

## Police powers and drugs

### Part 2: Cautions

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**T**HERE have been a number of significant changes to legislation in the past few years which impact directly on drug users and those working within the drugs field. One of the most striking changes has been the increased access to drug treatment via the Criminal Justice System. The following information looks at some of the major legislative changes brought in through the Criminal Justice Act 2003 and Drugs Act 2005.

#### Simple Cautioning

Simple Cautioning is the new term for formal cautioning and is intended to differentiate simple cautions from the conditional cautions that can also now be given by police. Simple cautions can be given to adult offenders where:

- The police are satisfied that there is sufficient evidence to bring a charge;
- The suspect has made a clear and reliable admission to the offence;
- The police are satisfied that it is in the public interest to issue a simple caution.

Alternatively, the police may consider issuing a conditional caution.

#### Conditional Cautioning

Conditional Cautioning was introduced by Part 3 of the CJA 2003. This type of caution can be issued where following conditions are satisfied:

- There is sufficient evidence to bring a charge;
- The relevant prosecutor (usually the CPS) decides that there is sufficient evidence to charge the offender and that a conditional caution should be given;
- The suspect made a clear and reliable admission to the offence;
- The effect of the conditional caution has been explained to the offender and the offender has been warned that failure to comply with the conditions may result in prosecution of the original offence;
- The offender has signed a document which contains:
  - > Details of the offence
  - > The admission that he has committed the offence
  - > The offender's consent to the conditional caution
  - > The conditions attached to the caution

#### What conditions can be attached to a caution?

Conditions attached to a caution fall into two categories, namely rehabilitation and reparation.

Rehabilitation conditions can include:

- Drug treatment
- Alcohol treatment

- Anger management courses
- Driving rectification classes

These are only examples and other types of conditions can be given, if it is appropriate to do so.

Reparation conditions can include:

- Repairing damage caused to property
- Restoring stolen goods
- Paying modest financial compensation
- Apologising to the victim

All conditions should be proportionate to the offence committed; they must also be achievable and appropriate for the offender.

#### Street Cautioning

Street Warning is the terminology that has been used for informal cautions which are issued in relation to people caught in possession of cannabis for personal use. The current ACPO Guidance (which is to be updated shortly) states that the police should not arrest adults found in possession of a small amount of cannabis (that is, where it is clearly for personal use), unless aggravating factors exist.

Aggravating factors include:

- Where a person is smoking in a public place
- Where a person has been repeatedly warned for possession of cannabis
- Where there is a locally identified policing problem
- Where someone is found in possession and they are in the vicinity of children
- Where a child under the age of 10 is found in possession
- Where an individual is considered a 'vulnerable person'
- Where the individual is aged 17 and under.

If there are no aggravating factors, it is likely that an informal warning will be given and the cannabis will be confiscated. However, it is important to remember that the decision whether to arrest is at the discretion of the police officer involved.

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