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Code of Practice for Conditional Cautions

Part 3A of the Criminal Procedure Ordinance 2016

July 2019

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Section 1: Introduction

Definitions

1.1 In this Code of Practice:

“the 2016 Ordinance” means the Criminal Procedure Ordinance 2016;

“decision maker” means either the Attorney General and Legal Adviser or a Crown Counsel who is required to make a decision under section 47B(2) of the 2016 Ordinance;

“prohibited immigrant offender conditions” mean conditions, the objects of which are set out in section 47A(5) of the 2016 Ordinance, namely:

- (a) to bring about the departure of the offender from the Areas, and
- (b) to ensure that the offender does not return to the Areas for a period of time;

“prohibited immigrant” has the meaning given in section 5(1) of the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960. In practice this means an offender with no right to enter or remain in the Areas and in respect of whom there is a power to enforce their departure from the Areas.

Aim and purpose of conditional cautions

1.2 A conditional caution allows a decision maker to decide to give a caution with one or more conditions attached. When an offender is given a conditional caution for an offence, criminal investigation in relation to that offence is halted while the offender is given an opportunity to comply with the conditions. Where the conditions are complied with, the prosecution is not normally commenced¹. However, where there is no reasonable excuse for non-compliance, criminal proceedings may be commenced for the original offence and the conditional caution will cease to have effect. A conditional caution can be given for one or more offences.

1.3 Conditional cautions provide an opportunity:

- to offer a proportionate response to low level offending;
- for offenders to make swift reparation to victims and communities;
- for offenders to be diverted at an early opportunity into rehabilitative services thereby reducing the likelihood of re-offending; and
- to punish an offender by means of a financial penalty.

1.4 The 2016 Ordinance permits either the Attorney General and Legal Adviser or a Crown Counsel to decide whether to give a conditional caution to an offender and what conditions may be

¹ Prosecution may still be brought where a conditional caution has not been administered appropriately or new evidence comes to light suggesting that the offence committed is more serious than appeared at the time the decision to offer a caution was made. The victim may also decide to bring a private prosecution. Particular care must therefore be taken in not giving the offender absolute assurance that a prosecution will not be commenced.

appropriate. A police officer may administer a conditional caution but may not decide whether a caution is appropriate or what conditions should be imposed.

Relevant legislation

1.5 Statutory conditional cautions were introduced by Part 3A of the 2016 Ordinance which came into force in July 2019. This Code of Practice governs the use of statutory conditional cautions.

1.6 The Code of Practice was prepared by the Administrator under section 47F of the 2016 Ordinance and was published with the consent of the Attorney General and Legal Adviser. It comes into force on the day the Criminal Procedure Ordinance 2016 (Code of Practice: Conditional Cautions) Order 2019 comes into force². It extends to the Sovereign Base Areas of Akrotiri and Dhekelia.

² The Criminal Procedure Ordinance 2016 (Code of Practice: Conditional Cautions) Order 2019 came into force on 16 July 2019.

Section 2: Decision making

The five requirements

2.1 Section 47B of the 2016 Ordinance sets out five requirements that must all be met before a conditional caution may be given. These are:

- (1) the police officer must have evidence that the offender has committed an offence,
- (2) the decision maker must determine that there is sufficient evidence to charge the offender with the offence (see paragraphs 2.2 to 2.4). The decision maker must also determine that a conditional caution should be given to the offender in respect of the offence (paragraphs 2.5 to 2.13),
- (3) the offender must admit to the police officer that he has committed the offence (paragraphs 2.4, 3.3 and 3.4),
- (4) the police officer must explain the effect of the conditional caution and warn the offender that failure to comply with any of the conditions may result in prosecution for the offence (paragraphs 3.5 to 3.9), and
- (5) the offender must sign a document containing: details of the offence, an admission that the offender committed the offence, consent to being given a conditional caution and details of the conditions attached to the conditional caution (paragraphs 3.10 and 3.11).

Grounds for giving a conditional caution

2.2 In deciding that there is sufficient evidence to charge the offender with the offence the decision maker should apply the evidential stage of the Charging Test.

The Charging Test – evidential stage

2.3 The decision maker must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction in respect of each offence.

2.4 In determining whether there is sufficient evidence to provide a realistic prospect of conviction in respect of each offence, the decision maker should take into account all available evidence including any admission made by the offender. The decision maker must not offer a conditional caution in order to secure an admission that could then provide sufficient evidence to meet the evidential stage of the Charging Test.

The Charging Test - public interest stage

2.5 Where there is sufficient evidence to provide a realistic prospect of conviction the decision maker must go on to consider whether a conditional caution should be given in respect of the offence. The decision maker should apply the public interest stage of the Charging Test.

2.6 In most cases, and subject to paragraph 2.9, a conditional caution should not be given where a court, if the offender were convicted, would be likely to impose a significant community sentence or a period of imprisonment for the offence.

2.7 In deciding whether to give a conditional caution the decision maker will take into account:

- the seriousness of the offence;
- the circumstances of the case;
- any views expressed by the victim;
- any wider neighbourhood or community considerations or concerns;
- the background, circumstances and previous offending history of the offender;
- the willingness of the offender to comply with possible conditions;
- the likely effect of the conditional caution;
- the likely outcome if the case proceeded to court;
- other relevant guidance issued by the Attorney General and Legal Adviser.

2.8 Where a number of offences are related³, and an out-of-court disposal is considered suitable for all of them, the decision maker may decide to group the offences and deal with them using one conditional caution. Before making this decision, the decision maker should consider whether the number of offences increases the gravity of the offending behaviour to a level where the public interest requires prosecution.

Prohibited immigrant offenders

2.9 Prohibited immigrant offender conditions may be suitable for more serious offences which attract a custodial sentence. There is an additional consideration in these cases because the public interest may be better served where the offender departs from the Areas and agrees to not return for a period of time, rather than be prosecuted in the courts.

Deciding whether to give a conditional caution after an offender has been charged

2.10 Where an offender is charged with an offence, the decision maker, on reviewing the case, may decide that a conditional caution would be more appropriate. If so, the prosecution will be halted pending the decision of the offender about whether to accept a conditional caution. The decision to give the conditional caution must be made in accordance with this Code of Practice.

The offender

2.11 Previous convictions, simple cautions and other out of court disposals in relation to earlier offences do not preclude giving a conditional caution to an offender in relation to the current offence. A conditional caution may be appropriate where:

- there has been a sufficient lapse of time following a previous caution or conviction for the same or similar type of offence to suggest that it had a sufficient deterrent effect;
- the current offence is low level;
- the current offence is not similar or the same as any previous offence;
- giving a conditional caution is likely to be the best outcome for the victim and the offender;
- the offender has previously complied with another form of out-of-court disposal.

2.12 A conditional caution is unlikely to be appropriate where the offence forms part of a pattern of offending. The decision maker may consider that a different form of resolution, such as a prosecution, would be a more appropriate alternative for dealing with the offence.

³ Related offences could arise out of the same incident or alternatively they may be similar offences related to the same underlying problem (for example, acquisitive crime to fund a drug habit).

2.13 A second conditional caution should not generally be given for the same or similar offence unless there are exceptional circumstances indicating that it may be appropriate; for example, where the previous conditional caution was more than two years earlier. Generally, it will not be appropriate to give a second conditional caution where the offender failed to comply with the conditions of the previous conditional caution.

Conditions

Type of conditions

2.14 The conditions that can be attached to a conditional caution must have one or more of the following objectives:

- **Rehabilitation** – conditions which help to modify the behaviour of the offender, serve to reduce the likelihood of re-offending or help to reintegrate the offender into society;
- **Reparation** – conditions which serve to repair the damage done either directly or indirectly by the offender;
- **Punishment** – financial penalty conditions which punish the offender for their unlawful conduct;
- **Removal from the Areas** – conditions which serve to bring the departure of the prohibited immigrant offender from the Areas and ensure that the offender does not return for a period of time.

Rehabilitative conditions

2.15 Rehabilitative conditions may include attendance at drug or alcohol misuse programmes, or interventions tackling other addictions or personal problems, such as gambling or debt management courses.

Reparative conditions

2.16 Reparative conditions may include apologising, repairing or otherwise making good any damage caused, provided this is acceptable to the victim. Specific financial compensation may be paid, for example, to a victim. Where the offending has resulted in damage to community property, reparation may take the form of:

- repairing the damage caused,
- reparative activity within the community more generally, or
- a payment to an appropriate local charitable or community fund.

Punitive conditions

2.17 At present only one punitive condition is available: the payment of a financial penalty (see paragraph 2.35).

Prohibited immigrant offender conditions

2.18 Prohibited immigrant offender conditions may be given to an offender who is a prohibited immigrant and is aged 18 or over. The objective of these conditions is to bring about the departure

of the offender from the Areas and ensure that the offender does not return for a period of time. The conditions may require the offender to:

- regularly report to a police station,
- obtain or assist authorities in obtaining a valid national travel document, or
- comply with any lawful instruction given by the Administrator or a police officer.

2.19 Prohibited immigrant offender conditions can be given on their own or in addition to one or more conditions that are rehabilitative, reparative or punitive.

2.20 Prohibited immigrant offender conditions **cannot be given** where:

- there are reasonable grounds for believing that the offence is connected to human trafficking, where the offender is either a victim or perpetrator, or
- the offender has made an asylum or human rights claim and that claim is outstanding. This does not, however, prevent prohibited immigrant offender conditions from being offered where the asylum or human rights claim has been refused (and any appeal against that refusal has been finally determined), where the prohibited immigrant offender voluntarily withdraws the claim, or where the prohibited immigrant offender's grant of asylum has been revoked or not renewed.

Selection of appropriate, proportionate and achievable conditions

2.21 Conditions attached to a conditional caution must always be:

- appropriate,
- proportionate, and
- achievable.

2.22 When deciding on the conditions that should be attached to a conditional caution the decision maker may draw on the views of others. This may include those involved with restorative justice processes.

Appropriateness

2.23 The decision maker should seek to apply a problem solving approach aimed at changing an offender's behaviour and, if possible, providing redress to the victim of the offence. For most offenders these two aims will be regarded as the priority.

2.24 A financial penalty condition should only be used where there are no appropriate reparative or rehabilitative conditions or where those conditions do not provide a proportionate response to the offending behaviour.

2.25 In considering the appropriate conditions to achieve one or more of the objectives set out in paragraph 2.14, the decision maker should consider whether any of the following are applicable to the case:

- opportunities to provide reparation or compensation to any victim or relevant neighbourhood or community;
- use of conditions to reflect and secure the interests of the victim and neighbourhood or community (for example, by requiring the offender to stay away from a specific area);

- use of restorative and reparative processes to have a positive impact on the community or individuals affected by the offending behaviour;
- opportunities to provide reparative unpaid work that benefits the community;
- use of a financial penalty condition to punish the offender and deter future offending (see paragraph 2.35).

Proportionality

2.26 When determining the conditions to be attached to a conditional caution, the decision maker should consider the totality of the conditions and seek to achieve proportionality to the offending behaviour. The objectives sought ought to be achieved by the attachment of the minimum number of conditions.

Achievability

2.27 Offenders must be able to complete the conditions satisfactorily and within a reasonable time period. The decision maker should take into account the offender's circumstances, physical and mental capacity, and ensure that any financial conditions are commensurate with the means of the offender.

2.28 Conditions should avoid any conflict with the offender's religious beliefs and any interference with the times, if any, at which he or she normally works or attends school or any other educational establishment or attends other specialist services.

Time limits for completing conditions

2.29 All rehabilitative, reparative and punitive conditions must be capable of being completed within 16 weeks where it is an offence with a maximum penalty of 12 months imprisonment or less. Exceptionally a period of longer than 16 weeks may be suitable for an offence which carries a maximum penalty of more than 12 months imprisonment depending on the facts of the particular case but must not exceed 20 weeks. Such longer period must still be appropriate, proportionate and achievable. Periods of time in this paragraph start from the date the conditional caution was given.

2.30 In relation to prohibited immigrant offender conditions, conditions to bring about the departure of the offender should be completed as soon as reasonably practicable and in most cases within 16 weeks. Exceptionally, a longer period may be set where the administrative process is likely to take longer than 16 weeks. This type of condition will not be appropriate where it will take longer than 24 weeks to complete. Periods of time in this paragraph start from the date the conditional caution was given.

General considerations

2.31 Conditions which impose restrictions on an offender may only be used where they contribute towards one or more of the aims of rehabilitation, reparation, punishment or the aims of a prohibited immigrant offender conditions. Such conditions could be used to prevent the offender from contacting individuals, visiting certain locations or participating in particular activities.

2.32 Conditions may include reference to the future behaviour of an offender, such as an agreement not to commit further offences for a specified period.

2.33 An offender with sufficient means may be expected to pay the reasonable costs associated with a condition attached to a conditional caution in order to render the conditions effective, and a requirement to do so might be an additional condition. This is subject to the offender having the means to pay and must be appropriate, proportionate and achievable. Where a condition cannot be given to an offender because they cannot afford to pay the reasonable costs, every effort should be made to identify an alternative condition provided that it is appropriate, proportionate and achievable.

Conditions with a financial element

2.34 Conditional cautions with a financial element include:

- a compensation payment as part of a reparative condition (for example a payment to a victim or to a community fund);
- a financial penalty as part of a punitive condition;
- costs associated with reparative, rehabilitative, punitive or prohibited immigrant offender conditions.

2.35 The maximum amount of any financial penalty condition in relation to each offence is specified in section 47D of the 2016 Ordinance. The decision maker should determine the level of a financial penalty, taking into account the means of the offender and the circumstances of the case, including the seriousness of the offence.

2.36 There are no restrictions in the 2016 Ordinance on the offences for which a compensation payment can be given as part of a reparative condition or on the amount of the compensation. However, it would normally not be appropriate to impose compensation exceeding the maximum amount the Court generally has the power to award.

2.37 Conditions with a financial element will not be subject to enforcement procedures by the court. Failure to make payment in relation to any condition with a financial element without reasonable excuse will amount to non-compliance with the condition of the caution and may lead to prosecution for the original offence.

2.38 When considering any conditions with a financial element that may be attached to a conditional caution, particularly where the offender is of limited financial means, the decision maker should always prioritise compensation for the victim ahead of any costs associated with other conditions and any financial penalty condition.

2.39 Where the offender is under 18, the responsibility for payment of the financial penalty rests with the offender who accepts the caution and there is no obligation for parents or carers to pay this penalty. It is particularly important to consider the means of the offender who is under 18 and not the means of their parent or guardian.

2.40 A conditional caution may contain more than one financial element. For example, it may contain a requirement to pay compensation to a victim as part of a reparative condition together with a financial penalty condition. However, the total amount of the financial element must be within the means of the offender and must be capable of being paid within a reasonable period of time (see paragraphs 2.29 and 2.30 in relation to time limits).

2.41 In addition, the extent of any financial loss suffered by the victim may mean that the full amount of any compensation payable as part of a reparative condition is beyond the means of the

offender. This does not preclude the use of a conditional caution in such circumstances where it is appropriate because the decision maker can suggest an amount that is less than full compensation. Before giving a conditional caution in such circumstances the decision maker should consider whether a court order for compensation (which can be paid over a longer period of time) would be a more suitable response taking into account all the circumstances of the case.

Considering the views of others

2.42 The decision maker will have in mind, where appropriate, the views of others, for example, victims.

Involvement of the victim

2.43 The views of the victim should be obtained wherever possible. The Attorney General and Legal Adviser or a Crown Counsel may instruct a police officer to approach the victim in order to seek the victim's views. These should be taken into account in deciding whether a conditional caution is appropriate and in determining suitable conditions. The victim's consent must be obtained in any case where direct reparation or restorative justice processes are being considered or where the victim is directly involved in some way. If the victim does not consent to such conditions, the decision maker may still consider giving a conditional caution with other conditions attached that do not directly involve the victim.

2.44 The views of the victim will be important but cannot be conclusive. The decision as to whether to give a conditional caution and the conditions to be attached lies with the decision maker who will take into account the views of the victim wherever possible. In some circumstances the decision maker may consider that proportionality with the level of the offence requires the inclusion of conditions that may be more or less onerous than those the victim wants. Care must be taken not to raise the expectations of the victim whilst seeking their views.

2.45 Where the conditions attached to a conditional caution have a direct impact on the victim, the victim should be informed of the conditions given to the offender and the intended outcome. The victim should be informed of any changes to the expected outcome, for example, if the offender has failed to comply with the conditional caution and will not be completing the conditions.

2.46 Victims who are not directly affected by the conditions should also be informed of the outcome of the case where possible, including whether the conditional caution was completed or whether the offender was prosecuted for the original offence as a result of non-compliance.

Section 3: Process to follow

Administration of a conditional caution

3.1 The conditional caution may be administered in a police station, court building or any other suitable location consistent with achieving the appropriate impact on the offender.

3.2 It will not generally be appropriate to administer a conditional caution in public (for example, in the street) or in the offender's home. However, in exceptional circumstances such as an elderly or vulnerable offender the conditional caution may be administered in the offender's home or similar place, providing the correct procedure for administering the conditional caution is adhered to.

Admissions of guilt

3.3 The offender must admit the offence. The 2016 Ordinance does not require an admission to be made by the offender before the decision maker determines whether a conditional caution is appropriate. However, the offender must make an admission at the time the conditional caution is given that he or she has committed the offence (or all the offences) for which the conditional caution is being given. This is true for all cases, irrespective of whether a previous admission has been made by the offender.

3.4 A conditional caution **cannot be given** to an offender who does not make a clear and unambiguous admission to committing the offence when the conditional caution is administered. This is particularly important where there is any doubt at all about the mental state or capacity of the offender. The police officer should be particularly careful about accepting an admission in these circumstances.

Explaining the effect of the conditional caution

3.5 Before administering a conditional caution the police officer shall ensure that the offender has the opportunity to receive independent legal advice in relation to the criminal offence. Where the offender is under 18, the explanation of the effect of the conditional caution must be given in the presence of an appropriate adult.

3.6 In addition the police officer must:

- explain that the offender has the right to legal advice at any time during the process;
- inform the offender of the evidence against them and the decision made by the decision maker;
- explain the requirements of a conditional caution including exactly what each condition requires the offender to do;
- explain the requirement for and consequences of making an admission to the offence, including the fact that the admission may be used in evidence should the case result in prosecution (see paragraph 3.11);
- make it clear to the offender that an admission should never be made merely to receive a conditional caution;
- explain, that the conditional caution will form part of the offender's criminal record and may need to be disclosed in certain circumstances including to an employer or prospective employer;

- explain that the offender may decide at any stage to withdraw from the conditional caution whether it is before, during or after it has been administered (see paragraph 3.19). If the offender does decide to withdraw from the conditional caution the offender should inform the police officer as soon as possible. The decision maker may then decide that the offender should be charged with the original offence and prosecuted;
- explain the means by which compliance with each of the conditions will be verified (including any responsibilities of the offender for demonstrating compliance);
- warn the offender that any failure to comply with the conditions will be investigated. The offender will be given an opportunity to explain the reasons for non-compliance with the conditions. The decision maker will consider the circumstances of the case including the extent of any compliance to date, and may decide that the offender should be prosecuted for the original offence;
- outline the process for contacting the police should any problems arise in complying with the conditions or if the offender decides to withdraw from the conditional caution process;
- inform the offender that the victim(s) may be informed of the conditions agreed (unless there is good reason for this not happening) and may be provided with the details of the offender for any civil proceedings;
- confirm that the offender accepts the conditions and agrees to accept the conditional caution.

3.7 When complying with paragraph 3.6 the police officer must have regard to any legislation or guidance concerning the use of an appropriate adult in relation to mentally disordered offenders or offenders who have impairment of intelligence or social functioning.

3.8 It should be borne in mind throughout the process that the offender who is under 18 is not an adult. Particular care must be taken to ensure that such an offender understands what is happening and the options open to them.

3.9 When dealing with non-English speakers, the police officer must ensure that the provisions of paragraph 3.6 are explained in a language that the offender can understand.

Recording the caution

3.10 Section 47B(5) of the 2016 Ordinance requires that the offender sign a document recording the conditional caution. Annex A contains the form for recording the conditional caution.

3.11 The offender should be warned that this document is admissible in criminal proceedings, in accordance with section 47E(2) of the 2016 Ordinance, following failure by the offender to comply with the conditions.

Monitoring and compliance

Monitoring of conditions

3.12 When determining the conditions to be attached to a conditional caution, the decision maker should consider the mechanism by which compliance with the conditions will be monitored and demonstrated.

3.13 The monitoring process must be made clear to the offender. Where reasonable and appropriate, the onus for providing confirmation of compliance may be placed specifically upon the offender.

3.14 A robust process for demonstrating compliance must be in place. This may include agreements with:

- organisations involved in delivering the conditions;
- police officers and other police staff;
- probation services;
- the Courts (for collection of monies).

Compliance with conditions

3.15 The police officer will determine whether there has been non-compliance with the conditions.

3.16 Compliance with the condition(s) attached to the conditional caution within the agreed timescale will normally preclude the possibility of prosecution for the original offence. Failure to comply with a condition is not an offence in itself but may result in the offender being prosecuted for the original offence. Alternatively, it may be appropriate to vary the conditions or, in some cases, take no further action.

Establishing non-compliance

3.17 Where it appears to the police officer that an offender is failing to comply with one or more conditions, the police officer should seek to give the offender the opportunity to explain and demonstrate compliance or to establish whether any reasonable excuse exists for non-compliance. If compliance still cannot be demonstrated, the police officer must report to the decision maker the offender's failure to comply with conditions and any explanation advanced on the offender's behalf. The police officer must submit the report to the decision maker in writing and no later than within 10 days from the day the police officer becomes aware that the offender has failed to comply with the conditions.

3.18 Where there is no response from the offender, or where the decision maker concludes that there is no reasonable excuse for the failure, or that the non-compliance is likely to continue, a prosecution for the original offence should usually follow.

Withdrawal from conditions

3.19 An offender may withdraw from one or more of the conditions attached to a conditional caution after it has been administered. Where this occurs, the police officer must report this to the decision maker in writing no later than within 10 days from the day the police officer becomes aware that the offender has withdrawn from the conditional caution. The decision maker should consider whether to treat this behaviour as non-compliance and whether the offender should be prosecuted for the original offence.

Actions that may be taken following non-compliance or withdrawal

3.20 Where the decision maker is satisfied that there is a reasonable excuse for the offender's failure to meet the conditions, or there has been substantial part compliance, the decision maker will have to decide whether:

- the conditional caution should be regarded as completed,

- the conditional caution should be regarded as incomplete but that the public interest requires no further action,
- a new time limit should be set for completing the original conditions, or
- the original conditions should be revised.

Variation of conditions

3.21 The conditions attached to the caution may be varied or changed by a decision maker if the offender agrees to this. Where the offender refuses to accept varied conditions because the offender considers them to be unreasonable, the decision maker may decide to allow the conditional caution to continue so that the offender can comply with the original conditions. If the refusal is not thought to be reasonable, proceedings may be instituted for the offence or no further action may be taken. It will not usually be appropriate to revise conditions more than once.

3.22 Any changes to the conditions must be recorded and explained to the offender by the police officer. A document clearly setting out the conditions as they stand from that point forward should be produced and must be signed by the police officer and by the offender to indicate acceptance of the new conditions. Such a document must comply with the requirements set out in section 47B(5) of the 2016 Ordinance. Any non-compliance with the new or revised conditions should be dealt with according to the same process as applies for non-compliance with the original conditions.

Multiple offences

3.23 Where the conditional caution has been given for multiple offences, the decision maker must also determine whether the offender should be prosecuted for one or all of the offences. This is particularly relevant in cases of partial compliance, where the offender may have completed one of the conditions that related to a specific offence and so prosecution for that offence may not be appropriate whilst prosecution for those offences in relation to which the offender has not complied with the caution would still be appropriate.

Arrest and detention of offenders

3.24 Under section 24 of the 2016 Ordinance a Judge may issue a warrant for an offender's arrest if satisfied that there are reasonable grounds for believing that the offender has breached a condition attached to a conditional caution. Section 21 of the 2016 Ordinance gives the power to a police officer to arrest without a warrant a person who in the officer's presence breaches a condition attached to a conditional caution.

Prosecution following failure to comply

3.25 Where the decision maker has determined that an offender has failed to comply with a conditional caution and is to be prosecuted, proceedings should be commenced as soon as possible. The decision maker must ensure that the offender is notified and that any police records are amended accordingly. Once proceedings are instituted, the conditional caution ceases to have effect. However, the fact that a conditional caution was given and not complied with will remain on an offender's record.

3.26 Where a prosecution for the original offence follows a failure to complete conditions attached to a conditional caution, the prosecutor should ensure that the court is made aware of this fact and provide details of the conditions that were attached to the caution and the extent of any partial

compliance. This information may be used by the court when considering the case. In particular, section 47E(2) of the 2016 Ordinance provides that the document recording the conditional caution and signed by the offender is admissible in such proceedings.

Recording and citing conditional cautions

3.27 Records of conditional cautions given to offenders must be kept in accordance with relevant guidance and any relevant legal responsibilities.

3.28 Conditional cautions can be cited in any subsequent criminal proceedings subject to any relevant legislation regarding the rehabilitation of offenders.

Annex A
RESTRICTED (when complete)
CONDITIONAL CAUTION

Offender surname:
 Forename(s):
 D.O.B:
 Address:

Identity Card No.:
 Gender:

Tel: (home)

Mobile:

To be completed where the offender is under 18

<p><u>Appropriate Adult</u></p> <p>Name: Relationship: Address: Telephone/Mobile Number:</p>
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Details of offence(s)

Sequential No	Offence	Facts as if charged, date(s) of offence / arrest

I admit to the offence(s) set out above. I understand I have the right to legal advice.
 Signature of person cautioned:
 Date:

Conditions
 I agree to comply with the following conditions of the caution:

Condition(s)	Compliance requirements, including completion / progress check dates	Evidence required
1.		
2.		
3.		
4.		

Contact details for reporting compliance with the conditions:

RESTRICTED (when complete)

Offender Declaration

I..... understand the following:

- 1) That if I fail within the agreed time to comply with, or to complete, any of the conditions attached to this caution, I will be liable for prosecution for the offence(s) outlined above and this signed form may be presented as part of the case against me in a court of law;
- 2) I will inform the contact shown above without delay if: I am unable to comply with any of these conditions and explain why or I change my normal place of residence, as recorded overleaf;
- 3) A record of this Conditional Caution will be kept;
- 4) That the Conditional Caution may be disclosed when appropriate in connection with any future criminal proceedings;
- 5) If I apply for certain jobs, either paid or unpaid, and the organisation requires me to have a criminal records check, this Conditional Caution may be disclosed;
- 6) Information on my compliance may be provided to the police by the service providers;
- 7) I understand that a victim may still take out a private prosecution or a civil action against me;
- 8) The police may disclose my details to a victim for this purpose.

Signature of person cautioned:

Caution administered by:Rank & No. / Job title:

Station: Signature:

Tel. No: Date:

Signature of appropriate adult (where the offender is under 18):

.....

Tel. No: Date:

RESTRICTED (when complete)

For completion by the Officer in the Case / authorised person on the review date

I hereby certify that the conditions shown above have / have not been completed satisfactorily
(attach any relevant evidence in support of this).

Name of officer finalising the caution:

Rank & No. / Job title:

Station: Signature:

Tel. No: Date: