

Criminal Justice and Courts Bill

Simple Cautions

Introduction

1. Earlier this year the Justice Secretary, Home Secretary, and Attorney General launched a review of simple cautions (“the simple cautions review”) prompted by public concern over their apparent misuse by the police for seemingly serious offending behavior. The Written Ministerial Statement announcing this review set out that it would examine the way in which simple cautions are currently used, and consider the need for any changes to policy or practice to ensure that there was public confidence in the use of simple cautions as a disposal.
2. On the 19 November 2013, the Minister for Policing, Criminal Justice and Victims announced that the Government intended to accept the recommendations of the review including restricting the use of simple cautions for all indictable only offences, certain specified either way offences and where the offender had been cautioned or convicted for a similar offence in the previous two years. These changes have already been reflected in guidance for police officers and Crown Prosecution Service, published on 14 November which is available at the justice.gov.uk website (<https://www.justice.gov.uk/out-of-court-disposals>)
3. Alongside this the Ministry of Justice and the Police, in partnership with the Home Office, Attorney General’s Office and Crown Prosecution Service (CPS), announced a formal consultation on the wider out of court disposals (OCCD) landscape. As part of the review, the consultation gathered the views of the public and practitioners on how the system for OCCDs could be improved through a variety of different methods. The formal review ended on the 9 January 2014 and this will inform future steps in this area.

What is the current position?

4. The giving of a simple caution is a means of dealing with a person aged 18 or over for the commission of a low level criminal offence, which does not involve any sort of court or tribunal process or the imposition of any condition or sanction.
5. A caution is non-statutory and can be given by a police officer to a person who has admitted committing a criminal offence, agrees to be given a caution and where certain other criteria are satisfied.
6. The Ministry of Justice publishes guidance on the process to be followed by the police and the Crown Prosecution Service when they are administering simple cautions for adult offenders.

What are the proposed changes?

7. The government is taking the opportunity to legislate on certain recommendations made during the simple cautions review which have already been reflected in guidance. This will make it is absolutely clear to practitioners and the public the

offences which should not be resolved through a simple caution unless there are exceptional circumstances.

8. The legislation provides that simple cautions will no longer be available for offences that must be tried in the Crown Court (“indictable only offences”) and certain offence that are triable either in a Crown or magistrates’ court (“specified either way offences”), unless a senior officer (and the CPS in the case of indictable only cases) determines that there are exceptional circumstances.
9. For the remainder of either way offences and all summary only offences a simple cautions will not be available to an offender who has been convicted or cautioned for a similar offence in the last two years, unless there are exceptional circumstances.