



TITLE **CRIMINAL JUSTICE AND POLICE ACT 2001 (S1 – 11) PENALTY NOTICE FOR DISORDER POLICE OPERATIONAL GUIDANCE: CANNABIS POSSESSION OFFENCES**

From: Sentencing Policy and Penalties Unit
Ministry of Justice

Distribution date: 23 July 2009

Implementation Date: 23 July 2009

For further information contact: Chris Morris-Perry
chris.morris-perry@justice.gsi.gov.uk
020 3334 5039

Broad subject: Penalty notice for disorder – police operational guidance

Sub category: New guidance on cannabis possession

This circular is being sent to: Chief Officers of Police, Association of Chief Police Officers, HM Chief Inspector of Constabulary, Chairmen of Police Authorities, Association of Police Authorities

Copies are being sent to: Lord Chief Justice, President of the Queen's Bench Division, Senior Presiding Judge, Lords of Appeal in Ordinary, Lords Justices of Appeal, High Court Judges, Crown Court Judges, District Judges (Magistrates' Courts), Chairman of Justices, Clerks to the Justices, Judicial Studies Board, Council of Circuit Judges, Magistrates' Association, Justices' Clerks' Society, HMCS Area Directors, Crown Court Managers, Police Federation, Police Superintendents' Association, National Crime Registrar.

Criminal Justice and Police Act 2001 (s1 – 11) Penalty Notice for Disorder Police Operational Guidance: Cannabis Possession offences

Cannabis Possession

1. The offence of cannabis possession was added to the PND Scheme on 28 January 2009. This new guidance should be read in conjunction with

- generic guidance on PNDs: Criminal Justice and Police Act 2001 (s1-11) PND Police Operational Guidance, see link below:

http://police.homeoffice.gov.uk/publications/operational-policing/PenaltyNotices_March105.pdf?view=Binary

- ACPO Guidance on Cannabis Possession for Personal Use, Revised Intervention Framework published on 28 January 2009 see link below:

[http://www.acpo.police.uk/asp/policies/Data/ACPO_Cannabis_Guidance - 28 Jan 09.doc](http://www.acpo.police.uk/asp/policies/Data/ACPO_Cannabis_Guidance_-_28_Jan_09.doc)

2. Penalty Notices for Disorder (PNDs) may be used for dealing with adult offenders caught in possession of cannabis and its derivatives, for personal use. Under ACPO Guidance there is a three-stage escalation procedure under which it is expected, subject to there being aggravating factors, that an offender will receive a cannabis warning for a first possession offence, a PND for a second offence and then be arrested for a third offence. If officers are able to confirm that a suspect has been issued with a PND for cannabis possession, it **will not** be appropriate to issue a second one for this offence.

3. PNDs **cannot** be issued for offences relating to any drug other than cannabis or cannabis derivatives. In issuing PNDs for cannabis possession, officers should use their judgement and experience to assess whether the amount of drug possessed by the offender appears reasonable for personal use. The above process of escalation should not apply if the officer has reasonable grounds to suspect possession with the intent to supply; in that case, arrest is always appropriate.

4. Cannabis possession is a recordable offence and details of PNDs issued for the offence should be logged on the Police National Computer (PNC). As part of their consideration whether or not to issue a PND for this offence, officers will need to check the PNC to establish whether a previous PND has been issued. If a second PND is issued in good faith, but it subsequently comes to light that a previous one has been issued to an offender, it should stand.

5. It is expected that an offender will have received a cannabis warning prior to the issue of a PND. However, there may be particular operational circumstances or aggravating factors (see Part 2 of the ACPO Guidance) where it is decided, that although a cannabis warning has not been issued, a PND is the more appropriate means of disposal.

6. Officers should refer to Parts 2 and 3 of the ACPO guidance to determine whether the nature of the offence and the offender are suitable for disposal by PND.

7. Where it is decided to issue a PND, officers should seize the cannabis as evidence of the offence; it should **not** be disposed of at the scene. Officers should follow their force's Standard Operating Procedures and deal with any cannabis found in line with those guidelines. If a recipient of a PND elects to have the matter heard at court, the drug will be treated as evidence in the normal way.

8. PNDs for possession of cannabis will **not** be appropriate for offenders under 18 years old. Such individuals should be dealt with under Section 65 of the Crime and Disorder Act 1998 which requires young people be considered for reprimand, final warning or prosecution.