

**Freedom of Information Request Reference N°: FOI 006761-17**

I write in connection with your request for information received by Suffolk Constabulary on the 11 October 2017 in which you sought access to the following information:

*“I was wondering if you would be able to tell me the policies and procedures followed by Suffolk Constabulary when dealing with an individual caught with cannabis for personal use? I understand officers use discretion and therefore, there are several different ways for dealing with this issue.”*

**Response to your Request**

The response provided below is correct as of 11 October 2017

Suffolk Constabulary has considered your request for information and the response is below.

Suffolk Constabulary has a joint policy entitled ‘Joint Drug Seizure and Identification Policy’, which outlines the processes relating to the seizure and identification of drugs, including how to deal with offences of cannabis possession and when it is appropriate to issue a warning or arrest on offender.

Although a restricted policy, Section 8 – 12 are the only relevant aspects to your specific request and have been transposed below.

***8. Cannabis Warnings and Penalty Notices for Disorder***

*8.1. Cannabis possession is an arrestable offence and is a Class B Drug under the Misuse of Drugs Act 1971. Officers have three escalating options for dealing with simple possessions of cannabis for personal use.*

*8.2. The levels are not intended to interfere with an individual officer’s operational discretion, but to assist in deciding a justifiable and proportionate response to dealing with persons found in possession of cannabis, which can be seen as ethical and non-discriminatory.*

*8.3. The three levels of escalation are:*

- Cannabis Warning,*
- Penalty Notice for Disorder (PND), or*
- Arrest.*

*8.4. When issuing Cannabis Warnings or PNDs, the offender must be over 18 years of age.*

8.5. *The seizing officer is responsible for ensuring that full details of the identity (resin, leaf or flowering head material) and weight of the cannabis is entered onto the EPS Drugs Register and appropriately stored.*

#### Level 1 – Cannabis Warning

8.6. *Only one cannabis warning can be issued to an offender, therefore CIS must be checked first. In addition, the following conditions must apply:*

- *No previous record of a PND being issued;*
- *No previous drugs convictions;*
- *Not known to the officer 'locally' as a persistent offender;*
- *No aggravating circumstances;*
- *Offender is compliant with procedure.*

8.7. *Cannabis warnings are **not** recorded on PNC but **must be** recorded on CIS.*

#### Level 2 – Issue of a Fixed Penalty Notice for Disorder

8.8. *Where a Cannabis Warning has been issued previously (since 26 January 2009), a second warning cannot be given, therefore the action must be escalated, depending on aggravating factors, to either a Penalty Notice for Disorder (PND) or arrest.*

8.9. *However, only one PND for cannabis possession can be issued to an individual, therefore PNC must be checked before a PND is issued. Where a previous PND has been issued to the individual, the only option left will be to arrest.*

8.10. *Records of PND disposals must be made on PNC.*

#### Level 3 – Arrest

8.11. *Any arrest must comply with the 'necessity criteria' as per the Police and Criminal Evidence Act (PACE) 1984.*

8.12. *There is nothing to prevent an officer issuing a notice or even arresting on a first offence if the circumstances dictate. However, there can be no de-escalating in the future; subsequent action will always be more serious than the previous disposal.*

### **9. Definition of 'Personal Use'**

9.1. *Significant thought and discussion has been given to the term personal use or what may amount to a 'small quantity'. The terms have different meanings*

*depending on the circumstances surrounding the offence and the suspect. The Crown Prosecution Service Policy is to consider each case on its individual merits.*

9.2. *The term 'personal' should be given its ordinary meaning, i.e. the possessor does not intend to share it with anybody else.*

9.3. *The decision on 'small quantity' will be a matter of judgement for the officer at the time and place, considering the individual suspect and all the surrounding circumstances.*

9.4. *Where there is a suspicion of possession with intent to supply, the suspect should be arrested, the evidence secured and preserved in order to support a charge of this more serious offence.*

## **10. Aggravating Factors**

10.1. *There will be circumstances where it is appropriate to take more positive action, at an escalated level, for possession of Cannabis. This will be very much left to the discretion of officers who will be expected to take into account the prevailing circumstances in deciding whether to arrest or not. An officer **may consider escalation** in the following situations:*

### Public Place or View

10.2. *Smoking in a public place or view shows a flagrant disregard of the law and is unacceptable behaviour.*

### Locally Identified Problem and/or Fear of Public Disorder

10.3. *These may be circumstances that are causing local concerns or a local policing problem.*

10.4. *Where there is an identified particular risk to young people.*

### Repeat or Persistent Offenders

10.5. *A local repeat offender known to continually commit offences, unlikely to benefit from a Warning or Penalty Notice, or one who is continually dealt with for a variety of criminal offences, disorder or Anti-social Behaviour.*

### Uncooperative Offenders

10.6. *Where the individual is being generally uncooperative or the officer cannot confirm their identity.*

Impact on the Offender

10.7. Consideration should be given to the effectiveness of the method of disposal, in particular:

- Does the person appreciate the seriousness of the offence?
- Will the person benefit from the type of disposal?
- Will the person heed the Warning or Notice?
- Will their behaviour change as a result of Warning or Notice?
- Is the person remorseful, or are they indifferent or non-compliant?
- Is there any evidence of offending which indicates disregard for the law? (**Not limited to previous drug offences**).

**11. Youth Offenders (between 10 and 17 years of age)**

11.1. The Crime and Disorder Act 1998 provides a statutory framework for youth offenders to be dealt with in a different way to adult offenders using the options of Reprimand, Final Warning and Charge.

11.2. This legislation requires offenders to be dealt with at a Police Station, which in practice means that police officers should arrest persons aged 17 years or under (where necessity criteria is met), or arrange for the youth to attend the police station, if they are in possession of Cannabis for personal use.

11.3. The general rule officers should apply in the street to determine age is the approach of PACE Act 1984 s.37 (15), i.e. persons who appear to be under the age of 17 are to be treated as such in the absence of any evidence to the contrary.

**12. Offenders under 10 Years**

12.1. When a child under the age of ten years is found in possession of Cannabis, the Cannabis must be seized as per the above guidance.

12.2. Incidents of this nature should be considered as 'at risk' incidents and consideration should be made for the child to be referred to appropriate agencies via the Child Protection Team.

12.3. **Norfolk Only** – A C39D form should be submitted in these circumstances.



<http://www.opsi.gov.uk/>

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Your Right to Request a Review of Decisions Made Under the Terms of the  
Freedom of Information Act (2000).

If you are unhappy with how your request has been handled, or if you think the decision is incorrect, you have the right to ask Suffolk Constabulary to review their decision.

Ask Suffolk Constabulary to look at the decision again.

If you are dissatisfied with the decision made by Suffolk Constabulary under the Freedom of Information Act (2000), regarding access to information, you must notify Suffolk Constabulary that you are requesting a review within 20 days of the date of its response to your Freedom of Information request. Requests for a review should be made in writing and addressed to:

*Freedom of Information Decision Maker  
Information Management Department  
Suffolk Constabulary  
Police Headquarters  
Martlesham Heath  
Ipswich  
Suffolk  
IP5 3QS  
OR  
Email: [information@suffolk.pnn.police.uk](mailto:information@suffolk.pnn.police.uk)*

In all possible circumstances Suffolk Constabulary will aim to respond to your request for us to look at our decision again within 20 working days of receipt of your request for an internal review.

The Information Commissioner.

After lodging a request for a review with Suffolk Constabulary, if you are still dissatisfied with the decision, you can apply to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at [www.ico.org.uk](http://www.ico.org.uk) or contact them at the address shown below:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: 01625 545 700