

ROYAL MAIL GROUP SECURITY - PROCEDURES & STANDARDS

SUMMONS & CAUTIONING (ENGLAND & WALES)	P&S Doc. 9-X
<p>1. PURPOSE.</p> <p>The aim of this document is to provide Investigators within the Royal Mail Group, with clear guidance concerning the required Procedures & Standards in relation to the above subject.</p>	
<p>2. OBTAINING PROCESS (England & Wales)</p> <p>2.1 A summons is a written order signed by or on behalf of a magistrate directing the defendant to attend court at a certain time on a certain day to face a specified charge. In order to obtain a summons it is necessary to lay an 'Information'. There is no national standard form of information, each court making its own arrangements. Some courts require an information to be sworn whilst others deal with the matter by post.</p> <p>2.2 The summons, once received back from the court duly signed, must be served on the defendant with a form GS044. Ideally service should be by handing the summons and GS044 to the Defendant, however, service can be performed by handing the documents to another adult at the defendant's home address having first confirmed that he/she still resides there.</p> <p>2.3 Service by post can be used provided all other avenues have been exhausted. In this event, Special Delivery must be used.</p> <p>2.4 The Investigator who serves the summons must make an endorsement of service on the reverse side of the copy summons and return it to the Magistrates' Court, which issued the original summons.</p> <p>2.5 Investigators must be aware that should service by post be used, and the defendant subsequently fails to appear at court, an arrest warrant may not always be issued.</p> <p>The timescales for obtaining process are detailed in the Prosecution Guidelines (under review).</p>	
<p>3. APPLICATION FOR ARREST WARRANT</p> <p>3.1 In arrest cases or cases where the Defendant has been previously bailed by the Court at an earlier hearing, should the Prosecution need to apply for a warrant after the Defendant fails to attend Court a investigator is not required by law to substantiate the information on oath but in more serious cases it sometimes helps. The Criminal Law Team will advise where</p> <p>3.2 this is necessary.</p> <p>In cases where a defendant has failed to attend court without being previously bailed application for the issue of a warrant is made by completing an information form (if this has not already been done so) and swearing it before a magistrate. It is strongly recommended that advice be sought from the Criminal Law Team in the first instance.</p>	
<p>4. ARREST BY WARRANT</p> <p>4.1 A warrant is the signed authority of a Magistrate which quotes the names of the person to be arrested, the person required to execute it and the exact nature of the offence for which the arrest will be made.</p>	

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4.2 Unless otherwise stated, a warrant to arrest a person remains in force until the arrest is effected or until an application is successfully made to the court where it was issued for it to be withdrawn.

4.3 The actual document is kept at a police station but any constable in England or Wales may effect the arrest without being in possession of the warrant. (Section 125 (3) Magistrates Act 1980). The Investigator should contact the police officer having possession of the warrant to have ON

4.4 ARREST CONTACT GROUP SECURITY TELEPHONE (NUMBER) QUOTING REFERENCE (FILE NUMBER) written on top of the warrant.

The Criminal Law Team should be notified immediately a warrant has been executed.

5. COMMITTAL PROCEEDINGS

5.1 Cases must be prepared in accordance with the instructions laid down in the **Prosecution Guidelines** (under review).

6. GUIDELINES ON CAUTIONING OF ADULTS

6.1 The use of cautioning has no statutory basis. Neither can the cautioning procedure be said to be a common law "invention". Cautioning is a police practice which developed over the years and which has now been recognised by the common law. It has statutory recognition by virtue of Part V of the Police Act 1997.

6.2 There is guidance to the Police on the use of 'Simple Cautions' in Home Office Circular 30/2005 The Cautioning of Adult Offenders. The circular

6.3 does not have the force of law.

6.4 'Simple Cautions' are not 'Conditional Cautions' and we are not empowered to give these.

The Home Office Circular 30/2005 is not applicable to our use of cautioning although as a matter of practice we have regard to the relevant provisions of the Circular. Before issuing a 'Simple Caution' investigators must have taken advice from a criminal law solicitor. The main conditions for administering a 'Simple Caution' are as follows:

- There must be **evidence of the offender's guilt** sufficient to give a realistic prospect of conviction;
- The offender must **admit the offence**;
- The offender must understand the significance of a caution and give **informed consent** to being cautioned.

7. REPRIMANDS AND WARNINGS FOR CHILDREN AND YOUNG PEOPLE

7.1 The new final warning scheme for young offenders (young people under 18 years of age) under the Crime and Disorder Act 1998 came into force on 1 June 2000.

7.2 The system has replaced the cautioning of children and young offenders. **Only a constable is now able to reprimand or warn the child or young offender.** No caution shall now be given to a child or young person.

7.3 This will not prevent the cautioning of adults.

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7.4 The new provision takes away our ability to caution children or young offenders. In the event that our Business should wish that a child or young offender is reprimanded or warned, police assistance will be required.

There are three effects of a reprimand or warning:

1. After receiving a warning (which is the more serious of the two disposals), a young offender is referred to a youth offending team without delay. The youth offending team will then assess the offender to determine whether a rehabilitation programme is appropriate and in the vast majority of cases, provide such a programme.
2. The courts' use of conditional discharges for young offenders who have previously received a warning is restricted. Unless there are exceptional circumstances relating directly to the offence or offender, the option of a conditional discharge will not be open to the courts where they are sentencing the offender for a crime committed within two years of receiving a warning.
3. Any reprimand, warning or recorded non-compliance with a rehabilitation programme will be citable in court in the same way as previous convictions.

8. RECORDING OFFENCES

8.1 Procedures for the central recording of offences and results of prosecutions / cautions are detailed in the P&S document 'Reporting Criminal Offences to the Police'. Aspects to be covered in the final case report are detailed in the P&S document - Final Report on Prosecutions.

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