



PENALTY NOTICES FOR DISORDER

REVIEW OF PRACTICE ACROSS POLICE FORCES

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INTRODUCTION

1.1 PND Scheme

Penalty Notices for Disorder (PNDs) were provided for in s1-11 of the Criminal Justice and Police Act 2001. They were introduced by the Government to provide the police with a quick and effective means of dealing with low level, nuisance behaviour – often alcohol-related – that typically occurs in city centres at night and weekends. The offences included in the scheme are summary offences where the most likely court outcome would be a fine. The scheme enables the police to issue penalty notices on the spot or in a police station. Use of PNDs removes these minor cases from the courts, significantly reducing the paperwork a police officer needs to complete and provides an efficient means for the police to tackle minor offences which may not previously have warranted the resources required for prosecution.

Under the scheme the police may issue a person who has committed a specified penalty offence with a fixed penalty notice. The recipient then has 21 days in which to pay the penalty or request a court hearing. If the penalty is paid all liability for the offence is discharged and there is no criminal record. If a court hearing is requested the process defaults to a standard prosecution. If no action is taken within the 21 day period then a fine of one and a half times the penalty is automatically registered (without the need for a court case) against the penalty notice recipient. The fine will be enforced in the same way as any other fine by the courts.

PNDs were piloted¹ and rolled out nationally during late 2003 and 2004, as a response to both the police and the Government wanting a speedy and effective alternative option for dealing with low-level nuisance offending that does not warrant attendance at court. Home Office Police Operational Guidance was published and made available to police forces in October 2002. Supplementary Operational Guidance for Police Community Support Officers (PCSOs), accredited persons and juveniles has also been published. A revised version of the main operational guidance was published in March 2005.

The Penalty Notice for Disorder (PND) scheme is based on the long standing Fixed Penalty Notice scheme for road traffic offences. PNDs are issued to individuals and there is no requirement for an admission of guilt nor is a conviction recorded against the subject.

PNDs are issued to individuals who commit specified penalty offences. The PND scheme includes offences within 2 separate tariffs subject to penalties of £50 and £80, however, this review centres on their use for the offences of:

- Section 5 of the Public Order Act 1986. (Referred to throughout the report as Section 5)
- Section 1 Theft Act 1968 (retail theft)². (Referred to throughout the report as theft)
- Section 1(1) Criminal Damage Act 1971³. (Referred to throughout the report as criminal damage)

¹ PNDs were piloted in 4 police forces from Aug 2002 to Sept 2003. HO Research Findings No's 232 & 257.

² Included in £80 tier from November 2004.

³ Included in £80 tier from November 2004

These three offences are all in the higher, £80 tariff and are all recordable⁴ and notifiable offences that count as both a Sanction Detection⁵ and Offence Brought to Justice (OBTJ)⁶. The effective usage, recording and counting of PNDs are key factors in contributing to the PSA 1 target to bring 1.25m offences to justice by 2007/08. It should be noted that whilst the general term PND is the generally accepted terminology for penalty notice disposals, it does include low level criminality (retail theft and criminal damage) which in terms of police incident recording are not included in disorder totals.

The proper use of PNDs as an effective disposal (with the penalty commensurate with the level of criminality) for low-level offending is key to ensuring that public confidence in the scheme and the criminal justice system is not only maintained but enhanced.

It is clear that since implementation, PNDs are being used differently according to local interpretation of Police Operational Guidance. This has led to a marked inconsistency in practice and procedure across England and Wales not only at force but individual BCU level.

Throughout the course of this review, references were made to the abbreviations PND and Fixed Penalty Notice (FPN) to highlight offences dealt with by way of a penalty notice and fixed penalty which are pre-court disposals. To avoid any confusion, the abbreviation PND will be used throughout this report to make a clear differentiation between this and other FPN schemes.

1.2 Aim of Review

In July 2005, the Justice & Enforcement Unit (JEU), Office for Criminal Justice Reform (OCJR) and Sentencing Penalties and Policy Unit (SPPU), Home Office, with support of Association of Chief Police Officers (ACPO) initiated a Review of PND practice across Police Forces and to report the findings by mid January 2006. The objectives of the review were to:

- Identify best practice in the use of PNDs.
- Develop consistency, better management and control of the PND scheme.
- Build confidence and reassurance in the use of PNDs as a disposal.
- Maximise the opportunities for increasing the numbers of OBTJ.

1.3 Approach

The approach adopted involved detailed quantitative analysis⁷ which provided an indication of national and local trends in the use of PNDs. The quantitative analysis also informed the selection of ten Police Forces in which further detailed study was conducted. The review was organised in a way to get the best information consistent with the review's objectives and the participating police forces were selected using the following criteria:

⁴ Recorded crime as defined in the Home Office Counting Rules.

⁵ Appendix 'A' for definition.

⁶ Appendix 'A' for definition.

⁷ Appendix 'B' 12 month rolling data to May - June 05 – source APRT.

- Areas where PNDs represent a significantly high or low proportion of the overall OBTJ for the offences of Section 5, theft and criminal damage.
- Areas where PNDs represent a significantly high or low proportion of OBTJs for the separate offences of Section 5; theft and criminal damage.

The ten Police Forces invited to participate in the review were Essex, Lancashire, Merseyside, the Metropolitan Police Service, Norfolk, Northumbria, Surrey, South Yorkshire, South Wales and West Yorkshire⁸.

Whilst this report was informed by the initial data analysis, it is based primarily on a series of visits and interviews conducted by members of the PND Working Group⁹ during October and November 2005. The Area visits comprised of meetings with appropriate police officers and staff in the selected police forces.

This report has been written for the OCJR, Home Office and wider stakeholders, including ACPO, the Crown Prosecution Service (CPS) and Association of Police Authorities (APA). The report describes current practice across the represented police forces, highlighting examples of potential good practice and includes a number of recommendations based on the issues identified throughout the review. The completed Report will be submitted to the joint-sponsoring units, i.e., SPPU and JEU for the recommendations to be taken forward.

⁸ Appendix 'C' lists the main contacts within the 10 police forces.

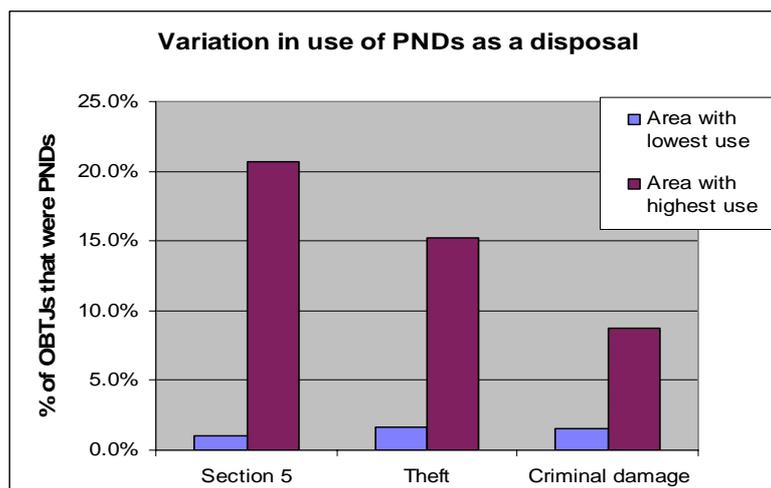
⁹ Appendix 'D' lists those forming PND Working Group.

2. NATIONAL PND DATA

2.1 Trends

The use of PNDs as a disposal for the relevant offences of Section 5, theft, criminal damage and drunk and disorderly varied significantly across the participating police forces. The drunk and disorderly offence is included within the graphs at Appendix ‘E’¹⁰, to indicate a possible displacement by the increased use of Section 5 for this behaviour and as an alternative to the byelaw offence¹¹ of urinating in a public place, an issue covered later in the report.

The data produced to inform the quantitative analysis and subsequent identification of the participating forces (Appendix ‘B’ and chart below) shows the range in use of PNDs as a percentage of OBTJ, from 20.7% (Section 5), 15.2% (theft) and 8.7% (criminal damage) to 1% (Section 5), 1.6% (theft) and 1.5% (criminal damage) respectively. The data supports the views concerning variation in use, work to bring about more commonality in approach and the latent opportunities that exist to increase sanction detections and OBTJ through the appropriate and ethical use of PNDs.



Data analysis (Appendix ‘F’)¹² also raised the hypothesis that there has been a change in disposal method for the offences of drunk and disorderly, urinating in a public place and Section 5 as:

- PNDs were being used more for the Section 5 offence.
- There had been some displacement with a preference for use of Section 5 as an alternative to the drunk and disorderly offence and the summons procedure for urinating in a public place. This raised the questions as to the driver for the displacement, i.e. whether the offences were interchangeable, or whether the change was being driven by performance management measures with regard to force Basic Command Unit (BCU) sanction detection and OBTJ targets or other operational reasons?

¹⁰ Appendix ‘E’ PND issue data for 2004 and 2005 to October (provisional).

¹¹ Model Byelaw - <http://www.odpm.gov.uk>

¹² Appendix ‘F’ identifies the increasing use of S5 PND disposals vis-à-vis drunk and disorderly.

The Section 5 offence is counted as a violent crime so increased use of PNDs for this offence increases violent crime levels as well as increasing sanction detections and OBTJ.

No ideal profile, in terms of the contribution PNDs make towards sanction detections and OBTJ, is suggested or implied in this review. The use of PNDs as an appropriate disposal method will differ depending on the crime types and other local policing characteristics, e.g., rural, urban or metropolitan area.

2.2 Variations in approach

There is a significant contrast in how police forces use PNDs, which is leading to the wide contrast in the numbers issued. However, there has been a rapid uptake of the new disposal (from 64,000 in 2004 to 140,000 to November 2005), although some forces have been slow to make full use of the scheme. The analysis highlights the following points:

- Police Force disposal data varies considerably in terms of the contribution PNDs make towards OBTJ. Police Forces with the largest percentage use of PNDs for the offences of Section 5, theft and criminal damage are Lancashire, the Metropolitan Police Service, Essex, Merseyside and West Yorkshire.
- There is evidence of a switch from cautions and prosecutions to the use of PNDs. The use of PNDs, therefore, has the capacity to impact on other forms of disposal, i.e., informal warnings, cautions (including reprimands and final warnings), charges and summonses. Use of PNDs may also lead to ‘new business’, especially where they are targeted at specific behaviour in proactive/preventative scenarios e.g. known disorder hotspots.
- National data outlined in Appendix ‘G’¹³ indicates usage of PNDs and their contribution to OBTJ, from as low as 1% to as high as 13% in respective forces. At a national level this represents 4% of OBTJ. However, PNDs as a sanction detection disposal and OBTJ are increasing.

The main outcomes of the quantitative analysis highlighted the different ways in which police forces apply the PND scheme. This became particularly pertinent where the forces may have disorder issues as a consequence of the night time economy, anti-social behaviour hotspots or large retail complexes within their areas.

In the light of this data analysis, field work focused on exploring these different approaches and identifying innovation and areas of potential good practice. However, the PND scheme is still relatively new (especially in relation to theft and criminal damage) and many forces displayed an evolving and progressive approach towards implementation. The findings are outlined in the following chapters.

¹³ Appendix ‘G’ OBTJ Breakdown by disposal type – Performance Information Pack December 2005.

3. POLICY AND PROCEDURAL ISSUES

3.1 Themes

Chapter 3 outlines some of the key policy and procedural issues that were identified from the police force area visits and provides recommendations where appropriate.

It was quite evident from the ten police forces visited that PND policy and operating procedures relating to the use of PNDs for the offences of drunk and disorderly, Section 5, theft and criminal damage varied markedly. The approach adopted impacts on the ability to realise the full benefits of PNDs in terms of operational effectiveness and reduced bureaucracy. Some of the forces, e.g. Norfolk, South Yorkshire and Surrey, were revising their policies and extending the use the PND scheme in response to local operational policing needs.

Key findings include:

- The performance culture of a police force is a significant contributory factor to the application and use of PNDs. The drive to increase the numbers of sanction detections and OBTJ has heralded a change of focus to secure more positive outcomes and this relatively new disposal provides this opportunity. Force policies were wide-ranging, from being flexible and pragmatic to restricted in approach. It was also evident that some forces had still to transfer the PND portfolio to their Criminal Justice Department/Unit as recommended by the SPPU or resolve where it should lie, as well as developing their respective PND schemes. Ownership of the PND policy within the portfolio outlined would ensure that PNDs are given the same status as other forms of disposal in terms of sanction detections and OBTJ.
- Police forces had developed their own individualistic approaches as Home Office Police Operational Guidance¹⁴ was considered to be unclear especially in relation to:
 - The 16 and 17 year old group.
 - The requirement for DNA and fingerprinting.
 - Definition of the word/term ‘compliance’ in relation to the issue of a PND.
 - The numbers of PNDs that could or should be issued to an individual before other disposals were considered.
- There was agreement that the introduction of the PND scheme has provided an opportunity to deal with low level offending in more appropriate ways and that this was a useful and effective operational tool.
- There is a lack of consistency in respect of evidential requirements. There was evidence that in some forces all or a substantial amount of evidence was being obtained prior to disposal. In contrast, other forces were not physically obtaining the evidence, preferring instead to secure its availability in support of a prosecution should the PND be contested. Clarity was also required as to whether cases suitable for a PND disposal should be

¹⁴ <http://police.homeoffice.gov.uk/operational-policing/crime-disorder/index.html/>

referred to a CPS Duty Prosecutor for advice, where the subject is in custody, as there is evidence of local procedures where referral is being regularly made. This is discussed later on in the report.

- Evidence suggests that there is scope and opportunity to increase the use of PNDs in those police forces which do not issue to 16 and 17 year olds or to adults for offences of theft and criminal damage.
- There was real and anecdotal evidence that introduction of this scheme had resulted in efficiency gains for some police forces, Lancashire estimate a potential efficiency saving of £384k for the first 6 months of the financial year (2005/06) and Northumbria estimate that it costs on average £2 to administer A PND as opposed to £54 for an average court file.
- Questions were raised as to whether Section 5 should continue to be classified as a violent crime given the definition of the offence, i.e., words or behaviour likely to cause harassment, alarm or distress and the increased use of PNDs (by definition only being used for minor incidents), including urinating in a public place.
- It was evident that where some police forces had implemented the PND scheme, take-up was inconsistent amongst BCUs in the same force. This extended in some cases to BCUs developing their own procedural response to local policing needs, albeit this was done with the knowledge and sanction of the local force policy department.

3.2 Performance Culture & Practical issues

The implementation of the PND scheme has provided an additional positive disposal for police forces to use alongside other long standing traditional disposals, e.g. No Further Action (NFA), administrative detections, cautions (including Reprimands, Final Warnings), Detected Not Prosecuted (DNP) and charge/summons. Police forces are also cognisant of the other benefits PNDs offer:

- No conviction is recorded against the subject. However, a record should be made on PNC for recordable offences for future reference and decision making.
- An appropriate level of investigation with corresponding evidential standards to the level of offence/offending behaviour.
- Less bureaucratic method of dealing with an offender for low level offending, which maintains officer presence on the street, through on-street use.
- Efficiencies through better utilisation of custody space and time.
- A PND for Section 5, theft and criminal damage is a sanction detection and reflects the appropriate disposal for the level of offence/offending.
- A PND for the 3 relevant offences counts as an OBTJ.

There is wide variation between forces regarding the circumstances in which and where they consider it appropriate to issue a PND for the 3 relevant offences. Some forces have developed controlled implementation whilst others have a high degree of flexibility, guided by a higher risk management threshold.

The policy a police force adopts is influenced by a focus on delivering sanction detections, identification of the offender, the uncertainty over data protection requirements, violent crime statistics, and other traditional policing issues, e.g. the ability whilst in police detention to search premises, the opportunity to match fingerprints and DNA against those found at crime scenes and the opportunity for offences to be Taken into Consideration (TIC). However, the priority introduced through national and local policing plans to bring more offences to justice, make PNDs an essential element within the range of sanction detection disposals available.

Force policies were diverse in approach, from a requirement to arrest and then issue from custody for both adults and 16/17 year olds (for the 3 relevant offences) to on-street issue in appropriate cases for adults but limited application in respect of the younger age group. The reasons cited for the variation in approach:

- Custody is a more controlled environment in which to deal with the offender and savings can still be made in bureaucracy time, etc. through this method of disposal.
- Severity of offence and the need/desire to obtain DNA, photographs and fingerprints not just for speculative searches against crime scenes but to obtain DNA, etc. for future occurrences.
- Legal issues unique to juvenile offenders, i.e. attendance of parent/guardian/Appropriate Adult and local agreements with Youth Offender Teams (YOTs).
- The Supplementary Guidance¹⁵ (recently amended) in respect of 16/17 year olds still militates against wider use.
- The need to remove offenders from the scene due to aggravating factors.

3.2.1 Recommendations

PSU

- *Provide for inclusion in the Police Operational Guidance document a national standard operating procedure in relation to PND evidential requirements, completion and minimum standards of investigation issues. This would increase consistency in the application of the scheme.*

¹⁵ Available at - <http://police.homeoffice.gov.uk/operational-policing/crime-disorder/index.html/>

Police Forces

- *Whilst maintaining integrity, review local policy and procedure to ensure PNDs are issued in appropriate circumstances and that their use is maximised for both on-street and custody issue in respect of adult and 16/17 year old offenders.*
- *Ensure clear ownership of PND policy and procedure within the Criminal Justice portfolio to enable performance management within the right framework.*
- *Provide greater clarity to the ethical and appropriate use of PNDs as an alternative to NFA and DNP to ensure consistency in the approach to PNDs.*

3.3 Use of Section 5 Public Order Act

Performance data and assessment of a number of PND tickets identified that they are being issued quite properly for the discreet PND offences of drunk and disorderly and Section 5. However, it was also evident that there were many occasions where drunk and disorderly behaviour and urinating in a public place were being disposed of through a PND issued for Section 5. This course of action needs to be considered in respect of the:

- Higher burden of proof for Section 5, i.e., a need to prove that the original behaviour was likely to cause harassment, alarm or distress.
- Statutory Defence¹⁶. Police Operational Guidance advises that the relevance of the statutory defence should be considered before issuing a PND.
- Case Law in relation to the degree that a police officer can be harassed, alarmed or distressed. DPP-v-ORUM¹⁷ held that this threshold is higher for a police officer than a member of the public, albeit the level is one that could be determined by the courts.

SPPU advice to the police is to issue PNDs for Section 5 in circumstances where the byelaw offence is being committed and where the additional evidential criteria are met. However, there were many occasions when PNDs for Section 5 had been issued for drunk and disorderly and urinating in a public place without the evidential requirements having been recorded or where the police officer appeared to be the only witness.

Drunk and disorderly and Section 5 offences are contained within the higher (£80) tariff, with Section 5 being recordable and notifiable. Fingerprints (and DNA whilst in detention) can be required for recordable offences. Therefore, the rationale and indeed outcome for adopting this approach needs to be understood by operational staff. The Section 5 public order offence is contained within the list of offences that constitute a violent crime and inappropriate use of this offence as an alternative to a disposal for drunk and disorderly and urinating in a public place will have a negative impact on an area's violent crime figures, when overall crime levels are falling.

¹⁶ Appendix 'H' Section 5 Public Order Act 1986 inc Statutory Defences.

¹⁷ Appendix 'I' DPP -v- ORUM (1988)3 All ER (1989).

Nevertheless, police officers considered the use of PNDs to be a quick, appropriate and effective way of dealing with drunk and disorderly and the urination offence. Three options worthy of consideration to reconcile the use of PNDs for these offences would be:

- A discreet recordable and notifiable PND offence for urinating in a public place, thereby bringing it in line with Section 5 and if the proposal (post) is progressed drunk and disorderly. This would reduce the evidential burden for the drunk and disorderly and urinating in a public place offences. Prior to the introduction of the PND scheme, the byelaw offence was dealt with by way of summons at the Magistrates' Court thus loading the courts with low level offences and offenders. The fact remains that there is opportunity to issue a PND for the byelaw offence if the original behaviour is considered likely to cause harassment, alarm of distress. In all other cases officers can continue to use their discretion as to the best means of dealing with the incident.
- Record drunk and disorderly as a recordable and notifiable offence but not violent crime.
- Remove Section 5 from the list of list of violent crimes. This would be consistent with the low level offending for which PNDs were designed but raise the threshold in relation to the starting point for violent crime offences. The Statistics Commission is currently undertaking a review of how crime statistics are compiled to increase the public's understanding of crime trends. This includes a debate concerning violent crime and the category of 'offences against the person', especially where no injury is received.¹⁸ The opportunity exists to influence the debate.

The interchangeability¹⁹ and displacement of the drunk and disorderly offence to Section 5 and use of Section 5 for incidents of urination in the street was mentioned in all 10 police forces participating in the review and paints an unclear picture of this application. Whatever form of disposal is used, evidence to support a challenge must be available to the same criminal standard of proof as for normal offence disposal.

A number of police forces use Section 5 as part of a preventive or early intervention tactic to curb public disorder situations from escalating. In these situations whilst violent crime had risen in the locality through use of the Section 5 offence, there was evidence that it had reduced the numbers of more serious offences within the violent crime category. This following section is part of a briefing document from two Police Standards Unit (PSU) led Alcohol Misuse Enforcement Campaigns (AMEC) held in summer 2004 and over the Christmas/New Year period 2004/05:

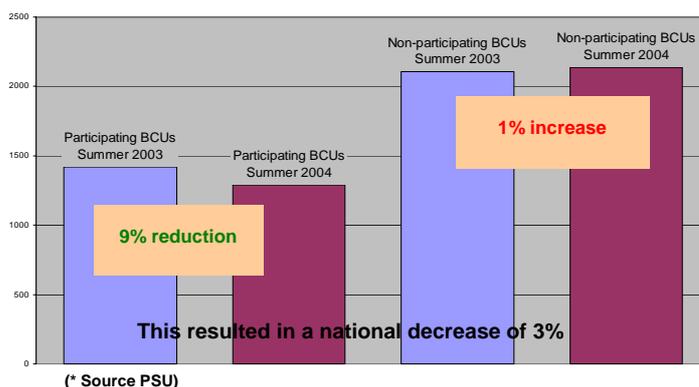
“The Home Office has run two alcohol misuse enforcement campaigns, one in the summer of 2004 and the second over the Christmas and New Year period. In both campaigns use of PNDs has played a prominent part and proved an effective tool for the police to deploy in tackling

¹⁸ http://www.statscom.org.uk/media_pdfs/reports/crime_stats_interim_report.pdf

¹⁹ Legal advice indicates that a person found urinating in a public place or drunk and disorderly would need to satisfy all of the criteria to come within Section 5. Whether urinating in the street or being drunk and disorderly is threatening, abusive or insulting is a question of fact as it will not always be the case that a person found committing the offences is likely to cause harassment, alarm or distress or even that it will constitute threatening, abusive insulting or disorderly behaviour. (Legal Adviser's Branch – Home Office)

alcohol-related offending. Analysis of data from the summer campaign has also shown that this targeted use of PNDs as part of the drive to tackle alcohol misuse can be very beneficial. The data showed that although violent crime rose (particularly through the issue of PNDs for the public order offence of causing harassment, alarm or distress), the most serious violent crime showed a significant fall - 9% in the areas taking part in the campaign, producing a 3% national fall”.

Offences of Wounding or Other Act Endangering Life (Impact of summer AMEC on Serious Violence)



3.3.1 Recommendations

SPPU

- *To resolve the ambiguity in the use of Section 5 as an alternative to drunk and disorderly and urinating in a public place offences, seek legal advice to determine the appropriate approach and consider options to:*
 - *Remove Section 5 from the list of violent crime offences (but not from the list of recordable offences), as this would remove the anomaly of PNDs being used for low level incidents and resolve the conflict arising from the impact on violent crime. This recommendation is timely given the current review of crime statistics being undertaken by the Statistics Commission.*
 - *Include the offence of drunk and disorderly as a recordable and notifiable offence.*
 - *Ensure that national policy provides explicit advice/guidance on the use of Section 5 as an alternative to drunk and disorderly behaviour and urinating in a public place.*

3.4 Police Operational Guidance – Definitional Issues

3.4.1 Ceiling on the numbers of PNDs

The review highlighted the wide variations in approach concerning a ceiling or cap on the numbers of PNDs for recordable offences that should or could be issued to an individual before escalating the disposal. Various reasons were put forward in support for a ceiling and escalation, i.e., to act as a deterrent, identify lifestyle criminals, provide the requisite level of punishment and the need to provide support, e.g. to substance abusers. Alternatively, there was

support for a more flexible approach which left discretion to determine the most appropriate disposal to officers.

As definitive guidance is not included in the Police Operational Guidance, police forces approached this in different ways with a preference for setting virtually no cap on the numbers of recordable offences that could be dealt with by PND to a specified number of related offences within a discreet time frame. A number of policy makers set these local guidelines based on reasonableness and their knowledge and expertise of the criminal justice system. Operational officers and staff tended to have a vague understanding of their respective police force's policy in relation to this matter. Whilst not directly developed for this purpose reference to the Gravity Factors²⁰ matrices for adult and juvenile offenders may assist in determining whether a PND was an appropriate disposal for a particular case.

PNDs were also being issued in circumstances which were considered innovative and appropriate. For example Lancashire considered the issue to be beneficial during the Reprimand and Final Warning procedure for juvenile offenders. Use of a PND during this process, i.e. after a Reprimand or Final Warning, ensured that escalation to court proceedings occurred when the level of offence or offending warranted it. This process would need to be supported by adequate monitoring of individuals to ensure that use of PNDs for juvenile disposal did not mask a developing criminal tendency and detract from appropriate intervention.

Concern was expressed that such a contrast in approaches would lead to the scheme being applied inconsistently at a national level, a so called 'postcode lottery' with a rise in public concern.

3.4.2 Recommendations

SPPU

- *Provide clear advice or a national framework within the Police Operational Guidance on the number and frequency that PNDs for recordable offences should be issued to an individual, so as to provide a consistent approach.*

3.4.3 'Non-Compliance'

The term 'non-compliant'²¹ is referred to in the national Police Operational Guidance. There was a difference in interpretation of this particular statement in its reference to the issue and acceptance of a PND, with some forces considering that compliance referred not only to demeanour but included an admission of guilt. There is no requirement for an admission of guilt prior to the issue of a PND. However, the lack of any such immediate admission sometimes resulted in an alternative disposal being used or the necessity for a full investigation to establish liability prior to disposal.

Application of the local definition of 'non-compliance' resulted in police forces applying different threshold tests prior to issue and restricted the use of PNDs.

²⁰ ACPO Gravity Factors – available on the Police National Legal Database.

²¹ PND Police Operational Guidance Chapter 7 para 7.2 - <http://police.homeoffice.gov.uk/operational-policing/crime-disorder/index.html/>

3.4.4 Recommendations

SPPU

- *Remove the term compliant in the Police Operational Guidance (paragraph 7), +due to the level of confusion it causes.*

3.5 16 & 17 Year

The Anti-Social Behaviour Act 2003 provides for the issue of PNDs to 16 and 17 year olds and supplementary guidance²² (recently amended) to support the Police Operational Guidance was issued for this age group. The guidance takes account of the different legislative requirements, under Police & Criminal Evidence Act (PACE), for those aged 16 and under, and to a lesser extent 17 year olds, and the involvement of local YOTs.

A number of the forces participating in the review had not included 16/17 year olds within their respective PND schemes for the relevant offences or were only now in the process of extending their local policies to incorporate this age group.

Police Forces recognised the existence of the supplementary national guidance. However, they considered the guidance restrictive in 2 ways:

- The necessity (under previous supplementary guidance) to issue PNDs for recordable offences to 16/17 year olds from custody. In these cases operational staff were required to arrest and take the offender to a police station.
- The ability to issue only one PND for a recordable offence for this age group inevitably means that operational staff have to consider escalating the disposal type to a reprimand, final warning or charge/summons. Given the level of offence or category of offender that should be considered for a PND, escalation and use of a more punitive disposal may not be suitable or appropriate.

Forces considered that there should be greater flexibility in the Police Operational Guidance to encourage increased use of the scheme, and examples were quoted during the review where different approaches had been used, e.g., by having the capacity to take the subject home, by calling the parent to the retail outlet or where the level of offending was the concern, by giving consideration to the issue of a subsequent PND.

The Serious Organised Crime and Police Act 2005 (SOCAP)²³ differentiates in the level of offence and offending and confers new powers of arrest without warrant for constables on reasonable grounds and in order to satisfy certain set conditions. Using this approach and notwithstanding the duty of care requirements in respect of juveniles, it may be proportionate and appropriate to consider an out of custody disposal. This approach supports the reduction in bureaucracy for which the PND scheme was, amongst other matters, designed.

²² Available at - <http://police.homeoffice.gov.uk/operational-policing/crime-disorder/index.html/>

²³ Section 110 Serious Organised Crime & Police Act 2005 - implementation on 1:1:06 – www.opsi.gov.uk

Police forces were also cognisant of the different legal requirements under PACE between 16 year olds and 17 year olds, e.g., there was no requirement for 17 year olds to have a parent, guardian or Appropriate Adult present during interview. This resulted in some police forces differentiating between 16 and 17 year olds.

There was a suggestion that 16 year olds should be removed from the current scheme and included within that being piloted for the 10 to 15 year old age group²⁴ to resolve this ambiguity. However, whilst this would provide clarity between juvenile and adult schemes and recognise the differing legislative requirements, the inclusion of 16/17 year olds has a statutory basis.

3.5.1 Recommendations

Youth Justice Children Unit (YJCU)

- *Remove from the Supplementary Guidance for 16/17 year olds references to:*
 - *The restriction on only 1 PND that can be issued for a recordable offence and place in the context of a national framework mentioned at paragraph 3.4.2., to enable greater flexibility.*

Police Forces

- *Extend local policy and procedure to include 16 and 17 year olds for the full list of offences, including Section 5, theft and criminal damage for on-street and custody issue.*

3.6 DNA/Fingerprint Samples, PNC Recording & Proof of Identity Issues

Taking of fingerprint/DNA, Police National Computer (PNC) recording and proof of identity issues whilst distinct are also interrelated in respect of the PND scheme. Legislation (Sections 116 & 117 SOCAP) will extend²⁵ the scope in which fingerprints and photographs can be taken without appropriate consent and it would be useful to consider commencement earlier to assist police forces in obtaining fingerprints (or a single digit) other than by request. However, these provisions do not apply to DNA samples, which can still be provided voluntarily outside of police detention. The general situation remains that the police are authorised to require and take fingerprint sets and DNA samples under certain conditions, e.g. during the course of an investigation to prove identity, or to match against marks found at other crime scenes.

The PNC on the other hand, is the national database used to record PNDs issued for recordable offences and the current advice contained within the Police Operational Guidance is that these offences should be entered onto the PNC. The Police Information Technology Organisation (PITO)²⁶ provided early advice to practitioners in respect of fingerprints/DNA, PNC entry and the standard of proof required. However, some police force practitioners are unclear on this

²⁴ This refers to the national pilots currently running in respect of PND for 10 - 15 year olds.

²⁵ Section 117 is not being commenced until technology to take fingerprints remotely is perfected.

²⁶ Appendix 'J' contains a copy of the current PITO advice.

issue and the necessity to obtain fingerprints/DNA or other forms of identification before recordable offences can be entered onto the PNC. The need to prove identity was cited as a data protection requirement and the need to reduce the possibility of litigation where the data was wrongly recorded against an individual. As a consequence this lack of clarity may impact on the numbers of recordable PND offences entered onto PNC.

A number of other scenarios were mentioned where PNC entries for recordable offences are made without the requirement for fingerprints and/or DNA, therefore, the reluctance to include recordable PND offences appears to conflict with other already acceptable practice.

The lack of clarity has resulted in forces adopting local procedures that:

- Require the arrest of the subject to enable complete fingerprint sets and DNA to be taken for the full gamut of police purposes including proof of identity to facilitate PNC entry and mitigate against data protection, disclosure and litigation. Two examples were quoted where DNA samples and/or fingerprints provided previously for low level offending had assisted in the resolution of high profile cases.
- Provided an element of flexibility and discretion for officers that could establish the identity of the subject through other means. A number of police forces do not require fingerprints or DNA where these already exist or identity can be proven by other means, e.g. the production of a driving licence or the provision of a voluntary single fingerprint. This latter practice is being adopted by a growing number of forces and consent is not now required as a consequence of SOCAP legislation.

The lack of a clear standard concerning the level of proof required to establish identity for PND and PNC purposes is in need of resolution as:

- The PNC is the only national data base which can hold this information and recording on this resource can prevent losing knowledge on the behaviour of offenders who move areas.
- PNDs for recordable offences are recorded on PNC as a non court disposal. Recording and availability of this information allows for better decision making, and reduces the opportunity for inappropriate use of the PND scheme and excessive repeated issues to an individual.
- PNDs can be used to establish a pattern of behaviour and also used under Bad Character provisions in the Criminal Justice Act 2003.

There is at this time no agreed ACPO policy on this issue. However, two significant pieces of work are being taken forward, although at different stages of development:

- The Police PNC Policy and Prioritisation Group, under the ACPO PNC portfolio holder, is developing a national standard in respect of PNC Entry requirements.

- The introduction of the new ACPO Retention Guidelines²⁷ (yet to be agreed by ACPO Council) to replace the current rules for weeding of criminal records on police systems. This document makes particular reference to PNDs. The Retention Guidelines are based on a format of restricting access to PNC data to non police users, rather than the deletion of that data. Restricted access is achieved by setting strict time periods after which the relevant event histories will ‘step-down’ and only be accessible by the police. The step-down period for PNDs is set at the time of resulting.

There still remain real practical issues to overcome in obtaining any sample outside of the police station environment. Notwithstanding, some police forces have evolved practical and pragmatic solutions to on-street issue by providing the various sampling kits and cameras in key locations, e.g., security offices, police vehicles or for example in Merseyside where mobile police stations are used at hotspots or in support of community based initiatives.

Lancashire police have developed the capability to provide a single fingerprint by making space on the PND ticket and issuing a small ink pad to officers to use for on-street issue. This practice is becoming more widespread. The review found little evidence where identification was known to have been an issue or contested. In the examples quoted the issue had been resolved satisfactorily.

There are opportunities to obtain fingerprints, etc. where the investigation is incomplete and a requirement made through the use of Street Bail²⁸ for the subject to attend a police station. Provisions also exist within PACE²⁹ to require attendance at a police station for fingerprints where the suspect has not been in police detention. However, this latter proposal would necessitate a change in legislation to include disposals where there has been no conviction or guilt admitted. Whilst this was considered to be a useful tool, there was mixed support for this approach due to the increased bureaucracy in managing the process.

3.6.1 Recommendations

ACPO

- *Whilst police forces should retain the opportunity and discretion to obtain fingerprints and DNA samples from suspects for the relevant offences, there is a need to:*
 - *Clarify the standard of proof required in relation to a subject’s identity for PND recording purposes.*
 - *Introduce the new ACPO Retention Guidelines.*

PLPU

- *Take action to lobby for an amendment to SOCA to include the requirement for a DNA sample outside of the police station environment.*

²⁷ Available on ACPO website.

²⁸ Street Bail – Section 30 (A) PACE 1984

²⁹ S27 PACE 1984 – attendance at a police station for the purposes of fingerprinting.

SPPU

- *Reinforce in the Police Operational Guidance the requirement to record recordable PND offences on the PNC.*

Police Forces

- *Ensure PNC entries are made against all recordable and notifiable PND offences.*

4. PERFORMANCE MANAGEMENT

4.1 Themes

Good performance information and data are key components that enable police forces to manage their respective performance against national and local targets. As a consequence, it is important that all disposals for criminal offences (including PNDs) are recorded accurately at both local and national levels.

Key findings include:

- The necessity to ensure that completed copies of PNDs reach key locations within a timely manner. It was found that a number of departments, e.g., Central Ticket Office (CTO), PNC required sight or knowledge of the issue of a PND to enable them to undertake various tasks and meet deadlines. The sometimes circuitous routes delayed receipt of the PND ticket to enable staff to meet deadlines.
- Difference in approaches to performance management practices across forces in terms of management structures and the detail of the data collated and circulated.
- Complexities in respect of the counting rules:
 - Crime Registrars role of reconciling local crime recording of PND offences against national crime recording standards and Home Office Counting rules, especially where there are discrepancies, e.g., severity of offence and a lesser means of disposal.
 - The role of the Dedicated Decision Maker (DDM)³⁰, where the decision to retain an offence for OBTJ purposes is at variance with a CPS Prosecutor.
- Police Forces did not keep a track or record of the results of contested cases as these were dealt with through the normal criminal justice process. The Research Development and Statistics Directorate (RDS) has stated that where contested, there may be double counting of the offence for OBTJ purposes, i.e. PND issue and conviction, although the numbers would be of little significance.

The introduction of the PND scheme increases the range of positive disposals police forces have in which to finalise an offence and which can ultimately impact on sanction detections and OBTJ. Accurate reporting and recording are essential elements in managing performance locally and at a national level through the Home Office and OCJR. The following chapter provides a brief summary of the findings of the fieldwork with relevant recommendations.

4.2 Crime Recording PND Offences

Whilst this issue was not raised to any great extent during the fieldwork phase of the review, a number of Crime Registrars have raised concern over the apparent inappropriate use of PNDs in respect of offences not contained within the prescribed lists, the disposal of serious offences

³⁰ Dedicated Decision Makers are locally appointed by an officer of ACPO rank.

by way of a PND for a lesser offence and inappropriate issue in relation to Section 5, drunk and disorderly and urinating in a public place offences.

The concern on how to reconcile crime records extends to the disposal of Section 4 Public Order Act 1986 (intentional harassment, alarm or distress) by way of a PND issued for Section 5, where the CPS has given advice to this effect. The Police Operational Guidance (paragraph 6.4) does not support a disposal of this type where there has been injury or a realistic threat or risk of injury. To resolve this situation it would be necessary to amend the wording to the specified paragraph. Alternatively and for good reason, the Section 4 offence could be included within the list of PND offences. This is discussed further at Chapter 7.

It would appear that the implementation of the PND scheme and disposal of recorded crimes via this method has added a level of complexity to Home Office Counting Rules and raised questions concerning the level of understanding by operational staff in terms of evidential and crime recording issues.

The main aims must be to improve clarity, to maintain consistency and confidence in recording by police forces. Rule C(B) Classification and Re-classification³¹ would appear to apply to the circumstances where an error was made in initial recording and the Crime Registrar considers it appropriate to re-classify the offence. However, this needs to be put into the context of rigorous in-force procedures and management to ensure that PNDs are issued for the offences contained within the lists and that initial crime reports are completed correctly and supported by the evidence to substantiate the offence. There will be occasions where PNDs are issued for lesser offences than the offence arrested or initially reported. In such cases where there is no obvious solution for local determination (i.e. no fit within the existing Counting Rules) further work will be required nationally in order to identify and resolve the issues in order to maintain credibility and confidence in the current approach.

4.2.1 Recommendations

SPPU

Subject to any decision to include Section 4 within the list of PND offences, amend paragraph 6.4 of the Police Operational Guidance to resolve crime recording issues.

Police Forces

- *Introduce robust systems, procedures and supervision to ensure that PNDs are issued for the listed offences and that the initial recording of the crime is correct and can be substantiated.*
- *Establish through local audits whether and to what extent, local PND procedures facilitate the appropriate and ethical use of PNDs and the accurate recording of offences.*

³¹ <http://www.homeoffice.gov.uk/rds/countrules.html>

4.3 Reporting PND Data – Counting Rules & Tracking of Contested Cases

For sanction detection purposes, forces report PNDs for recordable offences using Crimsec 3³² form.

Police forces provide two sets of data in respect of PNDs:

- The first provides data of PNDs issued at month end for PNDs issued within that month. OBTJ data is obtained from this first return only.
- The second relates to PNDs issued 2 months previously and provides information concerning the final outcome of the PND, e.g. paid, fine registered or whether a court hearing was requested.

The peculiarities inherent in this system refer to contested cases, the role of the CPS and DDM. The procedure is set out within the counting rules:

- Where cases are contested and the CPS continue with the prosecution, the offence will count as a sanction detection.
- However, where the CPS decision is not to proceed or discontinue, the case should be referred to the DDM to review the decision. The sanction detection will still be counted if the DDM supports the circumstances relating to the original PND issue but cancelled if a decision to the contrary is made.
- The OBTJ would stand under either outcome as there is no mechanism for withdrawing the record

The Review found that most forces had a DDM in post. However, the numbers of contested cases are extremely low nationally and within the forces participating in the review (Appendix 'K')³³. Forces and RDS considered that as the numbers of cases involved were low it was not practical or desirable to introduce a more complicated or bureaucratic counting system.

It was evident that whilst the overall numbers of contested cases are recorded separately there is little or no further tracking of those that are dealt with at court or returned for further investigation to establish the outcome. Whilst the numbers of contested cases are small, tracking would establish whether PNDs are being issued appropriately and has the potential to unearth wider issues which could impact on public confidence in the scheme. Analysis would identify a number of issues:

- Those cases returned on evidential grounds are dealt with and investigated appropriately.
- Personal or more generic training needs.

³² Crimsec 3 is the form used nationally to report sanction detection disposals.

³³ Appendix 'K' includes charts identifying the payment rate and other disposals of all PNDs issued in the participating forces.

- Trends in the offence type being contested as this may identify local performance issues.

To assist in maximising the number of OBTJ, guidance³⁴ aimed at providing Local Criminal Justice Boards with a better understanding of the sanction detection to OBTJ conversion rate was released in early February 2006. Whilst the document provides practical help over the full range of sanction detection disposals, particular reference is made to the PND conversion rate.

4.3.1 Recommendations

Home Office (RDS)

- *Consider the necessity to change the counting rules in order to reconcile the numbers of sanction detections and OBTJ where decisions have been made to remove a sanction detection.*

Police Forces

- *Ensure that processes and procedures are in place to enable contested cases to be referred to the DDM and Crime Registrar when a decision has been made not to proceed and to follow these through to outcome to enable training needs and trends to be identified*

4.4 Performance Monitoring and Management

Performance Management structures varied widely from force to force as did the granularity of data. All forces had a performance management structure in place at force level and dealt with PNDs either as a sub-set of or included as a generic sanction detection category, i.e. cautions, formal warnings, TICs, charges. This approach was replicated within some BCUs.

At a sub-level some police forces had introduced team or individual officer generic sanction detection targets and this approach seemed to work, especially when the targets were team based and left officers with professional decision making. Where PND specific targets were evident then these carried the risk of attracting negative outcomes, e.g. to drive up violent crime. In these cases it was important that performance management structures enabled early identification of these trends.

Performance criteria for officers also included 'arrests' in some forces, i.e. so many arrests over a specific time frame. In these cases officers considered on-street issue of PNDs for the relevant offences inappropriate, as they would not be counted towards individual performance purposes. This, however, was not problematic where force policy was predicated on issue from custody only.

It was also suggested that concentration on sanction detections and OBTJ may lead to displacement from one offence type to another. The most prominent example is the one discussed previously, the offence of drunk and disorderly to Section 5, as the preferred or alternative disposal for low level, unruly but drunken behaviour.

³⁴ 'Understanding the Conversion Rate: Technical Guidance for Performance Officers' - available from JEU & www.cjsonline.gov.uk

In general there were no obvious or discreet targets set for PNDs although indirectly officers were often made acutely aware of the need for positive sanction detections. The Review found local policies tended to leave discretion as to whether a PND disposal was relevant with officers.

The PSU has developed a best practice document ‘Managing Police Performance’³⁵ criteria for the information of forces, which include performance management principles and structures. Where adopted a good performance management structure would enable:

- A way of checking progress against objectives.
- A process to inform decision making.
- A way to link actions to outcomes.
- An opportunity for an organisation to learn and progress.

In a number of the forces visited there was a significant focus on performance at force and BCU level, where generic data was used at regular corporate performance meetings. However, some forces provided this data in sub sets and at BCU level enabling more detailed analysis.

This was considered significant where forces were performing well and thought it necessary to present this level of detail. This was evident in:

- Lancashire where the force has created a profile of the mix of disposals the police consider appropriate, this includes force and BCU level. (Review of Cautions Practice across Criminal Justice Areas Report). The force also use a spreadsheet (Appendix ‘K’)³⁶ identifying monthly PND performance by division and broken down by the category of offence.
- West Yorkshire where a robust performance management framework has been introduced, which includes monthly operational reviews of all BCUs conducted by an Assistant Chief Constable, and quarterly corporate reviews conducted by the Deputy Chief Constable. Their purpose is to focus on the delivery of OBTJ performance and has resulted in an increase in overall performance. (Review of Cautions Practice across Criminal Justice Areas Report).

4.4.1 Recommendations

Police Forces

- *Ensure that robust performance management structures consistent with those described in the Managing Police Performance document are in place to inform staff on policing priorities, specifically to:*

³⁵ http://police.homeoffice.gov.uk/news-and-publications/publication/performance-and-measurement/Guide_Final.pdf

³⁶ Appendix ‘L’ Lancashire spreadsheet.



- *Disaggregate sanctions detection disposals by type at force and BCU levels.*
- *Ensure that performance management structures support force priorities and identify opportunities to widen the scope of the local scheme.*
- *Set clear targets which do not have perverse incentives.*
- *Feedback mechanisms – ensuring operational staff receive performance information.*

5. OPERATIONAL ISSUES

5.1 Themes

The impact of the PND scheme on operational policing is evident in a number of the police forces visited, with most officers and staff considering it has been beneficial and a positive enhancement to police powers. However, the Review found that there was a wide contrast in operating procedures and practice which either facilitated or constrained use. Whilst there is a need to be mindful of local policing environs practical application of the scheme still varied considerably. In some forces the PND procedure is being incorporated within locally based initiatives, e.g. Surrey where it is being considered in the context of the Surrey Street Standards initiative, Merseyside and South Wales where it is used to manage city centre disorder and the Metropolitan Police District where delegated powers have been given to Traffic PCSOs.

Key findings include:

- Virtually universal acclaim, from outright support to more considered/guarded responses for the scheme from operational ‘front-line’ officers with a reduction in the numbers of forms that require completion and consequent saving of time. This was more prevalent where forces authorised on-street issue and where advantages included maintaining police visibility and reduction in the use of custody. Anecdotal evidence was provided in which some PNDs had been turned around in an average of 15 minutes and officers thanked by the subject for using this disposal.
- Lack of availability of PND tickets, issued to individual officers, to facilitate on-street issue. This was not problematic where PNDs for the relevant offences were issued from custody but did constrain issue in respect of the other offences listed.
- Evidential requirements varied across the forces. These manifested in the preparation of a case file, especially where the subject was detained in custody for a long period necessitating a handover to another officer, to minimal requirements, e.g., a statement by the store security officer (often self written) and issuing officer. Where a subject had been kept in custody for a period of time and the evidence was already available officers saw a need for delegated powers to be given to Custody and Detention Officers to issue PNDs.
- Virtually all tickets were handwritten and there was substantial variation in the levels of completeness, ranging from incomplete sections of the PND to the attachment of statements, custody records and other evidential material. Lancashire Police has introduced an electronic system for use within the custody environment which it is reported increases the accuracy of information within the ticket.
- Few tickets had been ‘quality checked’ by a supervisory officer. There was little assessment of standards of completion.
- It was found that some officers had issued very few PNDs and there was some confusion under the circumstances in which PNDs could be issued. Officers in these circumstances

felt reassured by the arrest and issue from custody option, where the decision to issue was often taken by the custody sergeant.

- The Review found variation in PND format (after Part 3) as each force had developed the ticket to suit local needs.
- The Police Operational Guidance and extent of the scheme was seen as too restrictive and a number of forces welcomed extension of the scheme to cover other offences, although there was not always agreement of what these should be.

5.2 PND Ticket - Variation and Quality in completion

The Review Team interviewed police constables and those in supervisory ranks and undertook a 'quality assessment' exercise of a number of completed tickets in the forces visited. It is apparent that, except for Parts 1-3 of the PND ticket which are prescribed by statute, forces have to some extent re-designed other sections to suit local needs. The assessment included an analysis of the level of completeness and the requirement to obtain further evidence. The exercise showed a marked contrast in the levels of completion, not only between forces but within a force. This was dependent on force procedure, whether other systems or documents were used to capture or record the information or because cases were referred to a CPS Charging Lawyer for advice. Furthermore, Lancashire has developed an electronic PND ticket for issue within the custody environment, which it is claimed reduced errors and increased legibility. The exercise found:

Part 1 - This part of the PND ticket is mandatory and was well completed. Omissions in this section related predominantly to missing Postcodes.

Part 4 and 5 - These are identical copies with the bottom one third of the form providing additional details of the subject. The level of completeness was high but in some cases omissions had been made relative to local system reference numbers (i.e. crime, custody and Arrest/Summons) and gender details.

Part 6A - This section includes description of the subject, reply to caution, details of identification checks and additional notes. Completion of the section was variable in terms of whether it was completed, part completed or left blank. In the majority of cases PNDs were issued from custody and the assumption is that the details were held on other systems or within other documents. The 'Reply to Caution' section was relatively well completed where the offence was admitted and this was more prevalent in theft and criminal damage cases. PNDs where the offence had been admitted were often not as well completed as those where the contrary was found. Few 'Additional Notes' were made on PNDs. South Yorkshire has completely redesigned this section to include a brief Source Input Document. The intention is that as soon as the PND is completed the appropriate section is photocopied and sent direct to the PNC Bureau. This variation enables the Force to meet PND performance deadlines and saves the completion of 3 forms.

Part 6B - This section includes space for a short evidential statement. The Review found that statements had either been written in the space provided or statements in other forms (i.e. MG11/Incident Record Book or equivalent) were attached to the ticket on average between

50% to 100% of occasions in several areas. In cases where the statement had been attached there was rarely any reference made in the relevant section to the attachment or availability of the evidential statement. Where statements are not written in Part 6B, the advice should be to identify the principal witness and the location of the evidential statement, with any reference numbers.

Some of the statements included in Part 6B related to the issue of the PND and not to the evidential elements of the offence. In such cases the details of the officer witnessing the event and the one that may be required to give evidence at a subsequent court hearing should be listed on the PND.

PND Tickets - General observations

- In criminal damage cases the views of the victim were rarely recorded on the PND, the highest being Merseyside where this was evident on 40% of the tickets evaluated. Similarly there was no value or estimated cost of damage evident, the highest in this case was West Yorkshire at 36%. Whilst this does not mean that either was obtained there is the risk in these cases that PNDs are issued without reference to the victim or for a value in excess of the £300 threshold.
- In terms of theft, the value of the property stolen was more readily identifiable from the PND or evidential statement and this was being achieved in 87% of occasions in West Yorkshire. However, it was not known whether arrangements had been made to secure retention of the property should the case be contested.
- The availability, retention or whereabouts of CCTV evidence was almost never mentioned on the ticket. This raises the question of whether enquires or arrangements had been made to secure this.
- There was no systematic review or quality assessment of issued PNDs by supervisory staff, even where space was included on the ticket. A variety of reasons were given for this which included the lack of front-line supervisory staff time; in some custody situations the decision was taken by the Custody Sergeant or this was the responsibility of staff within the CTO.
- Few forces had a standard practice of audited personal issue of tickets to officers, with PND tickets generally available on an ad-hoc basis. This resulted in difficulty in tracing mislaid or misplaced tickets. On some occasions PNDs had not been received by the CTO even though payment had been made by the subject.
- The Criminal Justice & Police Act 2001 permits constables in uniform to issue PNDs on the spot. It was suggested that the requirements in the Police Operational Guidance for constables to be in uniform and the clause which requires authorisation by the Chief Officer for police station issue be removed.

A key consideration for forces is whether, for PND purpose, officers/staff should be required to physically obtain all the evidence or secure its safekeeping should the case be contested. The relevant details would then be recorded on the PND. Whilst the numbers of PNDs contested

are extremely low, there is an argument to ensure minimum standards of investigation and completion of PNDs. Minimum standards would assist in performance managing staff, help identify training needs either personal or endemic and other trends. There is also a need to place PNDs within the context of two objectives of the scheme, i.e. to deal expeditiously with low level offending and to reduce bureaucracy. There is therefore, a balance to be struck between the aims of the scheme, reducing duplication where other systems are being used and the interests of the wider criminal justice system with regard to evidential issues.

PNDs have been available for most forces since April 2004 and there are already a number of local variations to the national PND template. The potential now exists to redesign the national template and include many of the useful local innovations and identified evidential issues through for example a small evidence section.

5.2.1 Recommendations:

PSU

- *Develop a set of principles or standard operating procedures which advise officers in relation to the expectations of the evidential standards required and completeness of the tickets, in order to bring about more consistency in the application of the PND scheme*

SPPU

- *Revise the national PND ticket template. Details could include Yes/No answers in respect of the check for and retention of CCTV evidence, the retention and location of stolen property, whether the victim was consulted, damage and value of the property in question and already in use in some police forces mobile and home telephone numbers for intelligence and enforcement purposes.*
- *Widen the extent of the scheme to include authorised Custody and Detention Officers/Staff to issue from custody and to include the provisions for on-street issue to all constables in order to further reduce bureaucracy and save police officer time.*
- *Develop the viability of a technological solution in respect of PND issue, to further reduce bureaucracy and support the administration process. There are suppliers looking to enter this market and the viability of this could be tested in the short to medium terms.*
- *Disseminate examples of good practice through the PND National Operational Working Group.*

Police Forces

- *Make personal issue of PND tickets for both tariffs standard practice. The process should identify the PND ticket numbers and to who issued.*
- *Ensure supervisory staff quality check or dip sample completed PND tickets to support performance management and identify training issues and other trends.*

5.3 PND & Charging Standards

During the course of the review, there was some debate concerning the role of the CPS and ‘The Director’s Guidance on Charging’³⁷ in relation to PND related matters. It was understood by practitioners that where notification was received within the Suspended Enforcement Period that the offence was to be contested and it passed the Threshold Test, it must be referred to the CPS for the correct charge to be determined and authorised.

However, there was also local practice to refer cases to the CPS, whilst the offender was in police detention, even though the decision had been made to deal with the case through the issue of a PND and before the expiry of the Suspended Enforcement Period.

The rationale for this course of action was that the subject of the PND could subsequently contest the case and therefore, it was desirable to ensure the outcome in relation to the CPS Code for Crown Prosecutors³⁸ at the earliest opportunity.

Advice from the CPS indicates that this practice is not necessary as the issue of a PND for the relevant offences remains within the remit of the police and there is no requirement for such cases to be referred to a Crown Prosecutor for advice. The initial issue of a PND falls outside of The Director’s Guidance on Charging.

5.4.1 Recommendation

SPPU

- *Amend the Police Operational Guidance to clarify the role of the CPS in relation to the initial issue of a PND.*

³⁷ Guidance to Police Officers & Crown Prosecutors in Respect of the Making of Charging Decisions – www.cps.gov.uk

³⁸ Code for Crown Prosecutors - www.cps.gov.uk

6. PEOPLE ISSUES

6.1 Themes

For the PND scheme to be applied evenly, fairly and proportionately, it is important that officers and staff are conversant with and understand the procedures to be applied and the circumstances in which a PND can be issued. It is also fundamental that they are aware of the extent of national guidance and local force policy and procedure. The Review found:

- A variance in the levels of knowledge and understanding of the scheme amongst operational staff, which impacted on their confidence in the PND scheme.
- Local training had been devised, however, it was evident that the level and extent of the training received by practitioners was extremely variable. The views on the adequacy and methods used between those that designed and provided training and those receiving contrasted significantly in some cases.
- A number of staff were not aware of the national Police Operational Guidance booklet nor had they seen any Home Office PND promotional material.

6.2 Training

All forces indicated that a number of methodologies were being used to train officers and staff in the use of the PND scheme. Approaches varied from PowerPoint presentations, to cascaded briefings, and the availability of procedural documents on the various force intranet sites. A number of forces had also produced 'prompt' cards and distributed these to officers.

Response Team officers appeared to be less conversant with the PND scheme than other team-based units and in some cases had either not issued any PNDs or very few. In some forces, much of the knowledge and expertise was being developed by officers on dedicated community or initiative based teams, e.g. AMEC initiative teams, City Centre public order schemes. These officers had often more recourse to issue PNDs and so were more conversant with the practice. They were, therefore, often used by colleagues to give advice and coach less skilled officers in the use of PNDs.

A number of the staff interviewed had not seen or had the opportunity to read the Police Operational Guidance booklet although some were aware of its existence. It was considered by some practitioners that access to this document was less important than local procedural documentation which was tailored to and designed around the development of local schemes.

The use of PNDs is still relatively new and growing, as local policies evolve to meet operational priorities. However, there appeared to be little follow-up training where PND schemes were extended either locally or nationally. This was considered an important factor where more serious types of offence were to be included within a scheme

Few front-line supervisory staff appeared to be involved in or supervised any element of the PND scheme, except within some custody environments. This front-line level of supervision is seen as essential in maintaining consistency in application and confidence in the PND scheme.

Supervisory checks would also enable officer competence to be assessed for any internal performance review or additional training.

6.2.1 Recommendations

SPPU

- *Design innovative ways to assist police forces in raising awareness of staff to the existence, extent and benefits of the PND scheme. These should take cognisance of legislative and technological developments and be responsive to police force needs.*

ACPO

- *Raise the issue of 'Learning' for PNDs through the relevant ACPO Business Area and commission training providers, e.g., CENTREX to develop standardised training package(s) for new and existing police officers and staff.*

Police Forces

- *Given the exponential significance of PNDs as a sanction detection and OBTJ, review current training methodologies in the light of the incremental growth and use of the scheme and plan training accordingly:*
 - *Ensure relevant and progressive training as the scheme is rolled-out and developed.*
 - *Put in place team champions that colleagues can approach for further guidance.*
 - *Record the level of training and to whom given.*
 - *Ensure access to PND reference documentation.*

7. Extending the PND Scheme

The practitioners interviewed considered the introduction of the PND scheme to be an extremely useful operational tool and one worth developing. There was support for extending the scheme further in a number of ways, e.g.

- By widening the scope of the theft (shoplifting) offence to include all theft to a given value.
- Inclusion of the offence of common assault. However, a number of practitioners were concerned about the impact of this on the victim and public confidence, where it was perceived the assailant had been dealt with leniently and inappropriately. This would also require an amendment to paragraph 6.4 of the Police Operational Guidance as this advises against the use of a PND where there has been any injury or a realistic threat of injury to any person.
- Inclusion of Section 4 Public Order Act 1986 (intentional harassment, alarm or distress). This offence is subject to the same penalties as common assault, i.e. imprisonment for 6 months or a fine not exceeding level 5 on the standard scale. It would enable the police to deal directly with the lower levels of offending within this crime category without recourse to the CPS and courts.
- Inclusion of simple possession of cannabis, i.e., for own use, as a replacement to the current formal warning process.
- The inclusion of all volume crime types in appropriate circumstances, e.g., low value, first offence. The rationale is that this course of action would:
 - Result in a more timely, appropriate and effective disposal for the category of offence and offender
 - Further reduce bureaucracy.
 - Have a substantial impact on other criminal justice resources by ensuring only the most appropriate cases are escalated.
 - Continue to provide safeguards to the subject through the Suspended Enforcement Period.
 - Increase police visibility.

The practitioners considered that the current penalties (£80, £50) were set at correct and affordable levels in relation to the level of offending. They thought that any increase would either impact on a subject's ability to pay the penalty or lead to more contested cases as the resultant fine or punishment imposed after conviction could be set at a lesser level by the court. A small number of examples were also provided where subjects had contested the PND not on evidential grounds but because of the courts' ability to set payment by instalment, a procedure which does not currently exist within the scheme.

Concern was also expressed over the additional numbers of cases that may become Fine Registered as a consequence of the lack of ability to pay and its impact on court resources.

Fine Registration has the potential to exacerbate non-payment rates as an additional 50% of the tariff is added to the original penalty, again affecting those that do not have the means to pay.

The PND scheme can provide an efficient means of disposal and merits expansion. However, this needs to set in the context of ensuring that the basic mechanics of the scheme are resilient, rigorous, consistent in application and are seen to be appropriate and proportionate, through:

- Robust local policy and procedure dealing with personal issue of tickets, evidential requirements, performance management, and audit and which is communicated and trained appropriately.
- The development of common standards, e.g., training provision, evidential requirements, the numbers of PNDs that should be issued for recordable offences.
- Embedding or the development of national guidance on associated issues, e.g., PNC entry and proof of identity, ACPO Retention Model, Counting Rules.
- Development of a technological approach to enable better administration of the scheme.
- The willingness of other criminal justice agencies to support the prosecution of PND recordable offences, where the evidence is available. There is some evidence to suggest this is not always the case given the level low of offending in question, e.g. an isolated case of urinating in a public place, witnessed only by a police officer.
- The need to maintain public and police service confidence in the PND scheme.

5.3.1 Recommendations

SPPU/ACPO

- *Develop resilient, rigorous and consistent application of the PND scheme alongside the extension of it for more recordable and notifiable offences. This will ensure the PND scheme retains credibility in the short, medium and long terms.*

8. GOOD PRACTICE (INNOVATION)

The PND scheme is being developed progressively by police forces to suit local needs. This approach brings with it innovative ideas and potential good practice which may suit other policing environments. The potential good practice should be disseminated through the membership of the National PND Operational Working Group.

Lancashire

- The force has devised a profile of the mix of disposals at force and BCU level. Divisions are expected to remain within this profile.
- The introduction of an Electronic PND Ticket for issue from custody has had a positive effect on accuracy and legibility.
- To resolve possible challenges to PND ticket issue on identification grounds the PND has been amended and space provided to enable officers to request a voluntary single fingerprint from the subject. This approach is now supported by the extension of powers to require fingerprints provided through SOCA. Operational officers are provided with a small ink pad for this purpose. Other forces have adopted this approach and some are developing it further, e.g., one force is working with a manufacturer to pioneer a new method of print taking through the use of a chemically impregnated pad and special paper. The force is developing this further to enable officers to take elimination, finger and palm prints.

Merseyside

- As part of the response to City Centre operational policing requirements and some local community/neighbourhood initiatives, the force deploys a mobile police station in support of local officers. Offenders are taken to the mobile police station and PNDs are issued from this location. This is a popular use of this resource with officers and the numbers of PNDs issued on the street are increasing as a consequence.

South Yorkshire

- To minimise the delay in recording details of the issue of a PND on the PNC, the force has amended Part 6A of the ticket to include enough personal information and detail to satisfy the needs of the PNC Bureau. This 'mini' Source Input Document is sent by fax to the PNC Bureau and an Arrest/Summons number is created before the officer goes off duty. This practice has removed/takes the place of three forms, i.e. pending prosecutions, source input document and case papers.

South Wales

- Issue of a PND has been linked to a warning mechanism in respect of anti-social behaviour for juvenile offenders. After the issue of a second PND for Section 5 or other instance of low level anti-social behaviour, a letter is written to the parent or guardian advising them of the incident and that if there is a re-occurrence, or further reports of similar behaviour,



application may be made for an ASBO. Evidence from the PNDs would be used in support of the application.

9. SUMMARY – Recommendations (National)

The Recommendations as listed should form the basis of an Action Plan owned by the SPPU and the various named bodies/units requested to provide a realistic timeframe by which they will have considered and/or progressed the action.

	Context	Lead Agency/Unit	Recommendations
1.	<u>Revision to the Police Operational & Supplementary Guidance.</u>		
1.1	Maximising the appropriate and ethical use of PNDs.	PSU	Provide for inclusion in the Police Operational Guidance document a national standard operating procedure in relation to PND evidential requirements, completion and minimum standards of investigation issues. This would increase consistency in the application of the scheme.
1.2	Provide clarity on the numbers of PNDs that should be issued.	SPPU	Provide clear advice or a national framework within the Police Operational Guidance on the number and frequency that PNDs for recordable offences should be issued to an individual, so as to provide a consistent approach.
1.3	Provide clarity on the term compliance.	SPPU	Remove the term compliant, paragraph 7 in the Police Operational Guidance due to the level of confusion it causes.
1.4	PNC Entry.	SPPU	Reinforce in the Police Operational Guidance the requirement to log recordable and notifiable PND offences on the PNC.
1.5	Section 5/drunken & disorderly.	SPPU	Ensure that national policy provides explicit advice/guidance on the use of Section 5 as an alternative to drunk and disorderly behaviour and urinating in a public place.
1.6	16/17 year olds.	YJCU	Remove from the Supplementary Guidance for 16/17 year olds references to: The restriction on only 1 PND that can be issued for a recordable offence and place in the context of a national framework mentioned at paragraph 3.4.2, to enable greater flexibility.
1.7	Clarify role of CPS in respect of PNDs and Statutory	SPPU	Amend the Police Operational Guidance to clarify the role of the CPS in relation to the initial issue of a PND.

	Charging Schemes		
2.	<u>Section 5/Legal & Counting Rules</u>		
2.1	Clarifying legal issues between drunk & disorderly and Section 5.	SPPU	<p>To resolve the ambiguity in the use of Section 5 as an alternative to drunk and disorderly and urinating in a public place offences, seek legal advice to determine the appropriate approach and consider options to:</p> <ul style="list-style-type: none"> ○ Remove Section 5 from the list of violent crime offences, as this would remove the anomaly of PNDs being used for low level incidents and resolve the conflict arising from the impact on violent crime. This recommendation is timely given the current review of crime statistics being undertaken by the Statistics Commission. ○ Include the offence of drunk and disorderly as a recordable and notifiable offence. <p>Consider the necessity to change the counting rules in order to reconcile the numbers of sanction detections and OBTJ where decisions have been made to remove a sanction detection.</p> <p>Subject to any decision to include Section 4 within the list of PND offences, amend paragraph 6.4 of the Police Operational Guidance to resolve crime recording issues.</p> <p>Amend SOCA to include the requirement for a DNA sample outside of the police station environment.</p> <p>Widen the extent of the scheme to include authorised Custody and Detention Officers/Staff to issue from custody and to include the provisions for on-street issue to all non-uniformed constables in order to further reduce bureaucracy and save police officer time.</p>
2.2	Reclassifying Section 5.	JEU	
2.3	Drunk & Disorderly as a recordable & notifiable offence.	JEU	
2.4	Resolution of HO Counting Rules issues.	Home Office (RDS)	
2.5	Crime Recording – Section 4 POA 1986 offences.	SPPU	
2.6	DNA Profiling.	PLPU	
2.7	Inclusion of additional authorised staff.	SPPU	
3.	<u>ACPO Policy on PNC Entry requirements & Retention Guidelines</u>	ACPO	<p>Whilst police forces should retain the opportunity and discretion to obtain fingerprints and DNA samples from suspects for the relevant offences, there is a need to:</p> <ul style="list-style-type: none"> ○ Clarify the standard of proof required in
3.1			

3.2			<p>relation to a subject's identity for PND recording purposes.</p> <ul style="list-style-type: none"> ○ Introduce the new ACPO Retention Guidelines.
4.	<u>PND Ticket Template Revision</u>	SPPU	<p>Revise the national PND ticket template. Details could include Yes/No answers in respect of the check for and retention of CCTV evidence, the retention and location of stolen property, whether the victim was consulted, damage and value of the property in question and already in use in some police forces mobile and home telephone numbers for intelligence and enforcement purposes.</p>
5.	<u>Training/Advice</u>		
5.1	Information.	SPPU	<p>Design innovative ways to assist police forces in raising awareness of staff to the existence, extent and benefits of the PND scheme. These should take cognisance of legislative and technological developments and be responsive to police force needs.</p>
5.2	Good Practice.	SPPU	<p>Disseminate examples of good practice through the PND National Operational Working Group.</p>
5.3	Training.	ACPO	<p>Raise the issue of 'Learning' for PNDs through the relevant ACPO Business Area and commission training providers, e.g., CENTREX to develop standardised training package(s) for new and existing police officers and staff.</p>
6.	<u>Extending the PND scheme</u>		
6.1	Increasing the numbers of recordable & notifiable offences.	SPPU/ACPO	<p>Develop resilient, rigorous and consistent application of the PND scheme alongside the extension of it for more recordable and notifiable offences. This will ensure the PND scheme retains credibility in the short, medium and long terms.</p>
6.2	Technological development to PND scheme.	SPPU	<p>Develop the viability of a technological solution in respect of PND issue, to further reduce bureaucracy and support the administration process. There are suppliers looking to enter this market and the viability of this could be tested in the short to medium terms.</p>

10. SUMMARY - Recommendations (Local)

The Recommendations as listed should form the basis of an Action Plan owned by the National PND Operational Working Group and progressed by the nominated police force representatives. Representatives will be requested to provide a realistic timeframe by which they will have considered and/or progressed the various actions.

	Context	Recommendations for Police Forces
1.	<u>Maximising sanction detection and OBTJ opportunities.</u>	
1.1	Adult offenders.	Whilst maintaining integrity, review local policy and procedure to ensure PNDs are issued in appropriate circumstances and that their use is maximised for both on-street and custody issue in respect of adult offenders.
1.2	16/17 year old offenders	Extend local policy and procedure to include 16 and 17 year olds for the full list of offences, including Section 5, theft and criminal damage for on-street and custody issue.
1.3	Use of PNDs as an alternative to other disposals.	Provide greater clarity to the ethical and appropriate use of PNDs as an alternative to NFA and DNP to ensure consistency in the approach to PNDs.
2.	<u>PNC Entry.</u>	
2.1		Ensure PND entries are made against all recordable and notifiable PND offences.
3.	<u>Crime Recording & Reporting.</u>	
3.1	Crime Recording.	Introduce robust systems, procedures and supervision to ensure that PNDs are issued for the listed offences and that the initial recording of the crime is correct and can be substantiated.
3.2	Role of the DDM.	Ensure that processes and procedures are in place to enable contested cases to be referred to the Dedicated Decision maker (DDM) and Crime Registrar when a decision has been made not to proceed and to follow these through to outcome to enable training needs and trends to be identified

<p>4. 4.1</p>	<p><u>Performance Management.</u> Local Framework.</p>	<p>Ensure that robust performance management structures consistent with those described in the Managing Police Performance document are in place to inform staff on policing priorities, specifically to:</p> <ul style="list-style-type: none"> ○ Disaggregate sanctions detection disposals by type at force and BCU levels. ○ Ensure that performance management structures support force priorities and identify opportunities to widen the scope of the local scheme. ○ PNDs should be included in any BCU/team wider sanction detection targets. ○ Feedback mechanisms – ensuring operational staff receive performance information.
<p>4.2</p>	<p>Establishing Policy owning Dept.</p>	<p>Ensure clear ownership of PND policy and procedure within the Criminal Justice portfolio to enable performance management within the right framework.</p>
<p>4.3</p>	<p>Local Audits.</p>	<p>Establish through local audits whether and to what extent, local PND procedures facilitate the appropriate and ethical use of PNDs and the accurate recording of offences.</p>
<p>4.4</p>	<p>PND Personal Issue.</p>	<p>Make personal issue of PND tickets for both tariffs standard practice. The process should identify the PND ticket numbers and to whom issued.</p>
<p>4.5</p>	<p>Quality checks & role of supervisors.</p>	<p>Ensure supervisory staff quality check or dip sample completed PND tickets to support performance management and identify training issues and other trends.</p>
<p>5. 5.1</p>	<p><u>Local Training.</u></p>	<p>Given the exponential significance of PNDs as a sanction detection and OBTJ, review current training methodologies in the light of the incremental growth and use of the scheme and plan training accordingly:</p> <ul style="list-style-type: none"> ○ Ensure relevant and progressive training as the scheme is rolled-out and developed. ○ Put in place team champions that colleagues can approach for further guidance. ○ Record the level of training and to whom given. ○ Ensure access to PND reference documentation.

11. ABBREVIATIONS

ACPO	Association of Chief Police Officers
AMEC	Alcohol Misuse Enforcement Campaign
APA	Association of Police Authorities
ASBO	Anti Social Behaviour Order
CPS	Crown Prosecution Service
DDM	Dedicated Decision Maker
DNP	Detected – Not Prosecuted
DPP	Director of Public Prosecutions
FPN	Fixed Penalty Notice
HO	Home Office
JEU	Justice & Enforcement Unit
NCRS	National Crime Recording Standard
NFA	No Further Action
OBTJ	Offence Brought to Justice
OCJR	Office for Criminal Justice Reform
PACE	Police & Criminal Evidence Act 1984
PAT	Performance Action Team
PCSO	Police Community Support Officer
PITO	Police Information Technology Organisation
PLPU	Police Leadership & Powers Unit
PNC	Police National Computer
PND	Penalty Notices for Disorder
PSA	Public Sector Agreement
PSU	Police Standards Unit
RDS	Research Development and Statistics Directorate
SD	Sanction Detection
SOCAP	Serious Organised Crime and Police Act 2005
SPPU	Sentencing Policy and Penalties Unit, Home Office
TIC	Offences Taken into consideration
YJB	Youth Justice Board
YJCU	Youth Justice Childrens Unit
YOT	Youth Offender Team

TERMINOLOGY

On-street issue	Refers to the issue of a PND outside of custody
Relevant offence	Within the terms of this report this refers to the offences of S5 Public Order Act 1986, Theft (retail) and Criminal Damage

APPENDIX 'A'

DEFINITIONS:

1. Offence Brought to Justice

This outcome is claimed if there is a:

- Conviction
- Penalty Notice for Disorder
- Caution (includes reprimands and final warnings to juveniles where a caution would previously have been issued, and conditional cautions)
- Formal warning for the possession of cannabis
- Taken into Consideration outcome

2. Sanction Detection

A sanction detection is claimed, for a crime, if there is a:

- Charge/ Summons
- Fixed Penalty Notice
- Caution (includes reprimands and final warnings to juveniles where a caution would previously have been issued, and conditional cautions)
- Formal warning for the possession of cannabis
- Taken into Consideration outcome

A sanctioned detection occurs when (1) a notifiable offence (crime) has been committed and recorded; (2) a suspect has been identified and is aware of the detection; (3) the CPS evidential test is satisfied; (4) the victim has been informed that the offence has been detected, and; (5) the suspect has been dealt with by way of the disposals listed above.

PND data for each of the 42 CJAs (May – June 2005 Source RDS)

APPENDIX 'B'

Criminal Justice Areas (CJAs)	PND data			
	%PND for relevant crime	% PNDs for S5 Public Order Act 1986	% PNDs for s1(1) & (7) Theft Act 1968	% PNDs for s1 Criminal Damage Act 1971
LANCASHIRE	17.01	20.68	15.17	8.69
LONDON	16.00	23.66	7.01	4.68
WEST YORKSHIRE	15.79	21.10	8.16	8.29
ESSEX	15.36	21.60	9.00	5.36
MERSEYSIDE	14.99	18.36	12.24	8.56
LINCOLNSHIRE	14.07	19.12	8.43	6.91
NORTH WALES	13.88	16.45	14.44	6.53
CHESHIRE	13.73	17.31	11.62	7.22
HUMBERSIDE	13.01	20.10	3.06	3.90
THAMES VALLEY	10.70	18.18	2.36	3.80
DEVON AND CORNWALL	10.54	9.43	14.76	8.49
GREATER MANCHESTER	10.52	16.07	4.01	3.47
WARWICKSHIRE	10.28	12.98	8.11	6.54
GWENT	9.69	8.85	16.30	4.48
CLEVELAND	9.44	13.45	5.59	6.48
BEDFORDSHIRE	9.39	15.31	3.24	4.50
WEST MIDLANDS	9.13	12.34	4.80	3.37
NORTH YORKSHIRE	8.98	15.24	0.00	0.07
DORSET	8.93	12.67	4.09	5.52
LEICESTERSHIRE	8.75	12.85	4.41	2.59
AVON AND SOMERSET	8.56	9.43	8.93	5.77
DYFED POWYS	7.98	9.01	9.14	5.12
STAFFORDSHIRE	7.95	11.89	2.21	3.11
NORTHAMPTONSHIRE	7.22	13.93	0.06	0.20
HAMPSHIRE	6.92	10.08	3.73	2.48
NOTTINGHAMSHIRE	6.52	10.15	2.64	2.99
DERBYSHIRE	5.64	6.78	3.07	5.20
SUSSEX	5.63	9.45	1.84	0.43
WILTSHIRE	5.54	9.87	1.02	2.53
KENT	5.53	4.14	8.50	4.36
GLOUCESTERSHIRE	5.50	10.35	0.50	0.95
NORFOLK	5.24	10.18	0.00	0.00
CUMBRIA	5.05	6.31	4.19	2.76
SOUTH YORKSHIRE	4.36	8.93	0.07	0.12
HERTFORDSHIRE	3.72	4.99	2.98	1.64
CAMBRIDGESHIRE	3.45	4.50	2.34	2.55
SUFFOLK	3.27	4.48	1.71	1.87
DURHAM	2.98	5.22	0.46	0.47
WEST MERCIA	2.61	2.23	3.05	2.96
SURREY	2.13	3.83	0.34	0.22
SOUTH WALES	1.99	3.07	0.50	0.72
NORTHUMBRIA	1.28	0.95	1.62	1.53

APPENDIX 'C'

LIST OF POLICE FORCE CONTACTS

Name	Force	Contact
Acting Inspector Andy Bray	Essex	andy.bray@essex.pnn.police.uk
Inspector John Clucas	Lancashire	john.clucas@lancashire.pnn.police.uk
Inspector John McDermott	Merseyside	john.e.mcdermott@merseyside.pnn.police.uk
Acting Sergeant Gary Gardener	Metropolitan Police	gary.gardener@met.police.uk
Inspector Patricia Allan	Norfolk	allanpa@norfolk.pnn.pnn.police.uk
Inspector David Hall	Northumbria	david.hall.7624@northumbria.pnn.police.uk
Acting Inspector Ed Lewis	South Wales	ed.lewis@south-wales.pnn.police.uk
Chief Inspector Robin Caulfield	South Yorkshire	robin.caulfield@southyorks.pnn.police.uk
Inspector David Hollingsworth	Surrey	hollingsworth624@surrey.pnn.police.uk
Maggie Fox	West Yorkshire	Mf5@westyorkshire.pnn.police.uk



APPENDIX 'D'

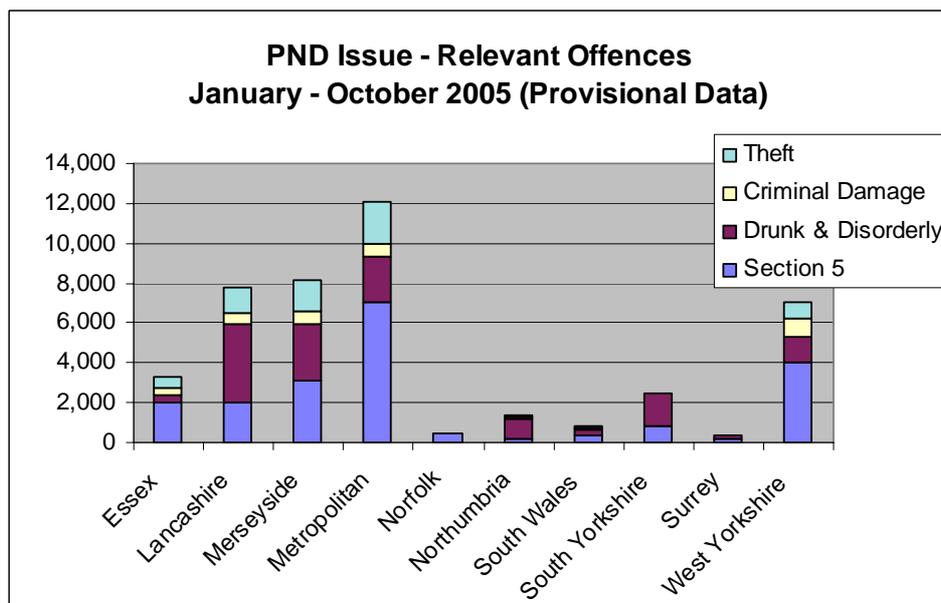
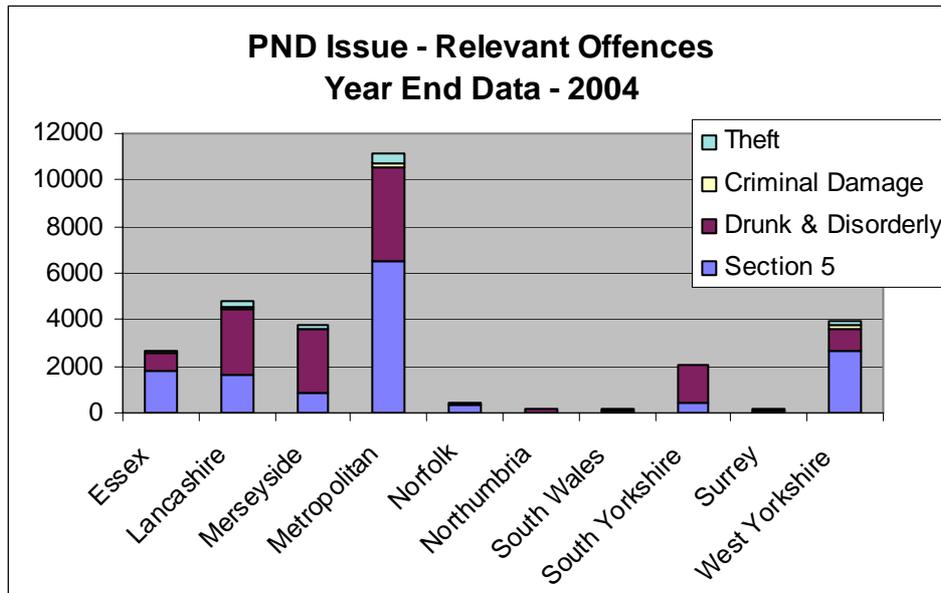
PND WORKING GROUP MEMBERS

Name	Organisation/Dept	Contact details
Philippa Goffe	Sentencing Policy & Penalties Unit	Philippa.goffe@homeoffice.gsi.gov.uk
Pat Edwards	Justice Enforcement Unit	Pat.edwards@cjs.gsi.gov.uk
Alan Jarman	Police Standards Unit	Alan.jarman3@homeoffice.gsi.gov.uk
Nick Adderley	Police Standards Unit	Nick.adderley@homeoffice.gsi.gov.uk
Kate Woolland	Performance Action Team	Kate.woolland@paconsulting.com
Liam Carroll	Performance Action Team	Liam.carroll@cps.gsi.gov.uk
Charles Kraina	Performance Action Team	Charles.kraina@herts.pnn.police.uk
Karen O'Regan	Performance Action Team	Karen.o'regan@paconsulting.com
Heather Cook	Performance Action Team	Heather.cook@paconsulting.com
Claudine Manning	Justice Enforcement Unit	Claudine.manning@cjs.gsi.gov.uk
Phoebe White	Justice Enforcement Unit	Phoebe.white@cjs.gsi.gov.uk

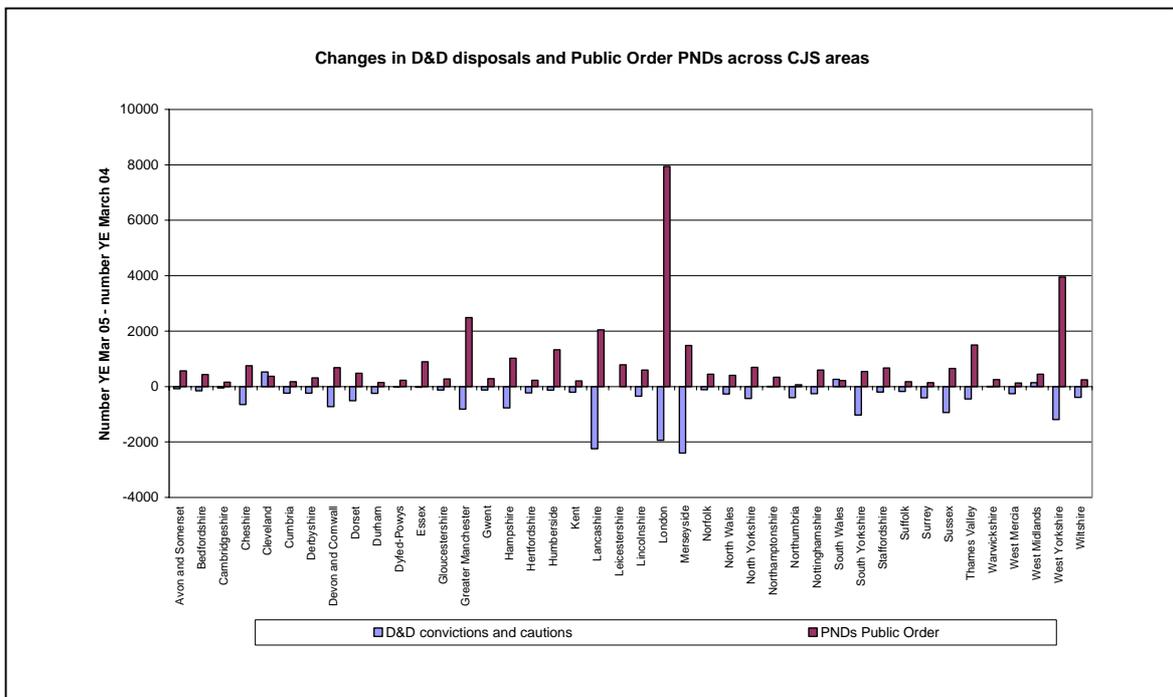
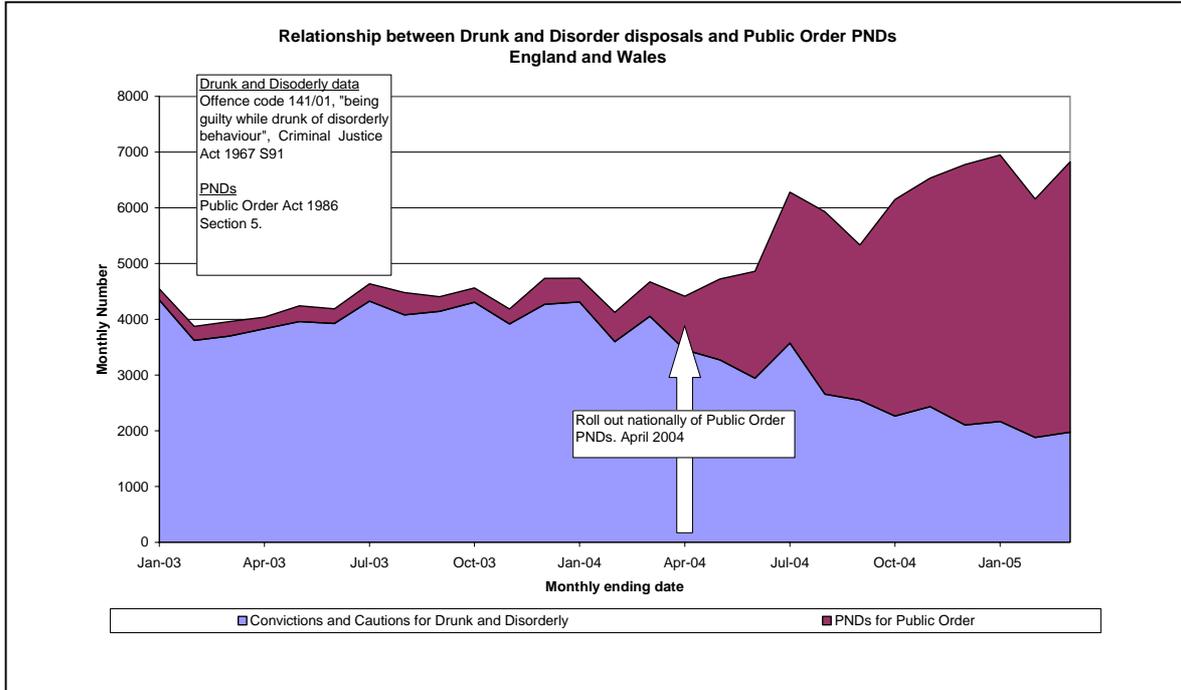
APPENDIX 'E'

PNC DATA

(10 Participating Police Forces for 2004 & 2005 to October (Provisional))



APPENDIX 'F'



(Source RDS)

APPENDIX 'G'

OBTJ Breakdown by disposal type

Table 1.1 OBTJ Breakdown - Summary of each area's latest rolling annual data							
Area	Most Recent Month	TICs	FPNs	Formal Warnings	Cautions	Convictions	TOTAL
Avon and Somerset	Sep-05	15%	6%	7%	19%	52%	100%
Bedfordshire	Jul-05	10%	6%	5%	27%	52%	100%
Cambridgeshire	Sep-05	13%	2%	3%	28%	54%	100%
Cheshire	Sep-05	14%	9%	1%	20%	56%	100%
Cleveland	Jul-05	5%	8%	1%	21%	65%	100%
Cumbria	Aug-05	5%	3%	2%	18%	71%	100%
Derbyshire	Aug-05	9%	4%	3%	23%	62%	100%
Devon and Cornwall	Aug-05	9%	8%	6%	26%	51%	100%
Dorset	Sep-05	14%	6%	2%	22%	55%	100%
Durham	Aug-05	5%	2%	4%	19%	69%	100%
Dyfed Powys	Aug-05	4%	5%	10%	32%	49%	100%
Essex	Aug-05	10%	11%	2%	21%	56%	100%
Gloucestershire	Aug-05	17%	4%	2%	27%	49%	100%
Greater Manchester	Sep-05	5%	8%	3%	19%	65%	100%
Gwent	Aug-05	19%	7%	2%	13%	60%	100%
Hampshire	Mar-05	6%	3%	2%	25%	64%	100%
Hertfordshire	Sep-05	10%	2%	2%	24%	62%	100%
Humberside	Aug-05	7%	9%	0%	24%	60%	100%
Kent	Jul-05	9%	5%	1%	33%	52%	100%
Lancashire	Aug-05	8%	11%	1%	24%	56%	100%
Leicestershire	Aug-05	10%	5%	1%	19%	64%	100%
Lincolnshire	Sep-05	5%	13%	2%	29%	52%	100%
Greater London	Aug-05	9%	7%	10%	20%	54%	100%
Merseyside	Aug-05	6%	13%	10%	11%	60%	100%
Norfolk	Aug-05	7%	3%	5%	23%	63%	100%
North Wales	Sep-05	6%	12%	5%	18%	60%	100%
North Yorkshire	Aug-05	6%	6%	5%	18%	65%	100%
Northamptonshire	Sep-05	10%	4%	1%	26%	58%	100%
Northumbria	Sep-05	9%	1%	0%	35%	55%	100%
Nottinghamshire	Sep-05	5%	4%	2%	26%	62%	100%
South Wales	Sep-05	6%	2%	2%	20%	70%	100%
South Yorkshire	Aug-05	15%	3%	3%	22%	58%	100%
Staffordshire	Aug-05	8%	5%	4%	22%	60%	100%
Suffolk	Sep-05	4%	3%	2%	26%	64%	100%
Surrey	Aug-05	12%	1%	3%	39%	44%	100%
Sussex	Aug-05	7%	5%	3%	35%	51%	100%
Thames Valley	Aug-05	18%	8%	5%	29%	40%	100%
Warwickshire	Aug-05	16%	7%	4%	27%	46%	100%
West Mercia	Aug-05	11%	2%	2%	31%	54%	100%
West Midlands	Aug-05	4%	6%	5%	24%	61%	100%
West Yorkshire	Sep-05	17%	10%	2%	25%	46%	100%
Wiltshire	Sep-05	5%	5%	3%	18%	69%	100%
England and Wales	Mar-05	9%	4%	3%	23%	60%	100%

(Source December 2005 Performance Information Pack – APRT)

APPENDIX 'H'

CASE LAW – DPP –V- ORUM

The Public Order Act 1986 replaced various common law offences, introducing new offences and powers with respect to the preservation of public order. For the offence of causing harassment, alarm or distress under section 5 it must be proved that some person or persons were nearby and within sight or hearing and that they were likely to be caused such feelings.

The evidence of other persons in the area can be given by the police officer(s) in the case; witness statements do not usually need to be taken from them.

PERSON LIKELY TO BE CAUSED

can include a police officer, but only in limited circumstances; DPP v Orum [1988] see C120. However, in that case the prosecution were criticised for not including evidence that other persons known to have been nearby, were likely to have been caused alarm etc, even though the words, behaviour or display may not have been directed at them.

The basic principle is that a police officer cannot be alarmed etc. by conduct which, although it would alarm others had they been present, is conduct a police officer meets regularly in the course of his duty. He is expected to be able to cope with 'everyday' misconduct without being particularly alarmed etc. O and his girlfriend were arguing in a residential street at 1.15 am. O had been drinking and was using abusive language. A policeman told him to be quiet and O replied, 'You fuck off. This is a domestic you can't do nothing'. The police officer again told him to be quiet and to go home and sleep it off. O replied, 'You can't fucking arrest me. I know my rights. If you don't go away I am going to hit you'.

DPP v Orum

O was then arrested for causing a breach of the peace. In the course of being put in a car he assaulted the officer. He was charged with one offence under section 5 of the Public Order Act 1986, and one of 'assault police'.

The justices dismissed both charges saying –

- (a) that the police officer could not be harassed, alarmed or distressed; AND
- (b) therefore he had no power of arrest (and could not be assaulted if he was not acting lawfully).

The prosecution appealed against the dismissal.

HELD

Appeal allowed only in respect of the assault charge. The case was remitted back to the magistrates for sentence on the assault charge.

A police officer can only be subject to harassment, alarm or distress where the actions or words amount to more than he would regularly see or hear in the course of his duty, but it would always be a question of fact for the magistrates to decide. In this case, no section 5 offence was proved, and no mention was made of possible harassment or distress to either residents or the girlfriend, therefore the prosecution appeal for this offence was dismissed.

However, a breach of the peace did occur and O was correctly arrested for that offence, therefore the officer was acting in the execution of his duty and he had been assaulted.

DPP v ORUM: sub nom CHIEF CONSTABLE OF AVON & SOMERSET v ORUM (1988)

DC (Judge not specified) 18/7/88

CRIMINAL LAW

PUBLIC ORDER OFFENCE - HARASSMENT - ALARM - DISTRESS

Police officer was a person who could be caused harassment, alarm or distress from threatening or abusive words or behaviour within his hearing or sight, and thus had power under Public Order Act 1986 to arrest the offender.

On the true construction of s.5(1) Public Order Act 1986, a police officer was a person who could be caused harassment, alarm or distress from threatening or abusive words or behaviour within his hearing or sight, and thus had power under s.5(4) to arrest the offender. In enacting s.5(1) of the 1986 Act in place of s.5 of the Public Order Act 1936, Parliament substituted for the likelihood of a physical reaction causing a breach of the peace, the likelihood of a mental reaction to threatening or abusive behaviour.

(1989) 1 WLR 88: (1988) 3 All ER 449 : Independent, August 8, 1988

APPENDIX 'I'

Public Order Act 1986

5 Harassment, alarm or distress

(1) A person is guilty of an offence if he:

- (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
- (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

(2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(3) It is a defence for the accused to prove—

- (a) that he had no reason to believe that there was any person within hearing or sight who was likely to be caused harassment, alarm or distress, or
- (b) that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling, or
- (c) that his conduct was reasonable.

(4) A constable may arrest a person without warrant if—

- (a) he engages in offensive conduct which [a] constable warns him to stop, and
- (b) he engages in further offensive conduct immediately or shortly after the warning.

(5) In subsection (4) “offensive conduct” means conduct the constable reasonably suspects to constitute an offence under this section, and the conduct mentioned in paragraph (a) and the further conduct need not be of the same nature.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

APPENDIX 'J'

Police Information Technology Organisation
Hendon Data Centre, Aerodrome Road
Colindale, London, NW9 5JE
Fax: 020 8358 5080



1ST September 2003
OS

2003/015

Dear Liaison Officer

Penalty Notice for Disorder – New Disposal Code and Court Code

Mick Berry, Chair of the Names Working Party, provided the following information:

The provisions of Criminal Justice and Police Act 2001 (sec.1-11) permit Penalty Notices to be issued in cases of disorder (PNDs). In order to allow these to be shown on PNC a number of minor amendments have been implemented that will allow these to be recorded. Adding details to the PNC will also permit the recording of DNA and Fingerprints where these have been taken. Arrest Summons entries should be created for persons issued with PNDs (Penalty Notice Disorders) using the following criteria: The status should be shown as 'reported', appearing at 9999 court using the penalty notice issue date as the court date. These cases should then be resulted using the following procedure: Although the subject will not appear at court, court code 9999 should be used and will be displayed as "... Appearing at 'Penalty Notice'". Disposal code 1109 should be used and will generate the text 'Penalty Notice'. The disposal free text facility should be used to record the PND reference number.

Unless, at the time of issue, Fingerprints & DNA are taken then there could be difficulty enforcing notices if identity was later to be disputed. It is therefore anticipated that Fingerprints and DNA will be taken for ALL Penalty Notices for Disorder.

It is recognised that further policy information will be needed and it is hoped that this will be resolved shortly following the next P4G meeting.

Any questions relating to FPDs should be directed to Mike Berry on 01245 452016.

Please find attached a copy of a letter issued to all Chief Constables from ACC Paul Blewitt regarding the national roll out Penalty Notice for disorder scheme.

Flowcharts have been provided by Centrex and are attached; they have also created a specimen entry on the training database:

- 03/348Y - Harrison (on the training file this week)
- **03/343T - Harrison (as from Monday 8th September 2003)**

Any questions relating to the flowcharts or training records should be directed to Brian Clarke on 0116 286 6246.

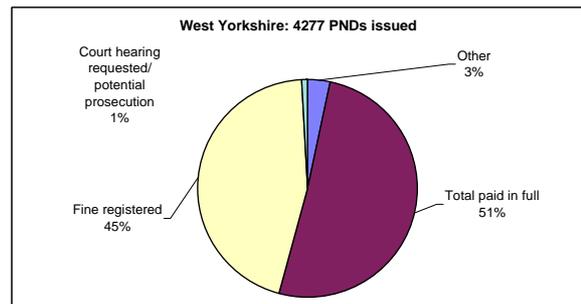
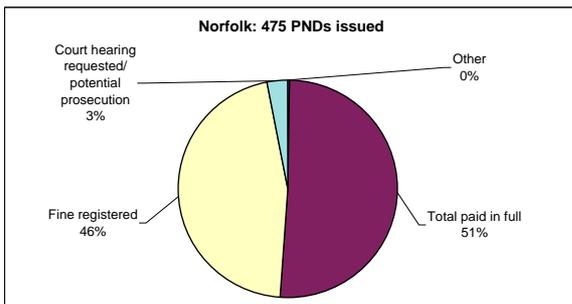
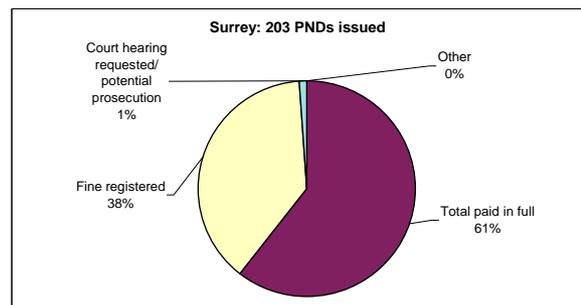
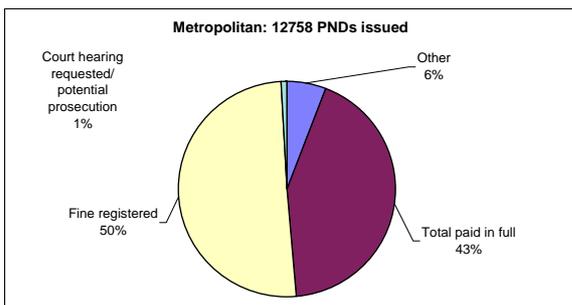
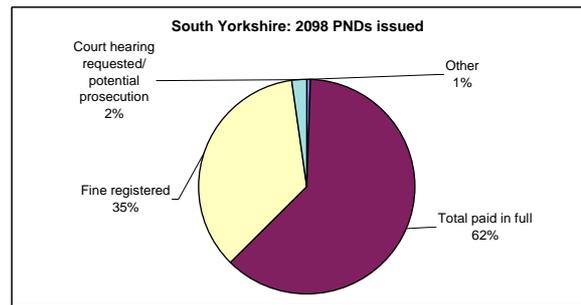
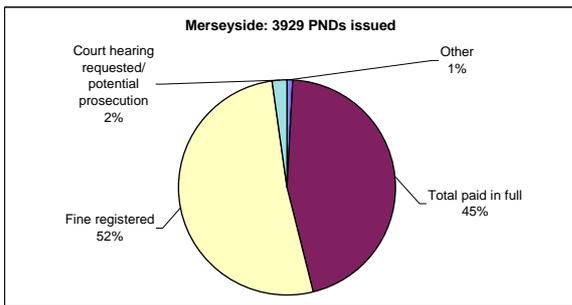
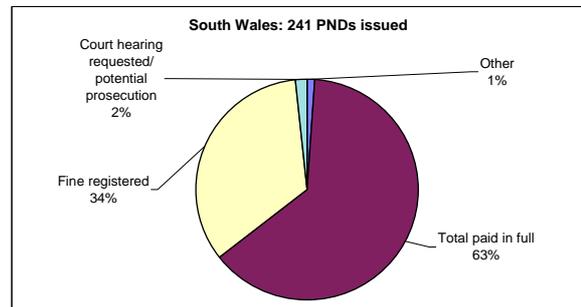
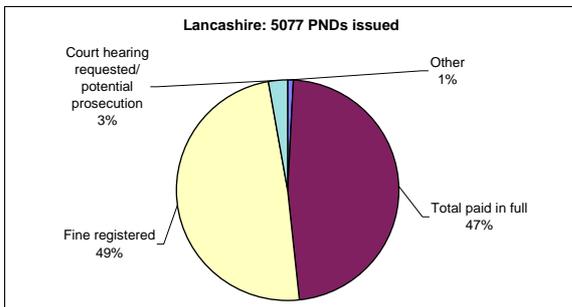
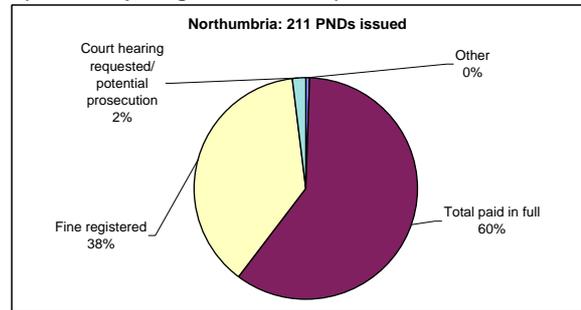
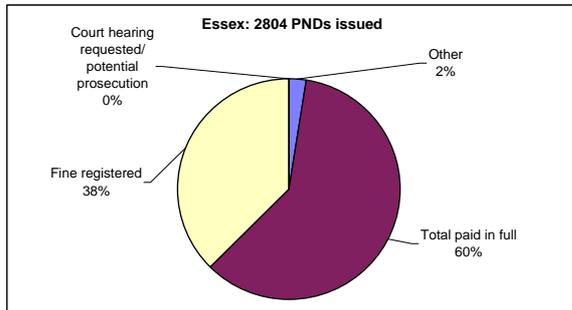
Regards,

CUSTOMER SUPPORT TEAM

APPENDIX 'K'

PND PAYMENT & OTHER DISPOSALS

(10 Participating Police Forces)





Monthly Excel Spreadsheet for PND Issue by Division

APPENDIX 'L'

Local Offence Wording	Division	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	Total
Buying or attempting to buy alcohol by a person	A Division							
CAUSING HARASSMENT, ALARM OR DISTURBANCE	A Division							
	B Division							
	C Division							
	D Division							
	E Division							
	F Division							
Consume alcohol in designated public place	F Division							
DESTROYING OR DAMAGING PROPERTY (CRIMINAL DAMAGE)	A Division							
	B Division							
	C Division							
	D Division							
	E Division							
	F Division							
DRUNK & DISORDERERLY	A Division							
	B Division							
	C Division							
	D Division							
DRUNK & DISORDERERLY	E Division							
	F Division							
Depositing and leaving litter	F Division							
Drunk in highway	E Division							
	F Division							
KNOWINGLY GIVE FALSE ALARM TO PERSONS	A Division							
SELL ALCOHOL TO PERSON UNDER 18	A Division							
	E Division							
	F Division							
THEFT (RETAIL UNDER #200)	A Division							
	B Division							
	C Division							
	D Division							
	E Division							
	F Division							
THEFT (RETAIL UNDER #200)	G Division							
THROWING FIREWORKS	E Division							

APPENDIX 'L'