIEW	Has the policy got a review date to ensure ongoing compliance in light of emergent legislation and human rights case law?	YES	

**CERTIFICATE
OF
COMPLIANCE**

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its contents and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Signed:

(Force Legal Adviser)

Name: Ms. S. Gainard

Department: Legal Services

REVIEW

This policy is due for review by: Date: January 2010

The Simple Cautioning of Adult Offenders Policy.

This Policy reflects National Guidance issued to Forces by the Home Office in respect of the Simple Cautioning of Adult Offenders. (Circular-16/2008)

1. Introduction

1.1 The Simple Caution may be used for all adults involving **low level** offences where the public interest can be met by a Simple Caution. Only in exceptional circumstances should it be used to deal with more serious offences.

1.2 In such cases the administration of a Simple Caution for a recorded offence will be treated as a sanction detection and an offence brought to justice (OBTJ).

1.3 The accurate use and recording of Simple Cautions can contribute to improved public confidence in the Criminal Justice System and contribute towards reducing the likelihood of re-offending.

1.4 Simple Cautions must be issued in accordance with the Director of Public Prosecutions' Guidance on Charging which is intended to encourage consistency between Criminal Justice Areas in the use of the Simple Caution. Police officers retain the authority to issue a simple caution in all cases other than indictable only offences. These must be referred to the CPS for a decision.

1.4A Police officers can also take advice from the CPS at any stage in an investigation on whether a simple caution is appropriate, as set out in the Director's Guidance on Charging.

1.4B An offender has a right to free legal advice under the Police & Criminal Evidence Act 1984 after arrest and being held in custody at a police station, or if they attend a police station voluntarily and are cautioned prior to interview but not arrested. An offender who has not been arrested cannot be prevented from speaking to a solicitor but, unless at a police station, is not entitled as a matter of course to free advice. PACE requirements in relation to the provision of an Appropriate Adult for mentally vulnerable offenders also apply where a simple caution is being considered.

1.5 As Simple Cautions are a non – statutory disposal, the Home Office has not set out definitive rules on the circumstances in which Simple Cautions are appropriate, however the guidance indicates that Simple Cautions should mainly be used where: -

It is appropriate to the offence and the offender and

It is likely to be effective in the circumstances.

1.6 The ethical administration of a Simple Caution for a Recorded Offence is treated as a Sanction Detection and an Offence Brought to Justice. The accurate recording of simple cautions can contribute to improved public confidence in the Criminal Justice System and also contributes towards reducing the likelihood of re offending.

2. The aims of the Simple Caution are

2.1 To deal with less serious offences quickly and simply where the offender has admitted the offence.

2.2 To divert offenders from appearing in the criminal courts where appropriate

2.3 To reduce the likelihood of re-offending

2.4 To record an individual's criminal conduct for possible reference in future criminal proceedings or relevant security checks.

3 Criteria for a simple caution

3.1 In deciding whether a Simple Caution is appropriate a police officer must consider:-

- Is the suspect 18 years or older? (If not consider reprimand and final warning disposals).
- Has the suspect made a clear and reliable admission either verbally or in writing? A Simple Caution will not be appropriate where a person has not made a clear and reliable admission of the offence (for example if intent is denied or there are doubts about their mental health or intellectual capacity, or where a statutory defence is offered).
- Is there a realistic prospect of conviction if the offender were to be prosecuted in line with the Code for Crown Prosecutors, the Full Code Test? (A clear reliable admission of the offence corroborated by some other material and significant evidential fact, such as an eye witness statement, will be sufficient evidence to provide a realistic prospect of conviction. There is no requirement to build a case file with continuity or corroboration statements).
- Is it in the public interest to use a simple caution as a means of disposal? (Officers should take into account the public interest factors set out in the Code for Crown Prosecutors, The Full Code Test., in particular the seriousness of the offence.
- Is a simple caution appropriate to the offence and the offender? (With reference to ACPO Gravity Factors Matrix and the offender's criminal history)
- If the offence **indictable only** the case must be referred to a **Crown Prosecutor** for a decision)

- If all the requirements are met the offence may be suitable for disposal by way of simple caution. There are a range of out-of-court disposals available a decision to administer a simple caution needs to be taken in the context of all possible disposals, particularly the conditional caution.

Aggravating / Mitigating factors

There may be aggravating or mitigating factors in the course of an offence which will either increase or decrease its seriousness. The ACPO Gravity Factors Matrix assists officers in deciding whether or not a simple caution remains the most appropriate disposal.

Circumstances where a simple caution cannot be considered

A simple caution will not be appropriate where

** A person has not made a clear and reliable admission of the offence or has raised a defence. This includes denial of intent, doubts about mental or intellectual capacity.*

However an admission that is qualified – where for example an offender commits an offence while drunk but cannot remember the full circumstances – but which is supported by other evidence e.g. CCTV or other statement may be considered to be full and frank if all other evidence is accepted by the offender.

- Where someone refuses to accept a simple caution
- Where the offender is a serving prisoner or subject to prison recall.
- Where the offender is on court bail or subject to a court order at the time of the offence. (In such cases prosecution, or offences being taken into consideration may be more appropriate)

3.2 In order for there to be an auditable record of the admission of the offence the admission must be recorded by any method, which is PACE compliant viz

- An unsolicited admission made without any inducement or invitation to comment at any time outside the context of an interview, recorded in writing and to which the suspect has been invited to sign confirming its accuracy.
- A audio or visually recorded formal interview
- A record of admission under caution recorded in the officer's notebook and signed by the suspect as an accurate record.
- A formal written statement under caution made by the suspect and signed by them as accurate
- A contemporaneous interview under caution signed as accurate by the suspect.

4 The Victim

4.1 Before a Simple Caution is given it is important to establish where possible:-

- The views of the victim about the offence (see below in respect of unsupported prosecutions)
- The nature and extent of any harm or loss and its significance to the victim's circumstances
- Whether the offender has made any form of reparation / compensation to the victim. (Although this may not be appropriate in some cases, such as violence) *Police officers should not become involved in negotiating or awarding reparation or compensation.*
- *All of these factors are relevant to an assessment of whether it is in the public interest to use a simple caution as the means of disposal.*

4.2 Where the views of the victim are sought, care must be taken to ensure they are aware that although their views will be taken into account, they will not necessarily be conclusive to the outcome, and the final decision is at the discretion of the police and/ or CPS.

4.3 If a Simple Caution is determined to be the most appropriate disposal the reasoning should be explained to the victim, together with the consequences of receiving the Simple Caution to the offender. Where a victim declines to support a simple caution, because they do not want any action taken this should not automatically result in 'No Further Action'. Officers need to consider wider public interest factors before disposing of the offence in this way.

4.4 The victim **must** always be informed of the outcome in accordance with the Victim Code of Practice. Where a simple caution is administered informing the victim of this outcome this will be the responsibility of the investigation officer.

5 Other considerations

5.1 Local and National records, such as CIS, PNC must be checked before a Simple Caution is administered to ensure that the criminal record, if any, of the suspect is known. This will avoid inappropriate use of Simple Cautions.

5.2 If a suspect has previously received a Caution (including a Conditional Caution) then a further Simple Caution should not **normally** be considered unless:-

- The subsequent offence is unrelated to any previous offences or trivial in nature, or used as part of a mixed disposal.

- A period of 2 years has passed since any previous caution, reprimand or final warning indicating it had a significant deterrent effect.

5.2A If the offender has a previous conviction the current offence may still be considered for a caution as long as it is not related to the offences for which the previous conviction was received. The decision to use a simple caution remains at the discretion of the police / cps but there should have been a significant time lapse between the original conviction and any new offence before a simple caution will be appropriate – normally a minimum of 2 years.

5.3 The offender **MUST** be aware of the full implications of accepting a Simple Caution **BEFORE** doing so and give **INFORMED CONSENT** to that course of action. These must be explained and provided in writing to the offender.

The offender and their legal representatives are entitled to seek and receive disclosure of the evidence before deciding to accept a simple caution.

Under no circumstances should suspects be pressed or induced in any way to admit offences in order to receive a simple caution as an alternative to being charged.

Where a suspect does not give consent to receiving a simple caution, the police may choose an alternative disposal in accordance with the Director's Guidance on Charging. Officers must avoid any suggestion that accepting a simple caution is 'an easy option'.

6 The Suitability of a Simple Caution

6.1 The decision regarding the suitability to administer a Simple Caution should be made by an officer of at least the rank of Sergeant who is unrelated to the investigation of the offence. This will usually be the custody officer.

6.2 Once the determining officer is satisfied the criteria for administering a Simple Caution have been met they should consider:-

- Is there a clear and reliable admission?
- Is there a realistic prospect of conviction using the Full Code Test?
- Is a Simple Caution an appropriate disposal taking into account the offence and the offender?
- Is it in the public interest to administer a Simple Caution?
- Is the offender aged 18 years or over?

The public interest may be determined by considering:-

- Are there any aggravating factors? And
- Are there any mitigating factors?

Prosecution decisions should take into account the ACPO National Gravity Matrix, jointly owned through the Criminal Justice System Business Area, by Police and CPS. This is updated from time to time, and available on the Police National Legal Database.

6.3 The determining officer must fully complete the Suitability Decision-making form (A66a.) evidencing their decision to ensure the record can be retrieved if required during subsequent proceedings or as part of an audit.

Crown Prosecutors may be asked for advice on the suitability of using a simple caution disposal at any time. However only the CPS can make the decision on whether an indictable only offence is suitable to be dealt with by means of a simple caution.

The CPS may instruct a simple caution to be issued in any case where the criteria are met. This decision is binding on the police.

7 Offering the Simple Caution

7.1 Once determined as an appropriate disposal, the suspect should be offered a Simple Caution. The significance of the agreeing to a simple caution must be fully and clearly explained to the offender before they are given the simple caution.

7.2 They **must** understand

A simple caution is not a form of sentence (which only a court can impose).

- It is an admission of guilt and while not a criminal conviction, will form part of their criminal record. .
- There is sufficient evidence to prosecute them for the offence(s).
- That the Simple Caution is intended for them to rectify their future behaviour.
- That a record of the Simple Caution will be kept and that it may influence any future decision to prosecute them should they come to police notice again.
- A court may be informed of the Simple Caution in any future proceedings
- A simple caution will appear on a subject access request made by the offender under the Data Protection Act 1998 and will be recorded on the Police National Computer It may also be disclosed for employment vetting purposes, including suitability to work with children, licensing purposes or to inform judicial decisions.

- The caution process will include taking DNA, Fingerprints and shoe impressions for retention and speculative search.
- If requested by the victim, for the purposes of Civil Proceedings, the offender's name & address will be disclosed to them.

7.3 For Sexual Offences listed in Schedule 3 Sexual Offence Act 2003 they **MUST** understand that they will become a 'relevant offender' and subject to the notification and registration requirements of Part 2 of the Act. (Placed on the Sex Offenders Register for 2 years from the date of the caution). **C543 Sex Offender Registration Forms, available on the PPU Home Page, must be completed prior to release.**

7.4 A Simple Caution can only be administered if the offender accepts this disposal. If the suspect refuses the offer of a Simple Caution an alternative disposal will be necessary.

7.5 Suspects should be allowed time to consider the offer, and take legal advice if necessary.

7.6 Divisions may wish to consider the use of Caution Clinics to streamline and ensure consistency of the process.

7.7 Where the final disposal has not been determined, for example because the offender has not confirmed a willingness to accept a Simple Caution where one is an appropriate disposal, offenders may be required to return at a later date to enable the Simple Caution to be delivered, or to be charged as appropriate.

8 Administering a Simple Caution

8.1 Following a clear and reliable admission, completion of the decision making form for the administration of a Simple Caution indicating it is an appropriate disposal, and acceptance of this disposal by the offender, the Simple Caution should be administered by a person who is suitably trained, if available. It should incorporate aspects of conferencing i.e. ensuring that the offender is confronted with the consequences of the offending behaviour and its impact upon the victim and / or community.

8.2 Where such a trained officer is not available, the release of the offender should not be delayed. In such circumstances the custody officer shall deliver it.

8.3 Simple Cautions should normally be administered in Police Stations however in exceptional circumstances they may be administered in another suitable place e.g. the home of an elderly person or vulnerable person in the presence of an appropriate adult.

The simple caution shall be deemed to have been administered only when the offender has signed a form, which makes clear the implications for accepting it. The offender should be given a copy of this.

8.4 The offender must sign the A66(b) to accept the Offer of the Simple Caution, and acknowledge receipt of the Simple Caution by signing the A66(c). **This must also be signed by the officer administering the simple caution.**

8.5 Where a person, who has not been in police detention for the offence, receives a Simple Caution, and has not had their fingerprints or DNA taken in the course of the investigation of that offence, or the fingerprints that were taken were not a complete set, or were of insufficient quality to allow satisfactory analysis or matching, they shall within one month of the date of that Simple Caution be required to attend a police station in order to have their fingerprints taken in accordance with PACE S27 and S63A(4). This requirement will be generated, in writing, by the Administration of Justice Department.

8.6 Accurate recording is essential to minimise multiple cautioning of offenders. Simple Cautions must be recorded on the local custody system and national information systems.

8.7 A Simple Caution is not an appropriate method of disposing of offences where an offender is serving a custodial sentence for other offences and will not be used for PPOs or PYOs.

Particular offence types

There will always be cases in which it is not in the public interest to prosecute and in these circumstances it is preferable that an offender is cautioned rather than no further action taken.

9 Prosecution unsupported by the victim – Violence against the Person

9.1 Generally the simple caution is not appropriate for the most serious violence against the person offences. However where an offence of personal violence is NOT accompanied by any aggravating factors and where the victim does not support a prosecution, the offence may be suitable for disposal by simple caution provided all other criteria are met .

Domestic Violence

9.2 Positive action, should be taken throughout the entirety of cases of domestic violence to ensure the safety and protection of the victims and children while allowing the Criminal Justice System to hold the offender to account. This includes gathering alternative evidence in order to build a prosecution case that does not rely entirely on the victim's account.

9.3 Where officers experience difficulty in securing a charge or summons of the offender because the victim does not want to proceed with a prosecution,

the use of a simple Caution in preference to No Further Action, as a potential disposal **where all other criteria are met** will be an appropriate disposal even if the offender has previous convictions or cautions that would normally exclude them from this option. (Paragraphs 36 & 47 Home Office Circular 30/2005).

Harassment

The two considerations for simple cautioning in harassment cases are that:

- Administering a simple caution may render all conduct on which the caution is based inadmissible as evidence towards a course of conduct should this continue subsequently, and
- Since a restraining order may only be issued by a court, the only way in which a victim would be protected against future conduct would be by seeking an anti-harassment injunction from a civil court.

In cases of aggravated harassment a prosecution should be pursued.

10 Prosecution unsupported by the victim - other offences

10.1 Where an offence (other than violence against the person or domestic violence) has been committed but the victim declines to support a prosecution **and there is no other corroborating evidence** victims, will be informed by the officer in the case that without support for a prosecution there will be no further action taken.

11 Deviations from the general principles

11.1 Custody Sergeants have the authority to determine the most appropriate method of dealing with adult offenders in accordance with this policy.

11.2 If the adult offender is elderly or infirm, otherwise at risk or mentally disordered the Custody Sergeant must consider the public interest of a prosecution. In doing so the Custody Sergeant may determine that prosecution, in accordance with this policy should be replaced by a Simple Caution. The older or more infirm a person the less likelihood there should be of a prosecution. Fitness to stand trial must be a consideration. Where the strain of a prosecution might well prove fatal or where the person is suffering severe physical illness a prosecution may not be in the public interest. Mentally Disordered Offenders should be dealt with under the force protocols and special arrangements for Mentally Disordered Offenders.

11.3 In any such circumstance, where the Custody Sergeant determines an outcome that deviates from the main principles of this policy, they must consult an officer of the rank of at least inspector and seek approval for that course of action prior to delivery of the simple caution.

11.4 Where authority is given, a further simple caution will be issued in accordance with the above and, the approval of the authorising officer will be recorded on the A66

12 Group and multiple offences

12.1 The experience and circumstances of offenders involved in group offences can vary greatly, as can their degree of involvement. Consistency and equity are important considerations in the decision of how to deal with a case but each offender should be considered separately and different disposals may be justified. Where multiple related offences are considered, the decision to issue a Simple Caution or prosecute should be based on the most serious of those offences.

13. Mixed disposals

13.1 It is possible to use mixed disposals where an offender has committed multiple but unrelated offences as part of the same incident. Depending on the nature of the offence, other disposal options are also available, such as a cannabis warning or a Fixed Penalty Notice. For example, a person is arrested for being drunk and disorderly, and when searched in custody has in their pocket a number of different car keys that they may use to get into cars and steal from them. If the person admits that their intention was to steal from cars, they could be charged with 'going equipped to steal' and so could be issued with a Simple Caution for that offence if appropriate, and a Penalty Notice for the Drunk and Disorderly offence.

13.2 Any decision on issuing a Simple Caution as an element of a mixed disposal should be considered with regard to the Director's Guidance. As with all other charging decisions, once the case is passed to the CPS then the decision on disposals for all offences rests with the CPS and must be complied with.

A66(a)

Adult Simple Caution - Decision making form

Custody Ref	Division
DSU File Ref	OIC

I have reviewed the circumstances relating to the offence(s) for which the above person is in custody. The detained person has made a clear and reliable admission that they have committed the offence(s). This admission has been recorded as follows

NOTE: - Without a clear and reliable admission a caution CAN NOT be issued.

R v Metropolitan Police Commission ex parte Thompson 1997

The offender MUST admit the offence BEFORE a caution is considered or offered.

There is sufficient evidence to meet the Threshold st ...

I have considered the antecedents of the detained person ...

They have no previous cautions, reprimands or final warnings *

OR

the previous caution, final warning, or reprimand were issued more than 2 years ago **

They have no previous criminal conviction at court.....**

***Home Office Circular 30/2005, says that in cases of domestic violence and violence against the person ONLY, where the victim does not wish to proceed with a prosecution, but makes a statement confirming the facts of the offence despite the number of convictions or cautions previously received by the offender, a simple caution can be administered if positive action is in the public interest and all other elements of the policy are present. In such circumstances a Simple Caution should be considered in preference to NFA.*

I have taken into account the views of the victim.....
(Compensation and prosecution support issues?)

The offence is not indictable only or.....

The offence is indictable only and the CPS have given authority for a Simple Caution

I have considered: -

The nature & extent of any harm or loss,
Its significance relative to the victim's circumstances.

Any aggravating features
(Domestic related, racial, homophobic, vulnerable victim).

Any mitigating features
(Making of or an offer of reparation / compensation)

I / The CPS have decided that a Simple Caution is appropriate, in the public interest AND likely to be effective in this particular case if the offender understands the significance of, and gives consent to, this course of action

Signed
Print Name, Rank and Number.....

A66(b)

Admission of Guilt.
&
Acceptance of the Provisional Offer of a Simple Caution.

Custody Ref	Division
DSU File Ref	OIC

NameDate of
 Birth.....
 Address.....

I have admitted committing the offence(s) listed below.

M.O.....

I understand that
 That there is sufficient evidence to prosecute me for this offence(s)

I **may** be cautioned in relation to the issues and that this action is intended for me to rectify my future behaviour.

A simple caution is not a criminal conviction, but I understand that details of the caution will be kept on police databases.

If new evidence comes to light suggesting that the offence(s) I have committed are more serious legal action may still be taken against me.

A court may be informed of this simple caution if I am charged with another offence and I go to court for ~~in~~ any future proceedings.

If I work in a job which is included in the list of notifiable occupations* you will tell my employer about this simple caution.

The details of this Simple Caution, which is an alternative to prosecution, may be disclosed to my new or prospective employer if I apply for certain types of work, paid or unpaid, or training that requires me to have a criminal records (CRB) check.

If the offence I have committed is included in the Education (Prohibition from Teaching or Working with Children) Regulations 2003 as amended, accepting this simple caution means I will not be allowed to do certain jobs which involve working with children. My name may be added to List 99 which is kept by the Department for Children, Schools and Families, of people who are not allowed to carry out certain jobs involving reaching decisions about the suitability of

persons to work with children or vulnerable adults, under the Safeguarding Vulnerable Groups Act 2006.

Any victim of these offences, might take civil action against me and my name & address may be disclosed to them so they can do this.

My fingerprints, DNA and footwear impression will be taken and that those samples may be subject to speculative search.

That accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit.

For Sex Offences only

I understand that by accepting this simple caution may mean I will be subject to the notification requirements of the Sexual Offences Act 2003 from the date of this Simple Caution and that you will add my name to the Violent and Sex Offender Register and I will have to agree certain conditions that you have explained to me.

I understand these conditions and am willing to accept a Simple Caution

Signed..... and Appropriate Adult (if necessary)

.....

Date

A66(c)

Delivery of Simple Caution

Custody Ref	Division
DSU File Ref	OIC

NameDate of Birth.....
Address.....

.....

On date.....

I issued the above named with a Simple Caution for the following offence(s)

.....

M.O.....

.....

Signed Cautioning Officer.....

Print Name Rank and no.....

Date.....

I acknowledge receipt of a Simple Caution for the offences above

Signed.....Recipient of the Simple Caution and appropriate adult if required.

Occupation.....Business Address.....

Date.....

It is the responsibility of the OIC to inform the victim of the outcome in accordance with the Victim Code of Practice

Additional Information for DSU

Please enter Crime Ref No to which the caution relates

Please ensure HQ stats detect the crime(s)

						C
						C
						C
						C
						C
						C

Drug related Y/N

HQ Crime Stats informed Y/N

T ape Ref

PropertyRefs

A66(d)**Minimum Evidential File Standards**

All Simple Caution files will be forwarded to the Divisional DSU for review and retention.

In order to assure the ethics and integrity of the simple cautioning process the following will be the minimum evidential standard required of a Simple Caution file

1. A copy of the crime Complaint
2. Clear evidence of an admission
3. Other corroborating evidence
4. A66 to include Evidence of consideration of victim's perspective, a decision-making rationale, acceptance and delivery of the caution.

How long will the Simple Caution be recorded?

The entry of an arrest/summons report on the Police National Computer and the disposal of an offence as reprimand/final warning/and caution will be retained indefinitely on the Police National Computer to enable police to identify a suspect from any fingerprints and DNA samples found at crime scenes.

Data Protection and Security

This information may only be accessed, used or disclosed by authorised persons in the course of official police duties. You have a personal responsibility to apply security measures for its provision, control and transmission, use storage and eventual disposal or destruction in accordance with Force Policies and Procedures.