In 1994, the Home Office produced the latest circular in a series on cautioning. The 1994 Circular aimed to discourage the use of cautions in inappropriate cases – particularly indictable-only offences; to discourage the use of repeat cautioning; to increase consistency between forces; and to promote better monitoring and recording of cautions. The research reported here examined the impact of the circular, drawing on the results of a survey of all police forces in England and Wales.

**KEY POINTS**

- Most forces welcomed the 1994 Circular and believed it would lead to a more unified, consistent and centralised approach to case disposal.

- There was evidence that repeat cautioning had become less frequent although practice varied considerably between forces.

- The role of inter-agency consultation, one of the main purposes of which is to advise on second and subsequent cautions, has been questioned due to the circular’s restriction on repeat cautioning.

- Contrary to guidance in the circular, different criteria appeared to be applied for cautioning juveniles and adults. The types and range of factors taken into account when deciding whether to caution also varied widely between forces.

- At the time they were surveyed (late 1995), most forces were unable to meet the minimum standard for the monitoring and recording of cautions.

**BACKGROUND**

There have been a number of initiatives over the last decade aimed at influencing police forces in their use of cautioning. Circulars produced in 1985 and 1990 encouraged consistency and multi-agency working when using cautions. They focused particularly on the diversion of juveniles and first-time offenders from the criminal justice system by way of a caution. The most recent circular (18/1994) again emphasised the need for consistency across forces and encouraged effective monitoring of cautions to assist in this process. However, the explicit discouragement of repeat cautioning contained in the 1994 Circular represented a significant departure from existing policy and practice.

Following the circular, the Association of Chief Police Officers (ACPO) issued more detailed and prescriptive guidance which acknowledged the lack of consistency in decision-making and recommended the use of gravity factors to improve objectivity. The gravity factor system suggested by ACPO allocated a score according to the seriousness of the offence and a range of aggravating or mitigating factors. The final score would be a guide when deciding on a suitable disposal.

**FORCES’ VIEWS ON THE 1994 CIRCULAR**

The majority of forces took the view that the 1994 Circular, together with the subsequent ACPO guidance, would help to produce greater consistency.
of decision-making and would reduce repeat cautioning. The result would be to reduce the overall cautioning rate – particularly for juveniles. However, forces differed both in the extent to which they saw the circular guidance raising difficulties with multi-agency partners in work with juveniles; and in their views about the usefulness of gravity factors as aids to case disposal. Only 25 out of 42 forces accepted gravity factors as a guide for cautioning decisions. The research findings indicated that forces accepted the principles of the new guidance but continued to use a considerable degree of discretion when making decisions about individual cases.

THE USE OF REPEAT CAUTIONING
The circular’s guidance on reducing repeat cautioning appears to have had an impact. A separate Home Office survey showed that 14% of those cautioned in one week during November 1994 had been cautioned previously. This is six percentage points lower than a similar survey in 1991. However, the survey reported here found that variation between forces in the use of repeat caution was significant (see Figure 1) and was dependent on a range of factors – in particular, forces’ arrangements for, and their policy on, inter-agency consultation.

![Figure 1 Use of second and subsequent cautions for indictable offences for males aged 14 – 17](image)

MULTI-AGENCY WORKING
In line with previous Home Office policy, most forces had established procedures for inter-agency consultation in juvenile cases. Most forces now have centrally determined policy and practice, making inter-agency working more consistent and standardised.

Although there is now a more uniform approach to inter-agency working, there remain differences in approach between forces. For example, some forces referred all cautioning decisions involving juveniles for consultation with other agencies; others only referred those cases which did not meet the criteria for an instant caution – often those involving second or subsequent cautions. Others referred those cases where the police wished to recommend prosecution.

Despite these differences in practice, on balance inter-agency consultation had come to assume an important role in caution decision-making. Nevertheless, the 1994 Circular emphasised, firstly, that the final decision rests with the police in all cases and, secondly, that the role of inter-agency panels is purely advisory and that their advice should not be sought as a matter of course. As a result, many forces were concerned that the 1994 guidance could considerably undermine established working relationships with inter-agency partners. This was further exacerbated as the 1994 Circular recommended a reduction in the use of repeat cautioning. One of the main purposes of multi-agency consultation is to advise on second and subsequent cautions. Many forces highlighted this issue as being the greatest problem with the 1994 Circular.

THE USE OF ‘CAUTION-PLUS’
Twenty-four forces had some form of caution-plus or supported caution (a caution including additional intervention). In all but one of these forces, the use of caution-plus was restricted to juveniles. Although a decision to caution should be made independently of any agreement by an offender to participate in a caution-plus scheme, 17 forces said that, in some circumstances, the availability of such a scheme would increase the likelihood of a decision to caution.

The 1994 Circular encouraged the police to monitor the use of caution-plus, so that a decision could be made on its future. Forces claimed that 18 of the schemes were monitored in some way. For example, records are kept of referral rates and rates of re-offending. The number of referrals to such schemes tends to be low, withdrawal rates are high and completion rates low. Participation in caution-plus is voluntary, so securing attendance is difficult.

The role of the police in relation to caution-plus is often limited to referring cases to schemes. They do not directly contribute, manage or monitor caution-plus schemes. Most forces were therefore unable to provide details about how such schemes were run.

CAUTIONING FOR INDICTABLE-ONLY OFFENCES
The cautioning rate for indictable-only offences was 12% in 1994 and in 1995 it was 11%. Only six forces said they would not, under any circumstances, caution for a serious indictable offence. The other forces said that they would take the precise circumstances of the offence into account before making the decision. Playground robbery – the example from the circular – was mentioned by 13 forces as the kind of serious offence for which a caution might be appropriate.

CAUTIONING OF JUVENILES AND ADULTS
Figure 2 shows that the average cautioning rate for indictable offences for males rose until 1993. Since then, the average rate for adults has levelled off while the juvenile rate has decreased quite sharply. (The pattern for females has been similar, although the cautioning rate overall is much higher.) However, despite the introduction of National Standards for cautioning in 1990 (revised in 1994) which were applicable to all age groups, the rate of cautioning for juveniles remains very much higher than for other groups.
The young adult cautioning rate has continued to rise. This increase may be associated with the 1985 Circular, which highlighted these offenders as being at particular risk of becoming labelled as criminals if brought into the criminal justice system at a young age.

The levelling-off of the cautioning rate for adult males and the decrease for juveniles could be directly attributable to the 1994 Circular. Home Office statistics show there has been a decrease in the percentage of offenders cautioned who had previous convictions – one target of the circular. The discouragement of repeat cautions (most commonly used with this group) may account for the particularly sharp decrease in the rate of cautioning for juveniles.

USE OF INFORMAL WARNINGS
The use of informal warnings has increased since 1987 but confusion remains over what exactly they comprise. Although varying definitions are used, it is clear that many forces sometimes use ‘informal warnings’ as a lower tariff disposal than a formal caution. There were large differences between forces in the use of informal warnings (see Table 1).

Seven forces said that such warnings would only be used on the street or at the scene of the crime; another seven said their policy precluded the use of such warnings; and five said they could be given at the discretion of an officer. Eighteen forces used informal warnings for minor offences as part of the case disposal process, in line with the ACPO guidance. It is also suggested that informal warnings are most frequently used for juveniles (Collier, 1996). Only 14 forces officially recorded informal warnings. In addition, most forces (31) said that informal warnings would not influence future decisions made about an individual.

CONSISTENCY BETWEEN FORCES
All the Home Office circulars on cautioning issued over the last decade have emphasised the need for consistent decision making – drawing attention to differences in cautioning rates between forces. The most recent circular and the ACPO guidance, with its use of gravity factors, continued this theme and attempted to control the level of discretion enjoyed by individual officers. There is an argument that forces should be able to respond to particular local problems and thus use their discretion. But it may be equally argued that ‘justice by geography’ is not desirable and that a degree of consistency is essential.

Figure 3 shows the distribution of cautioning rates for 14- to 17-year-old males at different points in time. Other than 10- to 13-year-olds, this is the age group most likely to be cautioned. There are significant differences between forces in their average cautioning rate – with more than 35 percentage points between

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**Table 1 Informal warnings as a percentage of all cautions and informal warnings**

<table>
<thead>
<tr>
<th>Force</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northamptonshire</td>
<td>79</td>
</tr>
<tr>
<td>Cambridgeshire</td>
<td>50</td>
</tr>
<tr>
<td>North Yorkshire</td>
<td>25</td>
</tr>
<tr>
<td>Lincolnshire</td>
<td>19</td>
</tr>
<tr>
<td>Bedfordshire</td>
<td>15</td>
</tr>
<tr>
<td>West Midlands</td>
<td>14</td>
</tr>
<tr>
<td>Norfolk</td>
<td>13</td>
</tr>
<tr>
<td>Staffordshire</td>
<td>13</td>
</tr>
</tbody>
</table>

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**Figure 2 Trend of average cautioning rate for males for indictable offences 1984 – 1995**

**Figure 3 Distribution of average cautioning rates across forces in 1984, 1990 and 1994 for indictable offences for males aged 14 – 17**
Table 2 Cautioning statistics available by Command Unit/Division

<table>
<thead>
<tr>
<th>Cautioning statistics available by Command Unit/Division</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cautions given for indictable-only offences as a percentage of total cautions</td>
<td>19</td>
<td>10</td>
</tr>
<tr>
<td>Warnings given for indictable-only offences as a percentage of total warnings</td>
<td>4</td>
<td>25</td>
</tr>
<tr>
<td>Second or subsequent cautions as a percentage of total cautions</td>
<td>7</td>
<td>22</td>
</tr>
<tr>
<td>Second or subsequent warnings as a percentage of total warnings</td>
<td>3</td>
<td>24</td>
</tr>
<tr>
<td>Offenders cautioned as a percentage of total prosecutions and cautions</td>
<td>28</td>
<td>0</td>
</tr>
<tr>
<td>Offenders warned as a percentage of total prosecutions, cautions and warnings</td>
<td>7</td>
<td>22</td>
</tr>
</tbody>
</table>

Note: 13 forces kept none of these records and are not included here.

the highest and the lowest (although ‘rogue’ forces can distort the range considerably). These figures suggest that the circulars have not been successful in achieving greater consistency between forces.

The research also looked at individual forces’ rates over the same time period and found that each maintained a similar rate – be that high or low. So, although rates vary significantly between forces, individual forces appear to be consistent over time.

RECORDING AND MONITORING DECISIONS
At the time of the research (late 1995), 25 forces had some form of computerised system for recording information about cautioning. Other forces relied on card index systems. Fourteen forces shared a database with another agency, usually social services, to monitor decisions concerning juveniles. ACPO and Her Majesty’s Inspectorate of Constabulary (HMIC) have set minimum standards for monitoring and recording cautioning decisions. Table 2 shows that most forces – even those with computerised systems – were unable to meet these minimum standards when the research was carried out. The situation should now have improved considerably. Since 1995, cautions began to be recorded on the National Police Computer, so forces should now be able to meet the minimum standards.

Twenty-five forces did not know the relationship between their cautioning rate and the averages for England and Wales. The majority of the remaining forces were unable to give any explanation as to why their rates differed from the national averages.

CONCLUSIONS
There is some evidence to suggest that the 1994 circular has been successful in reducing the use of repeat cautioning and, therefore, in lowering the overall cautioning rate. However, despite calls to improve the degree of consistency, there are still significant differences between forces on almost all aspects of cautioning policy and the decision-making process. Also, few forces are able to meet ACPO/HMIC minimum standards for monitoring and recording cautioning decisions – making consistency even more difficult to achieve. Finally, the reversal of policy with respect to the role of consultation and restrictions on the use of repeat cautioning has led to difficulties for some forces in their dealings with multi-agency partners.