



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2010-00718

Keyword: Organisational Information/Governance

Subject: General Order Youth Diversion Scheme

Request and Answer:

This is to inform you that the Police Service of Northern Ireland has now completed its search for the information you requested. The decision has been taken to disclose the located information to you in full.

Question

My request is whether I could receive copies (gladly in electronic form) of said General Order of August 2003, and/or of any revised or altered General Orders relating to the Youth Diversion Scheme insofar as the General Order of August 2003 has been revised as was announced in the 2007 PSNI publication PSNI, Section 75. Equality Impact Assessment Youth Diversion Scheme.

Answer

Please find attached below the current Service Procedure in relation to Youth Diversion Scheme. The Service Procedure has not been updated due to the current embargo and review of all Service Procedures and Policy Directives.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk.

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however

the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psni.police.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Police Service of Northern Ireland

ABSTRACT – This Procedure is relevant to all uniform Officers
and Investigating Officers (IOs) dealing with Children
and Young Persons

HQ Ref: CSB 2008/2726

SP 17/2008

SERVICE PROCEDURE

YOUTH DIVERSION SCHEME

1. SERVICE PROCEDURE IDENTIFICATION

SERVICE PROCEDURE TITLE: Youth Diversion Scheme

PROCEDURAL OWNERSHIP:

**DEPARTMENT
BRANCH**

**Criminal Justice
Community Safety**

AUTHOR



Not relevant to Request

PROCEDURE APPROVED BY:

**CCF REF/OTHER
DATE OF APPROVAL**

IMPLEMENTATION DATE: 14 April 2008

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2. AIMS OF THE YOUTH DIVERSION SCHEME

- (1) To work in partnership with agencies, both statutory and voluntary, the business sector and the community to prevent children and young people becoming involved in offending or anti-social behaviour.
- (2) To identify children and young people who are at risk in terms of their safety or well-being, or at risk of becoming involved in offending or anti-social behaviour, but, initially come into contact with police for reasons which are non-offence related.
- (3) To provide an effective, equitable and restorative response to all children and young people throughout Northern Ireland who have offended or are at risk of offending or becoming involved in anti-social behaviour.
- (4) To divert, whenever possible, those children and young people who have offended from becoming further involved in the Criminal Justice System.
- (5) To promote the needs of victims and the community throughout the process and whenever possible engage them appropriately in a restorative intervention.
- (6) To encourage children and young people, who have offended to take responsibility for their behaviour, and the consequences, to consider the choices they made, and explore the impact on others.

3. INTRODUCTION

- (1) September 2003 saw the introduction of the Police Service of Northern Ireland (PSNI) Youth Diversion Scheme (YDS), replacing the existing Juvenile Liaison Scheme. The scheme provides the framework within which the Police Service responds to all children and young people, below the age of 18 years, who come into contact with police for non-offence behaviour, or who have offended or are potentially at risk of offending or becoming involved in anti-social behaviour.
- (2) The age of criminal responsibility remains 10 years; children below the age of 10 years cannot commit criminal offences. 17 year olds are now included within the Youth Justice system following full implementation of the Justice (NI) Act 2002.
- (3) The YDS draws on the philosophy and principles of restorative justice. It is built on the premise that children and young people commit crime and anti-social behaviour for reasons, which are many and varied.
- (4) The Police Service alone cannot address all of the issues involved and therefore must work in partnership with key agencies and the community, where appropriate, to address the problem.
- (5) Within the context of this Policy the terms 'juvenile' and 'child or young person' are used interchangeably.
- (6) The YDS impacts on Youth Diversion Officers (YDOs), those tasked with the supervision and management of prosecution files, but also places an important requirement on those carrying out investigative roles to adhere to the Service Procedure where appropriate.

4. LEGAL BASIS

The following are relevant in relation to these procedures:

- (1) The Data Protection Act 1998;
- (2) Articles 3,12, and 37 of the United Nations Convention on the Rights of the Child (UNCRC);

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- (3) Article 18 Children (NI) Order 1995 (Welfare of Children);
- (4) Article 6 European Convention on Human Rights (ECHR) 1998.

5. LINKS

- (1) PSNI Manual Chapter 18 (Children);
- (2) Child Protection Policy – Policy Directive 06/05.
- (3) PSNI Policing with Children and Young People - Policy Directive 13/06;
- (4) Relationships of Trust – SP 58/02
- (5) Anti-Social Behaviour Orders and Acceptable Behaviour Contracts – SP 35/06;

6. CONSULTATION

The following have been consulted during the preparation of these procedures.

- (1) District Commanders;
- (2) YDOs;
- (3) External agencies involved in the welfare of children and young people;
- (4) Legal Adviser;
- (5) Human Rights Legal Adviser.

7. HUMAN RIGHTS/UNCRC/EQUALITY/CODE OF ETHICS/FREEDOM OF INFORMATION

This Service Procedure has been the subject of an external evaluation carried out on behalf of the Chief Constable (June 2006). It has also had an Equality Impact Assessment carried out in January 2007, stating that it met the organisations needs in terms of being Human Rights, UNCRC, Section 75, and integrity standards compliant. This Service Procedure complies with the PSNI Code of Ethics and is suitable for release under Freedom of Information (FOI).

8. ADMINISTRATION

- (1) Community Safety Branch (CSB), Lisnasharragh has responsibility for the YDS. This branch will liaise at a strategic level with partner agencies, carry out research, collate and analyse statistical returns from Districts through the Youth Diversion database and other methods, thus ensuring the highest possible standards are maintained.
- (2) YDOs attached to every District throughout the province are responsible for the administration of the YDS including that of the YD database. Police personnel who are trained as restorative conference facilitators, will support them in the delivery of diversionary disposals.
- (3) The YDO will develop and maintain a close working relationship with relevant agencies and in appropriate instances, recognised community groups or schemes that can assist in addressing crime and anti-social behaviour committed by children and young people.
- (4) YDS literature including information leaflets are available from CSB for distribution by officers coming into contact with children and young people for behaviour outlined below.

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- (5) YDO's will ensure that all relevant information pertaining to their role within Youth Diversion (Referrals) will be recorded on the Youth Diversion Database sited on PoliceNet. The database allows for the recording of data both in terms of non-offence and offence behaviour. It is imperative that the correct data is inputted onto the database at all times to ensure accuracy of records.
- (6) In the case of non-offence referrals, these will be removed after a period of 12 months unless subsequent behaviour occurs within this time frame, or the initial behaviour displays an element of risk, which would warrant retention ie sexual behaviour etc. All referrals within this category will automatically require a review based on the 12 month rule, it will be the responsibility of the YDO to ensure this review is carried out and that referrals are either removed from the database or retained for those reasons outlined above. If it is decided to retain a referral, then the YDO should provide a brief explanation as to the reasons for retention and place it on the database comments box.
- (7) Offence referrals will also require a review; this will be dependent on the nature of the disposal. Informed Warnings (IW's) will automatically be due for review after a period of 12 months, Restorative Cautions (RC's) will automatically be due for review after a period of 30 months, along with prosecution and YCS cases. The above principles will apply when reviewing each of the disposals outlined. The review process is carried out in accordance with principle 5 of the Data Protection Act 1998, failure to comply will be treated as a breach of the Act.
- (8) The recording of such information on the database is to ensure the early identification of children and young people who potentially place themselves or others at risk through anti-social or offending behaviour, and being in a position to respond proportionately and effectively.

9. PROCEDURE

(1) Non-Offence Behaviour

If a child or young person comes into contact with police for reasons of potential risk taking behaviour other than offence behaviour, a record will be completed by the police officer making that initial contact. This will then be forwarded to the YDO for the appropriate action to be taken.

- (a) All children and young people under the age of 18 years, who come to the attention of police for non-offence behaviour, (ie behaviour which is not an offence contrary to any statute/regulation) may nonetheless be displaying certain risk factors which may well make the child or young person more susceptible to becoming involved in offending behaviour. Those same risk factors, or other circumstances present at the time of contact, may alternatively give cause for concern as to the child or young person's safety or well-being. It is essential that police officers deal appropriately with this type of child or young person, acting within the law, adhering to the principles of proportionality, necessity, impartiality and sensitivity. Yet, this must be balanced with a need to record sufficient detail of that contact for the purposes of an audit trail, and to enable early identification of risk, particularly when it is evidenced by a pattern of behaviour or circumstances.
- (b) It should be remembered that when no offence has been committed, there is no specific power to demand details of the individual involved. However, there is nothing to prevent a police officer asking for brief details of identity and explaining the reasons why they are asking. Many children and young people will be happy to provide it. Upon receipt YDO will have the details entered on the Non-Offence (Non-Case Prep) page of the YD database.. In those cases where a parent/guardian has not been informed of the contact by the Investigating Officer (IO), a letter will be sent to the parent/guardian of the child to inform them of the details of the interaction between police and their child/young person and provide a contact number for further information if required.

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- (c) **Note:** In the event a child or young person declines to provide details of identification in circumstances which are non-offence related, it will be a matter of good practice for the police officer to record a brief description of the individual in their notebook, along with brief circumstances surrounding the contact and forward such details to the YDO.
- (d) Experience has shown that children and young persons below the age of 10 years (below the age of criminal responsibility) do on occasion act in a manner which would otherwise be considered an offence. Details of such an individual cannot be recorded under offence behaviour, legally that individual cannot commit an offence, but may be recorded as a Non-Offence Referral on the basis that they may be at risk of becoming involved in further similar type behaviour placing them or others at risk.
- (e) There is no limit to the number of Non-Offence Referrals a child may be subject to. However, if the YDO receives 3 such referrals for a particular child, **within a rolling 12-month period, commencing with the date of first contact**, then they should automatically consider referral of that child or young person to a relevant agency/multi-agency forum. **Such a referral can only be made with the informed consent of the parent/guardian.** A record of this contact both in terms of the referral and that of receiving the consent from the parent/guardian should be recorded on the YD database.
- (f) Nothing in the aforementioned paragraphs precludes any police officer taking appropriate and immediate action in respect of a child or young person, including referral to Social Services, if they believe that individual would otherwise be likely to suffer significant harm. Therefore consent is not an issue if police are acting under Article 65 Children (NI) Order 1995 – “Where a constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm.”
- (g) Referral to the agency/multi-agency forum may be made prior to the third Non-Offence Referral being recorded, if the YDO feels there are genuine concerns or reasons for doing so, these should be fully documented on the YD database. The same procedures in terms of securing the informed consent of the parent/guardian apply in this instance.
- (h) Records of Non-Offence Referrals recorded on the YD database will be removed after 12 months in accordance with current instructions, provided, no further contact of this type has taken place or the initial behaviour was not one which would warrant retention due to the risk displayed (ie sexual behaviour). Details of Non-Offence Referrals should not as a matter of course be made available to the decision-maker for juveniles who have committed offence related behaviour. Only if there is information of particular relevance to the offence in question should it be brought to the attention of the decision-maker. Non-Offence Referrals will **not** be included in an investigation file in respect of a child or young person, unless, in exceptional circumstances the information is considered so relevant as to mitigate on behalf of the child or young person, or would go to provide relevant evidence of a pattern of behaviour. The reasons for inclusion of Non-Offence Referral information in an investigation file must be clearly documented.

(2) Offence Behaviour

- (a) A child/young person and their respective parent/guardian must be provided with the appropriate information regarding all the potential outcomes in relation to the disposal of the case including the YDS. In doing so the IO provides those involved with the opportunity to make an informed decision as to how to proceed. This information must include that all diversionary disposals can be cited in court for an offence listed under the Sex Offenders legislation the requirement for notification and being placed on the Sex Offenders register, where appropriate.

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- (b) This information should be made available to those involved **prior** to any questions or interview taking place as to whether the child/young person admits the offences placed before them.
- (c) **Under no circumstances should information on the potential outcomes including the YDS be given in such a manner so that it may be construed that an admission of guilt was induced through the offer of a diversionary disposal. The form of words to be used will be read to the child/young person (aide memoire see Appendix 'A') after they have been formally cautioned.**
- (d) In situations where there are co-accused each offender should be considered separately and differing disposals may be justified. Where a child or young person commits an offence, the facts of the case will be forwarded to the Public Prosecution Service (PPS) for decision.
- (e) The following options for disposals are available:
 - (i) Community Based Restorative Justice;
 - (ii) Informed Warning;
 - (iii) Restorative Caution;
 - (iv) YJA Youth Conference;
 - (v) Prosecution.

(3) Police Disposals

- (a) Both IW's and RC's represent administrative processes for dealing with offending behaviour. Such processes therefore potentially impact on Article 6 ECHR, the entitlement to a fair trial.
- (b) Both forms of disposal will be delivered by a trained facilitator; however, the Informed Warning will only be delivered by police trained facilitators, for ease of administration of the system. Both forms of disposal are based on a restorative process; however the Informed Warning will not always include the actual attendance of the victim:
 - (i) A trained facilitator is a person who has undertaken the PSNI Restorative Justice facilitation course provided by CSB;
 - (ii) A more detailed description of the restorative processes involved in both forms of disposal, including instructions regarding the use of non-police facilitators, can be found in Appendix 'B'.
- (c) **Note:** Neither an Informed Warning nor a caution is a conviction; they are to be described by means of their title.

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(4) Decision-Making Process

- (a) The PPS will make **all** decisions regarding police diversionary disposals relating to children and young people. Their decisions will be based on a number of contributory factors such as admission of guilt, previous history etc. The PPS have senior prosecutors 'Youth Champions' in each court area who oversee all youth related cases, ensuring youth cases are dealt with expeditiously.
- (b) It is vital that all relevant information pertaining to the case should be made available to the decision-maker (prosecutor). Particular emphasis should be placed on information provided by those agencies with a statutory responsibility for children and young people (Health Trusts, Education Welfare, Probation Service, and Youth Justice Agency (YJA)).
- (c) The provision of any external information must be in written format if it is to be included in any subsequent report by the YDO to the prosecutor. It is essential that the providing of such information is in accordance with each service provider's policy and procedures and compliant with the Human Rights Act, Data Protection Act and the FOI Act.

(5) Informed Warning

An Informed Warning will be administered in the same manner as that of a Restorative Caution outlined below, however there are subtle differences that need to be noted. The IW is seen as the disposal best placed to address low level offending and as such should be carried out in a police station unless circumstances dictate otherwise. In most instances it does not require a face-to-face meeting with victims and offenders etc, and must be delivered by a police trained facilitator and not those from partner agencies or the community.

(6) Restorative Caution

- (a) The Restorative Caution will be delivered by means of a restorative conferencing process, by a trained facilitator, who may be a police officer, a representative from a partner agency, or in some instances a community representative. The aim of the Restorative Caution will be to provide an opportunity for the child or young person to meet their actual victim, and affected members of the community. Informed consent by way of signature is required from the offender and parent/guardian, **before** proceeding with this disposal. It will be necessary for the facilitator to meet with all participants of the process in an effort to provide the necessary information/assurances to each individual before the commencement of any restorative intervention.
- (b) This process will require a full explanation as to the consequences of the disposal, eg recorded on criminal record, the requirement to be placed on Sex Offenders register where appropriate, and any other possible consequences.
- (c) All police diversionary disposals will be delivered in the area where the offence occurred (except in exceptional circumstances). Where the child/young person offends outside the area in which they reside, the onus is placed upon the YDO in the area where the offence occurred to facilitate the Restorative Caution. Any relevant information pertaining to the child/young person including the collation of external agency information should be forwarded to the relevant YDO by their counterpart in the area of residency. This information should be provided in a manner to allow for the strict compliance of file preparation guidelines.
- (d) RC's should be delivered in a location/environment which is deemed most appropriate to **all** participants of the process, recognising individual needs such as access for persons with disability, cultural issues, and other factors which may impact on persons, groupings or communities.

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- (e) The details of the final disposal will be shared by both YDO's and recorded as such.

(7) Sexual Offences

- (a) The YDS promotes the philosophy and use of a restorative approach in delivering police diversionary disposals, however, where the offence is of a sexual nature it is **not** deemed appropriate to bring offenders face-to-face with their victims. The sensitivities and overall dynamics of such a meeting require a particular level of skills, experience and knowledge. Trained facilitators operating within the parameters of the YDS will not undertake such a meeting under any circumstances. This does not preclude the delivery of a Restorative Caution with the victim's views being expressed in an alternative way where appropriate.
- (b) In practice this means that delivery of an Informed Warning or Restorative Caution for a sexual offence will involve only the child or young person, and the parent(s)/guardian(s), along with the facilitator. The practical elements involved in delivering an Informed Warning or Restorative Caution in a restorative manner are discussed at Appendix 'B', however where a sexual offence has been committed the facilitator should confine the content of the meeting to a brief exploration of the circumstances of the incident, the impact, and ensuring an understanding of the consequences. The investigation of such incidents may well have been very traumatic for the offender and their family; therefore it is essential that nothing is done to unnecessarily increase that trauma. The trained facilitator may consult with the Public Protection Units (PPUs), Rape Crime Units (RCUs) and the appropriate personnel within the Health Trust, to be advised as to how best manage the process. In some circumstances it may be beneficial for the Social Worker involved in the case to be present when the police diversionary disposal is delivered.
- (c) **If in any doubt advice may be sought from CSB.**

(8) Victims

- (a) The Police Service has a responsibility to deal with the victims of crime in a professional and sensitive manner, and in particular keep them informed as to the progress of the investigation into the crime perpetrated against them.
- (b) In addition to relevant dealings with the child or young person who has offended it will be the responsibility of the relevant YDO to ensure that the victim(s) are informed of the decision to deal with the perpetrator of their particular crime by way of police diversionary disposal.
- (c) Children and young people may find themselves being victims of crime, or can be the subject of action in respect of child protection issues. It is important to ensure that YDOs, with particular responsibility for dealing with children and young people, are informed in these circumstances. In such cases the procedure of forwarding a letter (see paragraph 9(1)(b) by the YDO to the parent/guardian will **not** be appropriate.
- (d) YDOs must liaise closely with those tasked with involvement with children and young people, for example PPUs, Community and Schools Involvement Officers, RCUs etc, in order to ensure appropriate information is shared and subsequent police action is informed, co-ordinated and proportionate.
- (e) It **must** be the aim of every facilitator where appropriate to involve the actual victim in a Restorative Caution process, thereby allowing them the opportunity to meet the perpetrator of their crime and to address their respective issues face-to-face. Every effort must be made to encourage and support the victim(s) of a crime to attend the Restorative Caution.

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(9) Fingerprints/DNA

It is essential that juveniles are fingerprinted and DNA taken in all appropriate circumstances, and those fingerprints forwarded to Fingerprint Branch in accordance with current instructions. **Under no circumstances should IO's fail to take fingerprints and DNA on the assumption that they are not required as the juvenile will be dealt with by way of a police diversionary disposal.**

(10) Discretion

- (a) Police officers have discretion to deal informally with the most minor offences; however it is essential that details of their actions, and reasons for same, are recorded in their official notebook.
- (b) **A police officer must act at all times in accordance with the Code of Ethics for the PSNI, and established policies, instructions and guidelines.**
- (c) The YDS does not interfere with the discretion of a police officer. In the case of a juvenile however it is particularly important to ensure that a particular individual does not receive multiple informal warnings as to their behaviour from different police officers, and thereby **fail** to be identified as at **risk** of progressing into a cycle of offending. YDOs must promote regular contact with officers to ensure effective sharing of information in respect of children and young people who regularly come to the attention of police. In those cases of minor road traffic offences, whereby Fixed Penalty Notices (FPN's) are an option, it will be at the discretion of the IO to again decide the most appropriate method of disposal based on the circumstances at that time, whether to utilise the FPN's or refer into the YDS.

10. CONCLUSION

- (a) Both IW's and RC's are designed to clearly indicate that the Police Service will seriously support any child or young person who seeks to take responsibility for their actions and displays a commitment to make changes to alter their behaviour in the future.
- (b) The YDS offers a consistent, credible, equitable and effective response to children and young people who offend or are at risk of offending.

11. MONITORING AND REVIEW

Any feedback in relation to this Service Procedure should be made to the Inspector, Youth Issues Team, Community Safety Branch and Criminal Justice Department. Review of this document will be made 12 months from the publication date.

Service Procedure No 17/2008

Index Entries/

'D' - Diversion Scheme - Youth

'S' - Scheme – Youth Diversion

'Y' - Youth Diversion Scheme

**AIDE MEMOIRE FOR INVESTIGATING OFFICERS (IO's) -
YOUTH DIVERSION SCHEME**

1. The success of a matter being processed through the Youth Diversion Scheme (YDS) will be very much dependent upon the actions of the Investigating Officer (IO) dealing with the incident. The YDS requires a number of fundamental steps to be carried out by the IO dealing with an incident or crime involving a child or young person:
2. **Non Offence**
 - (1) The officer at the scene must deal with the matter in a professional manner, and as fully as possible, taking any necessary action to ensure the safety and well-being of the child or young person. All actions must be taken in accordance with Human Rights with appropriate considerations (ie necessity, legality, and proportionality).
 - (2) All relevant forms must be completed. Completion of such forms will largely be dependent upon the child or young person voluntarily providing their details. In most cases there will be no power to demand name and address, although many children and young people will be happy to provide it. Police officers should be in a position to provide a reasonable explanation as to why the information is requested and what happens to it when recorded.
 - (3) The following may be used by way of explanation to a child or young person:

‘The Police Service have a duty to protect children and young people who are at risk in terms of their safety or well-being, or of becoming involved in offending behaviour. By providing your name and address and allowing us to confirm your identity you will help us to do that.’
 - (4) All forms must be submitted to the Youth Diversion Officer (YDO) as soon as possible, who will forward a pro-forma letter to the parents/guardian acknowledging the contact in those cases where contact has not already taken place by the IO.
3. **Victims**

When a child or young person is involved in an incident in which they are a victim of crime, and is being investigated by police, all relevant information should be forwarded to the YDO.
4. **Offence**
 - (1) When a child or young person is suspected of committing an offence the normal process of investigation should take place. The IO must secure all relevant evidence of the offence, including statements of complaint and witness statements. Fingerprints must be taken accordance with present Service instructions.
 - (2) All relevant paperwork will be forwarded to the YDO as per current Service instructions.

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**EXPLANATION TO BE PROVIDED TO A CHILD/YOUNG PERSON
(JUVENILE) AND THEIR APPROPRIATE ADULT – PRIOR TO INTERVIEW FOR A
SUSPECTED OFFENCE**

It is essential that prior to interviewing a child/young person suspected of committing an offence in order to secure evidence of an admission, that both that individual and their parent/guardian/appropriate adult, are provided sufficient information as to allow them to make an informed decision as to whether to admit the offence in question or not.

Any person suspected of committing an offence and being interviewed with a view to securing evidence must be treated in accordance with the Police and Criminal Evidence (NI) Order (PACE) and the Codes of Practice. However, in addition to being informed of the rights accorded normally under PACE, the child/young person and their parent/guardian/appropriate adult, must be provided with information in relation to all potential outcomes, including the YDS, and Youth Conferencing should the case be proceeded with. **It is the responsibility of the IO to provide this information in the following terms. The form of words to be used will be read to the child or young person after they have been formally cautioned and prior to the interview proceeding.**

‘ _____, you are to be interviewed in relation to your suspected involvement in the commission of an offence. In view of the fact you are juvenile this matter may be dealt with in a number of ways should there be sufficient evidence to proceed with the case. In certain circumstances the PPS are in a position to offer a number of different options including diversionary disposals. These diversionary options may only be given if you admit your involvement in the commission of this offence. However, even if you admit the offence, you may still be referred for prosecution through the courts.

The method of disposal will be decided once all the facts of your case have been considered, including any previous offending history you may have and the seriousness and gravity of the offence(s) involved. Consideration will also be given to any specific and relevant information provided to police by the Probation Service, Education Welfare Service, Health Trusts or the Youth Justice Agency (YJA), if you are, or have recently been engaged with any one or more of them.

All diversionary disposals are recorded on criminal record although none are a conviction. A prosecution may result in a conviction, which is recorded on criminal record. All of the aforementioned disposals may be disclosed in any subsequent proceedings’.

Once read the IO should ensure the content of the aide memoire is understood.

The IO should also provide information to the child/young person, parent/guardian/appropriate adult, in relation to any other consequences should the disposal be a diversionary disposal, bearing in mind the nature of the offence, eg an offence of a sexual nature requiring notification under the Sex Offenders legislation.

¹ R v Commissioner of Police for the Metropolis ex parte U; R v Durham Constabulary, ex parte R, refers

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1. What is a Restorative Intervention?

- (1) A restorative intervention is an innovative and inclusive way of tackling crime, the fear and impact of crime, and anti-social behaviour. The aim of the intervention is to provide opportunities to explore the circumstances and reasons behind the offending behaviour, the impact and consequences of the behaviour, identify potential for repairing the harm caused, and how to ensure there is a change in behaviour for the future.
- (2)
 - (a) Two particular restorative interventions are used within the Youth Diversion Scheme (YDS) which are an Informed Warning and a Restorative Caution. Restorative interventions hope to encourage the child or young person to take responsibility for their offending behaviour. The intervention process is designed to assist the child or young person to understand the impact of their offending in terms of all those affected by it, and provide where appropriate an opportunity to make some form of reparation/restitution.
 - (b) The use of the term restorative intervention should subsequently be read as meaning either an Informed Warning or a Restorative Caution.
- (3) Upon completion of the intervention the child or young person should also have a clear understanding of the consequences of their offending behaviour, in particular regarding the potential outcomes should they continue to re-offend.
- (4) Restorative interventions must be administered by a trained facilitator who must ensure the creation of a safe environment in which all parties feel able to engage and talk openly and frankly. Resolutions and agreements arising from a restorative intervention are negotiated and not prescribed. The role of the facilitator is to assist participants to draw out their own suggestions for resolution and facilitate discussion to reach consensus.

2. What is an Informed Warning?

- (1) An Informed Warning is a meeting conducted by a **police officer who is a trained facilitator** and will involve the child or young person who has offended, and their parent(s)/guardian(s). The meeting will take place in a police station in the police district where the offence was committed, except in the most extreme circumstances. The trained facilitator must research the circumstances of the incident in question, including where possible the views of the victim (although they may not be in attendance) and carry out any other necessary preparation, prior to the actual meeting.
- (2) During the Informed Warning process the facilitator will seek to explore the incident in question by asking those present what happened from their perspective, how they felt at the time, and how they have felt since. An important element of the process will be to discuss and expand the child or young person's understanding of the impact of the crime in terms of all those affected, and to attempt to identify what actions may be taken to repair the harm caused.
- (3) Before commencing the process the offender (child or young person) and their parent(s)/guardian(s), will be required to sign a certificate acknowledging their understanding of the meaning of an Informed Warning, the consequences of acceptance, and giving their informed consent to proceed with the disposal. The facilitator will also record in a separate document any agreement for action arising out of the meeting. The agreement is voluntary and incapable of being enforced, however the facilitator is expected to monitor completion and record success or failure as appropriate.

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3. What is a Restorative Caution?

- (1) A Restorative Caution is administered by a trained facilitator, who with the agreement of all those involved may be a person other than a police officer. A number of representatives from other agencies, and a small number of community representatives have been trained by, and work in partnership with the Police Service in delivering this process.
- (2) N.B: It should be noted that a police officer must be present at a Restorative Caution facilitated by a non-police officer, for the purposes of administration and completion of the certificate. Every District has a list of trained facilitators, both police and non-police, relevant to their police district. All papers will be returned to the Youth Diversion Officer (YDO) after decision, and then they will notify the offender in writing of the decision and the details of the nominated facilitator. A non-police facilitator may be changed if there is disagreement on the part of any of the participants.
- (3) The Restorative Caution process is ideally a meeting between the offender (child or young person), their parent(s)/guardian(s), the primary victim, and any other appropriate person directly affected by the crime. The importance of the victim in this process cannot be over-emphasised, and every effort must be made by the facilitator to encourage their participation, without resorting to coercion. The Police Service has a responsibility to keep victim(s) informed as to the progress of the investigation into their particular crime. This will include notification of a decision to deal with the perpetrator by way of police diversionary disposal (responsibility of YDO).
- (4) During the Restorative Caution process the facilitator will seek to explore the incident in question by asking those present what happened from their perspective, how they felt at the time, and how they have felt since. An important element of the process will be to discuss and expand the child or young person's understanding of the impact of the crime in terms of all those affected, and to attempt to identify what actions may be taken to repair the harm caused.
- (5) It is essential that the facilitator, prior to the actual meeting, comprehensively prepares all participants engaged in a Restorative Caution process. The meeting is entirely voluntary for all participants, including the child or young person who committed the crime. Neither the victim, nor the offender can be coerced into meeting with each other, but instead all parties should have the process explained including the potential benefits from their perspective, in order that they can make an informed decision.
- (6) Should the offender (child or young person) decline to meet their respective victim this does not in any way affect the decision to dispose of the matter by way of Restorative Caution. The views of the victim can be introduced to the process by the facilitator, either verbally recounting what they have been told by the victim, reading out a letter, utilising a victim's supporter or possibly using a tape recording. This will also be the case should it be the victim who has declined the invitation to attend in person.
- (7) The meeting must take place in the police district where the offence occurred, except in the most extreme circumstances, in a location deemed most appropriate, in particular by the victim. Ideally the facilitator should seek agreement by all participants in relation to the location; however it should be understood that the offender cannot be allowed to act in a manner/express wishes which will be detrimental to the effective conduct of the meeting, or further victimise the victim.
- (8) **Before** commencing the process the offender (child or young person) and their parent(s)/guardian(s), will be required to sign a certificate acknowledging their understanding of the meaning of a Restorative Caution, the consequences of acceptance and giving their informed consent to proceed with the disposal. Upon completion of the process the facilitator will also record in a separate document any agreement for action arising out of the meeting, to be signed by all relevant participants. The agreement is voluntary and incapable of being enforced, however the facilitator is expected to monitor completion and record success or failure as appropriate.

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4. Multiple offenders

- (1) If a number of offenders have been involved in the same incident and the decision is taken to deal with more than one of them by way of Informed Warning, each disposal will be delivered separately.
- (2) If a number of offenders have been involved in the same incident and more than one of them is to be dealt with by way of Restorative Caution, it will be for the trained facilitator to decide as to whether they can be dealt with within the same meeting, or in separate meetings. The facilitator must consider all the circumstances of the incident, the dangers and benefits of having the offenders together, and most importantly the feelings and views of the victim(s).

5. Records

- (1) Records compiled during preparation and the running of a restorative intervention should be treated as original notes, including any script or aide memoire on which personal notes were made.
- (2) All records should therefore be retained by the YDO in accordance with current instructions.

6. Principles of Restorative Justice

- (1) **Balanced** – involvement including the victim, community and offender. Recognises that a crime has an impact on the community as well as the individual victim. Empowers victims enabling them to make an active contribution to the process of justice thus increasing public confidence.
- (2) **Voluntary** – the basis of restorative justice is consent. The rights of the victim must be respected, consent must be genuine and consideration given to the impact of the process. Consent of the offender and their perceived commitment to the process is also essential.
- (3) **Complimentary** – to the current processes of the criminal justice system. The formal processes of investigation, prosecution, adjudication and compulsory intervention or referral remain with the appropriate statutory bodies.
- (4) **Accountability** – through operating within a legal framework, which protects and balances the interests of individuals and the community. The process is accountable to both the public and the criminal justice system, safeguarding the interests of all.
- (5) **Facilitative** – trained professionals facilitate as opposed to prescribe solutions. Successful Restorative Justice outcomes are as a result of mutual agreement being reached between all participants through effective dialogue.
- (6) **Holistic** – approach which attempts to identify the causes as well as deal with the symptoms of the inappropriate behaviour. This is achieved by working in partnership with other agencies and the community, thereby providing particular options for individual needs.

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