

Final Warnings

Sonia Desborough outlines the thinking behind, and the practice of, Final Warnings introduced in June 2000.

In the 1998 Crime and Disorder Act, final warnings were drafted as the replacement to the system of cautioning young offenders between the ages of 10 to 17. In June 2000 this was implemented nation wide after being piloted in several areas over the previous 18 months. Final warnings target first and second time offenders. The aim is threefold; to end repeat cautioning and provide a progressive and meaningful response to offending behaviour, to ensure appropriate and effective action to prevent re-offending, and to ensure that juveniles who do re-offend are dealt with quickly and effectively through the courts (Home Office 2000). This article will touch upon some of the basic issues surrounding final warning and necessarily excludes some issues like the focus on restorative justice.

The caution system

The final warning scheme differs quite markedly from cautions because it has a far more prescriptive approach to how young offenders will be dealt with. Cautions had been regarded as an effective disposal leading to a low reconviction rate. It is estimated that 80% of young people given a caution did not re-offend within two years (HO 1997). The caution system was regarded as a means of diverting young people from the courts and so in theory away from crime by giving them a chance not to become labelled as a criminal. The system was flexible because it depended on police discretion. The police were given general guidelines on how cautions should be administered. The 18/1994 Home Office Circular, which was the latest guidance on cautioning said that cautions should only be used for trivial offences, when a caution would be expected to curb offending behaviour and multiple cautions were to be discouraged. The guidance is general and vague, a systematic approach to cautioning was felt to be achievable through stating that police forces should ensure that their force guidelines on cautioning are sound and are being interpreted sensibly (Home Office 18/1994).

The caution system was a flexible and effective system if a 20% reconviction rate is considered to be a success. It was however criticised, in the White Paper, *No more excuses*, as a system that was too haphazard. Justice by geography remained, serious offences did not go to court, and multiple cautions were being issued. The "inconsistent, repeated and ineffective

cautioning has allowed some children and young people to feel that they can offend with impunity" (HO 1971), bringing the system into disrepute.

Final warnings: operations and processes

The Final Warning addresses the shortfalls of the cautioning system by taking a structured approach, reducing the number of pre-court disposals given to young people who do re-offend and offering support to young people to enable them to be diverted from further re-offending. The decision to issue a Final Warning depends on the seriousness of the crime and the offending history of the young person. A gravity factor matrix, numbered 1 to 4, informs the police decision. Crimes with a gravity factor of 1 to 3 may lead to a reprimand, Final Warning or charge. Crimes with a gravity factor of 4 must be charged. This score is assessed in relation to a number of aggravating or mitigating factors that may change the score by one point either way. The offending history plays a crucial part in the decision making process. First time offenders can be reprimanded, Finally Warned or charged depending on the gravity score. Second time offenders can not be given another reprimand and can only be given one further Final Warning if the previous Final Warning was administered more than two years before. Consequently a young person who offends for the third time will rarely receive a Final Warning and will usually be charged. The decision making process is intended to be an automatic non-discretionary response. There are a few qualifications to this; the young person must for example admit guilt. There is no option for 'no further action' to be taken under this system.

The change programme

The Final Warning scheme offers the support of a change programme, according to the guidance, to the majority of young people. The nature of these programmes can vary enormously from a one hour session about victim awareness to three months mentoring. The assessment tool ASSET is used to determine what needs to be addressed to prevent further offending and the change programme is designed accordingly. This is in some ways similar to Caution Plus schemes, the main difference being that while Caution Plus was limited to certain areas, the aim of the Final Warning change

programme is to include the majority of young people Finally Warned.

There are potential problems with the Final Warning scheme resulting from the lack of flexibility. It may for example lead to net widening as more young people who commit minor crimes are dealt with by the courts. Previously they may have been dealt with through informal action or cautions. This is commonly referred to as the 'Mars bar case', in which a young person shoplifts items of little value yet goes to court because of the lack of opportunity for discretion to be used in charging decisions after the young person has been through the initial parts of the process. Change programmes are only of value if the young person attends, a problem highlighted with caution plus schemes (HORS 1997) and may be necessarily limited in the amount of intervention that can be offered. The consistent approach offered by Final Warning is already in doubt because the guidance does allow for quite different approaches to be taken. In some areas for example Final Warnings are given on the day of arrest whilst in others it could be a month before this decision is made.

The evaluation

The University of Sheffield is currently evaluating young people on a Final Warning who are referred to Youth Justice Board funded change programmes. The research is based on data collected by YOTs and interviews with all the people involved in the process from the police officer that administers the Final Warning to the young person involved. This evaluation finishes in March 2002. The evaluation also involves a reconviction study. Sheffield University's Pilot YOT evaluation involves work on Final Warnings and will be reporting shortly.

Sonia Desborough is a research officer at Sheffield University. She is currently part of the team headed by Professor Simon Holdaway evaluating young people on a Final Warning referred to YJB funded change programmes.

References:

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