



Suspect Management Policy & Procedure: Post 2022 Bail Reform

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

Policy Statement

This policy has been updated to ensure compliance with the bail changes introduced by the Police, Crime, Sentencing and Courts Act 2022 (PCSC). This policy has also been updated in line with the College of Policing Pre-charge bail Statutory guidance, which also gives an update on the use of RUI, and which has been produced because of the PCSC legislation changes.

This policy is to be applied to arrest made on or after 28/10/2022.

The NPCC has released pre-charge bail (PCB) and released under investigation (RUI) best practice guidance as the full impact and implications of the bail legislation is understood (s37 & s47 of PACE). This can be accessed on the following link: [NPCC's Operational Guidance for Pre-Charge Bail and Released under Investigation](#). This guidance in conjunction with an NYP internal audit conducted by RSM Risk Assurance LLP provides an opportunity to improve and regulate suspect management within NYP.

This policy therefore sets out the standards and expectations for the management of suspects subject to PCB, those RUI as well as those dealt with as Voluntary Attendees (VA). This policy aims to consolidate all policies, legislation and statutory guidance in relation to suspect management at both local and national level with the aim of improving the service that North Yorkshire Police (NYP) provides to victims as well as suspects. This policy contains links to guidance and procedure for suspect management along with the relevant templates required at each stage of the process.

NYP recognises the importance of dealing with victims and suspects who are affected by this legislation in a manner that has regard to dignity, respect, and equality. The welfare and safeguarding of all affected must be the paramount consideration for police officers and staff. It is important remember that we retain a duty to safeguard those involved in an investigation, the integrity of the investigation itself and the wider public.

The aims of this policy are to ensure:

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- Local PCB, RUI and VA procedures are compliant with NPCC Guidelines, the changes to bail as per the Police, Crime, Sentencing and Courts Act 2022 (PCSC) as well as local policy and procedure.
- Timely and appropriate administration of PCB, RUI, and VA in line with the requirements of PACE and other relevant legislation.
- Provide guidance to officers and staff using PCB, RUI, and VA.
- Roles and responsibilities in respect of PCB, RUI and VA management are clear, ensuring accountability and a corporate approach to suspect management; to incorporate the OIC and supervisor crime review process as well as custody management.
- A rationale for RUI is fully documented and can withstand scrutiny in a similar manner to PCB and that vulnerable victims are safeguarded.

The objective of this policy is:

- NYP to become a centre of best practice in respect of PCB, RUI, and VA through Legislative and best practice guidance compliance.
- Robust and corporate management of suspects.

Linkages

Other Documents:

College of Policing Authorised Professional Practice – Detention and Custody

Crime Recording and Occurrence Management: A guide for Supervisors

Ministry of Justice Criminal Procedure Rules Part 4

Ministry of Justice Criminal Procedure Rules Part 14

NPCC's Operational Guidance for Pre-Charge Bail and Released under Investigation, appendix A.

Policing and Crime Act 2017 Pre-Charge Bail

Police and Criminal Evidence Act 1984

Police, Crime, Sentencing and Courts Bill 2022

Victims Code

College of Policing Statutory Guidance

Diversions & Out of Court Resolutions

Suspect management initial considerations

Suspect management must be considered as soon as a suspect is identified, and a decision is made to either arrest or deal as a VA. Consideration must be given to:

- The situation of the victim.
- The nature of the offence.
- The circumstances of the suspect, for example a young or vulnerable person, health issues, a history of breaching bail conditions or intimidation.
- The needs of the investigation when making this decision.

This initial decision will impact on any subsequent suspect management decisions and therefore must be carefully considered and documented. Reference should be made to PACE Section 24 and

Code G and NYP's Voluntary Attendance guidance, for more information to aid this decision making process.

Whether you can arrest someone solely to impose bail conditions will depend on the specific circumstances of the case and whether the arrest is considered necessary, considering the necessity criteria set out in PACE Code G. In the case of *R(TL) v Chief Constable of Surrey Police* [2017] EWHC 129 (admin), the court stated that:

'If there are reasonable grounds for believing that bail conditions are necessary to protect a witness from intimidation which would or might render the investigation substantially less effective, then the requirements of s.24(e) PACE would be satisfied.

Released under investigation (RUI)

Decision making

OIC's should aim to finalise investigations during the first period of detention wherever possible. However, it will often be necessary to release suspects without bail, whilst the investigation continues. RUI is a specific status of suspect. Released from custody, they continue to be investigated but are under no specific obligations or restrictions.

All decisions to RUI as suspect must be carefully considered, as bail conditions cannot be imposed when a suspect is RUI. The RUI process, like that of PCB, must be capable of withstanding scrutiny, having due regard to proportionality and necessity in all the circumstances. A key consideration must always be the need to protect victims and witnesses, ensure public safety, as well as that of the suspect under investigation.

The decision making is a dynamic NDM process. The rationale or NDM process for RUI should be fully documented on the RUI Authorisation form on the custody record. The decision should be authorised by the Supervising Officer.

Compliance with bail conditions should not be a reason to cease pre-charge bail and move a suspect to RUI. Pre-charge bail with conditions may be having a deterrent effect and this can equally be justification for maintaining bail and the conditions that have been set

Where the Custody Officer believes that bail should be utilised instead of RUI then the bail procedure should be started. It is still necessary for the pre-conditions for imposing PCB to be met and the custody officer must believe that bail is necessary and proportionate in all the circumstances. RUI should only be used in circumstance where the pre-conditions for bail are not met and there is little, or no, risk involved.

When a suspect is RUI, this should trigger communication by the OIC with the victim(s) and witnesses, which must include advice on how to remain safe and details of the processes to follow if they feel they are subject to criminal actions by or linked to the suspect.

The Custody Officer must inform the suspect prior to releasing them under investigation that if they commit further offences whilst RUI, they risk being arrested again. Custody Officers should inform individuals on RUI of the offences of witness intimidation, perverting the course of justice or

harassment and that they will be liable to arrest should these offences be committed against the victims/witnesses in the case.

Where the suspect is less than 18 years of age the Custody Sergeant should where possible, consult with the Youth Justice Service (YJS) prior to RUI. This consultation should be logged and should contribute to any decision making regarding the disposal.

Domestic abuse, sexual offences, children or other vulnerable victims or witnesses

In the following cases there should be documented decision-making why PCB has not been used and serious consideration given to the imposition of bail with conditions to safeguard the victim, in line with this policy: If a suspect has been arrested in connection with an offence involving domestic abuse, child abuse, sexual offences or cases involving a vulnerable victim or witness, or in 'cases where the offences incur significant adverse impacts, whether physical, emotional or financial upon individuals or the wider community'.

In NYP: "A person is vulnerable if, as a result of their situation or circumstances, they are unable to take care of or protect themselves or others from harm or exploitation."

In such cases an Inspector will be consulted when considering RUI. The Inspector must authorise the use of RUI in these cases and complete the RUI authorisation form saved on the custody record.

Expected finish date (EFD)

Investigations in which suspects are RUI must be robustly managed to ensure victims and witnesses are protected and not subject to long delays which can be stressful for the suspect and lead to witness issues at future court trials. Equally, suspects with an RUI status should expect the investigation into their alleged criminality to be progressed expeditiously and they should be provided with regular updates.

Therefore, the supervising officer must set, endorse, and review the investigation plan with an initial Expected Finish Date (EFD), which should coincide with the OIC's shift pattern. This date must take into consideration the outstanding enquiries, including forensic and digital evidence submissions. This must then be regularly reviewed, at least every 28 days by the supervising officer and amendments to the EFD must be agreed. The supervising officer must ensure the OIC communicates with the Custody Team, victims, witnesses as well as suspects and advises them of any extensions to the EFD, this can form part of the regular updates that are normally provided to victims and suspects.

The OIC must complete the 'custody update' enhanced OEL on the occurrence linked to the custody record, at least the day before the EFD, to update custody. If the OIC is not on duty immediately prior to the EFD, they must complete it, at the latest, on their last shift prior to the EFD. The purpose of the OEL is to inform custody of the action to be taken on the EFD. If the suspect's EFD is to be extended, this must be indicated on the OEL and a new EFD provided. The OEL does not replace the need for the OIC to have a discussion with custody in respect of any suspect or victim risk assessments. If the suspect is to be moved to RUI from bail, the RUI authorisation template must

also be completed on the custody record. If a final disposal is to be applied (NFA, charge, CRD etc) then this must also be indicated on the OEL and the officer must give due regard to each offence the suspect was arrested for, as each offence requires a disposal, whether it is final or not. Where a final disposal is to be applied, there must be a Supervisor final disposal decision recorded for each offence the suspect was arrested for, as per the existing process.

Communication with suspects also provides an opportunity to check on their welfare, which should contribute to the ongoing suspect risk assessment. Where the OIC identifies any issues, they should liaise with the Custody Officer. The suspect must be informed about extensions to the EFD and provided with the new extended EFD where appropriate.

Communication with victims and witnesses must include advice on how to remain safe and details of the processes to follow if they feel they are subject to criminal actions by or linked to the suspect. The EFD must be updated in the 'Rev. tm.' box on the RUI disposal in the custody record. It will be necessary for the Custody Officer to create a new RUI disposal to update this. Each day the Custody Officer must review all RUI cases for the custody suite where they are working, where the review date is the current date or where it has passed. They must send a reminder to the OIC and their supervision to either provide a final disposal or update the EFD. Where the EFD has been extended, the Custody Officer must re-send the RUI paperwork to the suspect, with the updated EFD.

Suspects who are of no fixed abode

If the suspect is of no fixed abode, the investigator should endeavour to identify a service address for the service of a postal charge or personal service in the future. In the following circumstances, the use of pre-charge bail should be considered to ensure their surrender to custody:

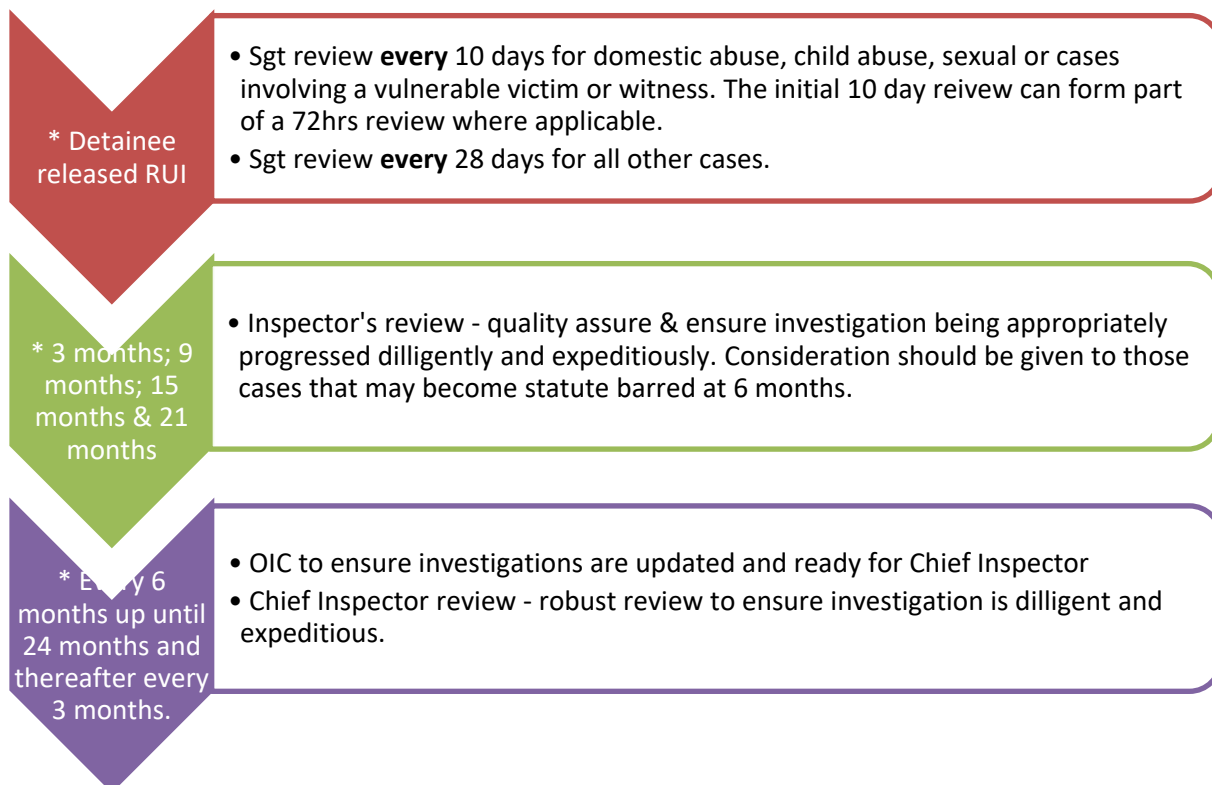
- the suspect lives out of force
- a genuine service address cannot be ascertained
- there is limited knowledge of the suspect
- intelligence is known that the suspect is a flight risk

RUI review

This policy is not intended to supersede any other policy or procedure, where more regular reviews of the investigation are required. The reviews referred to below must be conducted in addition to any reviews referred to in other policies or procedures such as the Rape and Serious Sexual Offence Procedure.

Supervising Officer's should review all investigations where the suspect has been RUI; this should take place at least **every** 28 days and, in some cases, every 10 days.

In domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness serious consideration should be given to placing the suspect on PCB. However, where this is not the case and an Inspector has authorised the use of RUI in these cases, they should have a Sergeant review at least **every** 10 days.



A subsequent review should take place by an Inspector at 3 months, 9 months, 15 months, and 21 months to ensure suspects RUI will be subject to appropriate review and management supervision. Inspectors will need to satisfy themselves that RUI cases are being managed diligently and expeditiously. Consideration should be given to those cases that may become statute barred at 6 months. Therefore, the OIC should provide an update on the OEL prior to these review periods, of actions completed and the date they were completed and actions outstanding, with expected completion dates, for these reviews to take place. This should be logged on the investigation plan with an updated EFD, where applicable.

Oversight

Chief Inspectors are responsible for the oversight of RUI in their department to ensure that investigations are undertaken diligently and expeditiously and that administration procedures are complied with. RUI data should be monitored by department to ensure compliance.

The relevant Chief Inspector will review all RUI cases that have reached 6 months, 12 month, 18 months and 24 months and every 3 months thereafter. This oversight is intended to substitute the Magistrate Court's oversight of bail and should therefore consider if the investigation has been undertaken diligently and expeditiously and if it is proportionate.

The OIC should provide an update on the OEL prior to each of the 3-month review periods for the Inspectors and Superintendents to be able to effectively review, up until the case is concluded. This update should include a list of actions completed and the date they were completed and actions outstanding, with expected completion dates, for this oversight to take place.

* This policy is not intended to supersede any other policy or procedure, where more regular reviews of the investigation are required. The reviews referred to above must be conducted in addition to any other reviews referred to in other policies or procedures such as the Rape and Serious Sexual Offence Procedure. If a 72hr review is applicable to the investigation, then this can incorporate an initial 10-day review.

Summary of RUI Decision Making, Review and Oversight

If the case involves domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness (A person is vulnerable if, as a result of their situation or circumstances, they are unable to take care of or protect themselves or others from harm or exploitation):

Consideration will be given to PCB.

If RUI is still deemed appropriate, refer to an Inspector for authorisation.

If the Inspector considers RUI is appropriate they will log the decision making on the RUI authorisation form.

Custody Officer will inform suspects of relevant offences and liability for further arrest.

OIC will advise victims and witnesses of RUI decision and provide advice on staying safe.

An investigation plan will be added to the OEL with an Expected Finish Date (EFD).

Supervising Officer will review every 10 days, updating the EFD if necessary.

OIC will update & provide advice to victims and witnesses on staying safe.

The Inspector will review the investigation at 3, 9, 15 & 21 months where applicable updating the EFD.

The Chief Inspector will have oversight of the case at 6 months and thereafter every 6 months up until 24 months when they will review every 3 months.

If the case does not involve domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness:

The rationale for RUI will be fully documented on the RUI authorisation form by the OIC following consultation.

The Supervising Officer will ratify this decision.

Custody Officer will inform suspects of relevant offences and liability for further arrest.

OIC will advise victims and witnesses of RUI decision and provide advice on staying safe.

An investigation plan will be added to the OEL with an EFD.

The Supervising Officer will review the case every month, where applicable updating the EFD.

OIC will update & provide advice to victims and witnesses on staying safe.

The Inspector will review the investigation at 3, 9, 15 & 21 months, where applicable updating the EFD.

The Chief Inspector will have oversight of the case at 6 months and thereafter every 6 months up until 24 months when they will review every 3 months.

PNCr, Biometrics and the Custody Disposal Tab

Where a suspect is RUI, the legislation enables us to retain any biometrics obtained during the investigation. The suspect's RUI status is recorded on PNC via the disposal tab on the Custody Record.

It is imperative that we ensure that the disposal tab on the Niche Custody Record is updated to show the status of a suspect as this will automatically notify PNCr and avoid unlawful biometric retention or inaccurate records.

This is particularly important for No Further Action cases where the OIC MUST update Custody to ensure that an MGNFA disposal tab on the Niche Custody Record is created. However, any change in disposal status must be communicated to the relevant Custody Team so the custody record can be updated.

This is about each suspect and each offence they are arrested / investigated for, at the time the decision is made, not just when the overall investigation is completed.

RUI and Detainees Dealt With out of Force Area

If the suspect has been arrested out of NYP'S area, then the OIC must follow the local procedure for that force. However, the rationale or NDM process for RUI should be fully documented on the NYP OEL under suspect management as soon as practicable on return to area. The OIC must also ensure that in cases involving domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness, if an Inspector in the Force Area where the suspect is being detained has not reviewed a decision to RUI, that this is referred to an NYP Inspector prior to the suspect's release.

The OIC should obtain all necessary paperwork (such as copies of the custody record) and ensure a back record conversion is completed so that the RUI can be subsequently managed on Niche and in line with NYP guidance.

RUI and Detainees Dealt with by a Foreign Force

Where a detainee is being dealt with in NYP for an offence that has taken place out of force then NYP procedure should be followed. In these cases, the NYP Custody Sergeant should assist the OIC to document a suspect Risk Management strategy prior to the suspects release from custody as is the normal procedure.

In the case of domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness the custody officer must ensure that the OIC consults an Inspector in the force area where the OIC works or where that is not local practice, that this is referred to an NYP Inspector prior to the suspect's release.

It should be made clear to the suspect and the OIC that the foreign force is subsequently responsible for ongoing suspect management – reference should be made to this on the custody record. The RUI should be logged on the custody record to ensure the suspect has a copy of the relevant paperwork, but this should be subsequently closed as an 'other disposal' on the custody record as it will cease to be managed by NYP.

Please also see the section in PCB: 'Incidents/Investigations Involving more than one Force Area' which is also relevant to RUI investigations.

Roles and Responsibilities (RUI)

The College of Policing has a full list of RUI Roles and Responsibilities which should be referred to. The following is intended as an overview:

Investigating Officer (OIC)

The OIC must document the decision-making process for RUI on the RUI authorisation form, ensuring an investigation plan and suspect management regime is completed. This must include an ongoing risk assessment, liaison with an Inspector in the case of high risk / vulnerable victim cases as well as updates to involved parties following suspect release on RUI or amendments to the EFD. Onward suspect management and welfare assessment will be the responsibility of the OIC, with oversight from their supervisor. Communication with victims and witnesses must include advice on how to remain safe and details of the processes to follow if they feel they are subject to criminal actions by or linked to the suspect.

The rationale to RUI a suspect must be based on the risk presented by the person and/or the offence for which they have been arrested (established between the OIC, Supervising Officer and Custody Officer) and must detail the action(s) taken or to be taken to ensure people linked to the case, victims, witnesses, and suspects are protected. This rationale should be documented on the RUI authorisation form on the custody record. Compliance with bail conditions should not be a reason to cease pre-charge bail and move to RUI. Pre-charge bail with conditions may be having a deterrent effect and this can equally be justification for maintaining bail and the conditions that have been set.

OIC's must also liaise with other force areas where applicable, as per the guidance contained in the section contained within the Pre-Charge Bail section, but which is also applicable to RUI:

'Incidents/investigations involving more than one force area'

Decisions whether to bail or RUI should not be made based on resources and/or administration. For example, the fact that there are outstanding enquiries to complete which will take time / resources, is NOT a reason to move from bail to RUI. All investigations, regardless of whether bail or RUI is utilised, must be diligent and expeditious.

The OIC must complete a 'custody update' OEL where the EFD is approaching or where the bail date is approaching, and they are to be moved to RUI (in this case the RUI authorisation form must also be completed). This OEL must also be completed, where a final decision is made in respect of the investigation (such as NFA). Suspects, victims, and witnesses must also be updated. It is essential the Custody Team are updated, so the custody record and thus PNC are updated, and relevant paperwork is sent to the suspect.

All RUI cases should be overseen by an Inspector at 3, 9, 15 & 21 months from date of arrest and Chief Inspectors every 6 months up until 24 months and every 3 months thereafter, to ensure it is being conducted diligently and expeditiously and that administration procedures are complied with. Therefore, the OIC should provide an update on the OEL prior to the end of each 3-month period of

actions completed with completion dates and actions outstanding, with expected completion dates, for this oversight to take place.

Supervising Officer

All suspects released from custody without bail will be deemed RUI unless there is another disposal such as NFA. The supervising officer is responsible for ratifying the RUI decision in consultation with the OIC and the Custody Officer. The rationale to RUI a suspect should be documented by the OIC and endorsed by the Supervising Officer, it must be based on the risk presented by the person and/or the offence for which they have been arrested (established between the Supervising Officer and the OIC) and must detail the action(s) taken or to be taken to ensure people linked to the case, victims, witnesses, and suspects are protected. The Supervising Officer must ensure this rationale is documented on the RUI authorisation form in the custody record. In relevant cases the Supervising Officer should check the OIC has liaised with an Inspector who is responsible for making this decision.

Having ratified a decision to RUI the supervising officer must also ensure that an effective investigation and suspect management plan is in place that includes an EFD. There must be a documented supervisory review AT LEAST every 28 days until the investigation has been completed and a disposal actioned. This review should take place with reference to NYP's Crime Recording and Occurrence Management: A guide for Supervisors. In Domestic Abuse (DA) cases, child abuse, sexual or cases involving a vulnerable victim or witness, where safeguarding may be an issue the Supervising Officer should review AT LEAST every 10 days until the investigation is complete and a final disposal decision made. The supervising officer must ensure the OIC liaises with the Custody Team to ensure the custody record is fully updated with the outcome enabling compliance with biometric legislation and PACE compliance and update victims and suspects of the disposal decision.

Custody Officer

Nothing in the guidance overrides a custody officer's responsibilities under PACE, the codes of practice or APP. Additional guidance is provided in respect of liaising with YJS prior to releasing a suspect less than 18 years of age where possible and to ensure an Inspector has been consulted in cases involving domestic abuse, child abuse, sexual or cases involving a vulnerable victim or witness.

The rationale to RUI a suspect recorded on the RUI authorisation form by the OIC and should be referenced on the custody record by the Custody Officer. The Custody Officer must inform the suspect prior to releasing them under investigation that if they commit further offences whilst RUI, they risk being arrested again. Custody Officers should inform individuals on RUI of the offences of witness intimidation, perverting the course of justice or harassment and that they will be liable to arrest should these offences be committed against the victims/witnesses in the case.

The Custody Officer must also update the custody record in respect of any change in disposal status when notified by the OIC. There is also a requirement to complete administration duties in relation to the RUI diary for the custody suite they are currently working in – where the EFD is the current date or has passed, they must check the 'custody update' OEL and take any appropriate action. Where the EFD has been extended the Custody Officer must create a new RUI disposal to update the EFD in the Review Time box and re-send the RUI paperwork to the suspect with the updated EFD.

The Custody Officer must also remind the OIC to update the suspects with a new EFD where appropriate and to check on their welfare.

Pre-Charge Bail (PCB)

Bail reform

The power to apply bail and / or conditions was not removed from PACE 1984 or the Bail Act 1976, but there was a presumption against bail. This presumption against bail has been removed by the Police, Crime, Sentencing and Courts Act 2022 (PCSC). This is designed to encourage the use of PCB where necessary and proportionate to do so, based on each case's individual circumstances.

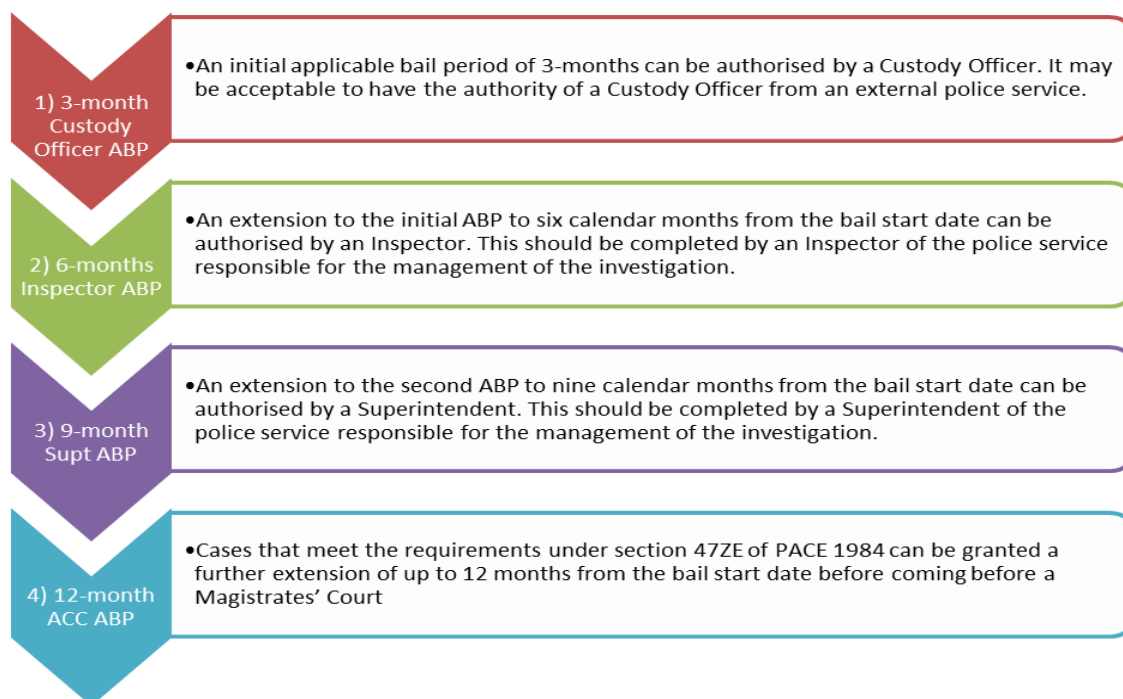
The reforms introduced also require bail to be linked closely with the investigative plan as well as a safeguarding plan. PCB should not be considered in isolation or as an in-custody-only process. OIC's must utilise bail as an important risk management tool to safeguard victims and witnesses of crime, and to manage uncharged suspects during the investigation process to mitigate the risk of further criminality. If there are indications of serious harm and risk to the victim(s), witness(es), suspect or public, or in any domestic or sexual abuse cases, bail must be considered. PCB should be considered alongside other protective orders, such as DVPO's and Stalking and Harassment orders, to ensure there is a 'web of protection' around the victim. Bail can also result in disadvantages for the suspect, its use must therefore be justified in all circumstances and subject to regular review.

Pre-charge bail has been identified as having three main objectives:

- suspect management
- protection of victims and witnesses
- investigative management

Bail Periods and the Decision Maker

The police can authorise three or four main ABP's. At each authorisation stage the views of the victim must be taken, or reasonable step made to ascertain their views. This should be recorded on the applicable enhanced OEL. When ascertaining the views of the victim, a new or updated risk assessment must also be done. If bail conditions have not been breached, this means bail is an effective protective tool, it is not a reason to remove bail. These bail periods are:



PACE does not give specific requirements over the actual decision maker authorising an ABP or extension. For each authority it is any officer of the designated rank or above.

The process is intended to be linear with an escalating level of supervisory oversight, within statutory timescales. All ABP extensions should therefore follow the separate stages for each suspect. These decisions must be fully recorded on the custody record by the custody officer for initial bail, and by the Inspector and Superintendent on the bail authorisation form on the custody record. All further extensions to the ABP must be authorised by a magistrates' court.

The ABP creates a period within which a Custody Sergeant may grant bail. It is not the same as the actual bail date imposed on a suspect to return to a police station and is not the re-bail. There can be no retrospective extensions to the ABP and any extension to the ABP needs to take place in advance of the current ABP end date.

The ABP can be suspended during any of these periods if the case is sent to the CPS under 37(7)(a). Please see **Suspensions to an ABP and CPS Charging Decisions within an existing ABP** below for more information. It should be noted that the Prosecution Team is an NYP department and is not part of CPS. Sending a file to the Prosecution Team will not suspend the bail clock. It is therefore necessary to allow time for the case quality review team (CQRT) in PT to review the file, this should be well within the ABP to ensure the ABP does not lapse whilst the file is reviewed by the CQRT. OIC's should not rely on the bail clock being stopped the day the file is sent to the CQRT.

Although the legislative amendments increase the police authorised bail periods, this doesn't mean that an investigation should be left to drift until the suspect is due to answer their bail. It is the responsibility of investigators and their supervisors to ensure that outstanding actions are completed diligently and expeditiously. Pre-charge bail wraps around the investigation. While it will provide certain milestones, it should not be used in isolation to drive the programme for the investigation. Pre-charge bail is not the investigative timetable.

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Bail, conditions & the views of the victim

Section 47ZZA and the PCSC has introduced a new duty on the OIC, to seek a victim's views on the use of PCB and the conditions of bail, where this is reasonably practicable. The victim's views should be sought on whether relevant conditions should be imposed and if so, what those conditions should be. Relevant conditions are defined as those that relate to the safeguarding of the victim.

The OIC must also seek the victim's perception of future risk of harm and must carefully consider this against the rights of the uncharged suspect. If it is not possible to seek the views of the victim prior to the suspect's release, the investigator must make a record of their deliberations and any attempts they have made to contact the victim during the first period of detention. Initial responders / OIC's should consider gathering the views of victims, at the point of reporting or when an arrest is planned, as this can replace the need to contact the victim at the point when the suspect is due to be released from custody. This can also be completed at the same time as the risk assessment. The OIC should document the views of the victim and /or any attempts made to contact them, on the relevant enhanced OEL, even if these attempts have failed.

This consideration is ongoing and so must be considered by the relevant officer not only during the initial authority, but in any re-bails authorised by the Inspector, Superintendent's, and the Magistrates. If relevant conditions are varied at the request of the suspect and if reasonably practicable to do so, the OIC must seek the views of the victim on whether the conditions should be varied and if so, what variations should be made. The OIC must inform the custody officer of any such views.

Under Section 47ZZA a person is a victim if an allegation has been made that an **individual** has suffered physical, mental, or emotional harm or economic loss caused directly by the offences. If the victim is a business or corporation the duty to consult does not apply, although it is considered best practice to keep them informed.

The OIC must notify the victim of any pre-charge bail granted and conditions set, as soon as practicable after the suspect's release. There will be circumstances where it is not reasonably practicable to speak to the victim before a suspect is released, due to medical or urgent mental health treatment. There may be occasions where the victim is too traumatised to engage in meaningful conversations about pre-charge bail and/or may not be able to have processed and rationalised what has happened to them, and therefore cannot reasonably consider any risks posed to them.

Investigators should consider a trauma-informed approach¹, giving due regard to what the victim has experienced. This is especially true in cases of rape, sexual assault, and serious harm. Professional judgement should be exercised, considering the individual facts of the case. The investigator's rationale should be recorded on the applicable enhanced OEL, even where they have taken the decision not to obtain the victim's views at this point, or where it has not been reasonably practicable to do so.

¹ In certain circumstances, the view of the victim may not be sought because doing so may re-traumatise. In these circumstances you may consider getting advice from a victims' charity or trauma specialist (if that can be done within the time available).

If the victim or witness appears to the investigator to be vulnerable, a person who represents the victim must be spoken to, to ascertain their views on the granting of bail and any conditions at the initial, extension and variation stages. This might be a friend or family member or a support service acting on their behalf, such as a key worker or social worker.

For the purpose of PCB, an alleged victim of an offence is vulnerable if they were;

- a) aged under 18 at the time of the offence, or
- b) may have difficulty understanding a communication from an investigating officer or communicating effectively in response to it by reason of
 - i. a physical disability or disorder, or
 - ii. a mental health disorder within the meaning of the Mental Health Act 1983, or
 - iii. a significant impairment of intelligence and social functioning.

It is important that children and vulnerable persons are allowed to engage and offer their thoughts and feelings on matters affecting them. Investigators should consider, on an individual basis, whether the views of any children involved in the case should be sought. This will be dependent on their age, development and understanding, and should be considered on a case-by-case basis.

It is important that children and vulnerable persons are allowed to engage and offer their thoughts and feelings on matters affecting them. OIC's should consider, on an individual basis, whether the views of any children involved in the case should be sought. This will be dependent on their age, development and understanding, and should be considered on a case-by-case basis.

It is the OIC's responsibility to seek these views and inform the Custody Officer. The OIC must record the views of the victim on the enhanced OEL template. The custody officer must record on the custody record, whether the views of the victim have been considered or not in their consideration of bail and conditions. This must be recorded on a detention log, under the 'type' heading bail authorisation.

Risk assessments

The police must assess risk when deciding whether to extend bail at each of the 3-month bail authorisation periods. An accurate risk assessment will be informed by the views of the victim in most cases.

Risk assessments should be completed by the investigator, with the victim and revisited as circumstances change and at each of the bail authorisation periods. A risk assessment in relation to bail and/or the investigation sits separately to any other risk assessment process. The 10 principles of risk management may assist here. At the same time as conducting the risk assessment, it is advisable for the investigator to seek the views of the victim (see above).

The risk assessment will help identify the most appropriate strategy to protect the victim, witness, public, suspect and investigation. Where further investigation is required, when a suspect is due for release from custody, the risk assessment will help determine the suitability of the options to be considered upon release.

By releasing the suspect on bail rather than RUI, it ensures they will be required to return to answer their bail at a specific time and date and can provide the victim with some safeguarding against additional offending in the form of bail conditions.

Once the risk assessment has been completed and a suitable risk management strategy has been chosen, the investigator should liaise with the custody officer to explain their rationale. The custody officer will decide whether to authorise the proposed actions. A detention log must be made on the custody record to log whether the views of the victim have been sought and to log the decision making.

Bail in the first period of detention for CPS charging advice only

The OIC should aim to complete the investigation in the first period of detention wherever possible. If the investigation is completed in this first period of detention, the custody officer determines they have sufficient evidence to charge and statutory charging arrangements requires a CPS charging decision, the only options under section 37(7) (a) PACE are to either release the arrested person on bail or keep them in police detention to enable a CPS charging decision. The presumption to release without bail does not apply and the detainee CANNOT be RUI. The custody officer should set a bail return date to reflect a realistic time to allow the CPS to make their decision (usually 28 days from the date the file was sent to CPS), there are no time limits. No Inspectors ABP authorisation is required.

It is important to note that in NYP the case must be sent to the case quality review team (CQRT) for checking prior to sending to CPS. This process can take up to a month, meaning the casefile is not sent to CPS straightaway and, if rejected in triage by CQRT may not ultimately go to CPS. In this circumstance the legality of 37(7)(a) bail is questionable. It is therefore not advisable to use 37(7)(a) PCB unless the file can be sent to CPS immediately. In this case the file check could be considered an enquiry to ascertain if there is sufficient evidence, especially as CQRT may identify further enquiries. Therefore 37(7)(a) bail should be used with care.

If CPS request further work before they can make their charging decision, a 3-month ABP will start the day the CPS make their request. This does not require a Custody Officer's authority – the CPS action plan takes the place of the Custody Officer's authority. If a later bail return date is required than what was originally set for the CPS charging decision, the custody officer must exercise their power under section 47(4A) to appoint a different time for the suspect to attend the police station to answer bail. The custody officer must notify the suspect in writing of the exercise of the power under section 47(4A) and may not appoint a time after the end of the ABP. If the requested information is provided to the CPS, the ABP is suspended in the normal way. The day the file is sent to the CPS does not count as an ABP day, the day it is received back does count as an ABP day.

The Inspector's and Superintendent's extension should be sought in the normal way if required. Alternatively, the suspect can be RUI if this is deemed appropriate following a risk assessment and completion of the RUI authorisation form.

Sufficient evidence to charge but releasing on bail for any other reason (section 37(7)(b))

Section 37(7)(b) bail may be used where the custody officer determines that there is sufficient evidence to charge a suspect, yet they release the suspect on bail (provided the pre-conditions for bail are met), for purposes other than for a CPS charging decision. Section 37(7)(b) bail might be used:

- to help coordinate multiple charges and bail dates in relation to a vulnerable suspect, so they only have to come into custody once for charge

- to seek a civil or protective order before the charge
- where the suspect may have been interviewed and it is determined there is no immediate risk to safety, but the investigator may wish to instigate a non-urgent psychiatric assessment, if they feel that the suspect's capacity to comprehend the charge may be compromised
- where a person is arrested for multiple offences and there is evidence to charge for one or more, but not all.

This is not an exhaustive set of examples, and the use of section 37(7)(b) will depend on each scenario.

Initial or Custody Officer authorities: Pre-Conditions for Imposing PCB

Upon the initial detention, if bail is required, any Custody Officer may authorise an initial 3-month ABP. This ABP starts on the day after arrest. For suspects detained in NYP custody suites this will be an NYP Custody Officer independent of the investigation.

If further time is required to complete the investigation, and the pre-conditions for bail are met, the suspect(s) should be bailed. The pre-conditions for bail are detailed in S50A of the Police and Criminal Evidence Act 1984 and these should be considered by the authorising officer during each of the authorisation periods. The pre-conditions are as follows:

- (a) that the custody officer is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard to any conditions of bail which would be imposed), and
- (b) The Custody Officer has considered any representations made by the suspect or the suspect's legal representative.

These two preconditions must be met before a decision is made to bail a suspect under this section. The custody officer does not need to complete the bail authorisation form as their decision must be fully logged on the custody record and reference made to the above pre-conditions.

In determining whether releasing a suspect on bail is necessary and proportionate in all the circumstances, the custody officer must have regard to the need to:

- secure their surrender to custody
- prevent offending
- safeguard victims and witnesses, considering any vulnerabilities where these have been identified by the custody officer
- safeguard the suspect where vulnerabilities have been identified by the custody officer
- manage risk to the public

The investigator should explain their rationale and why bail and any conditions are necessary and proportionate to assist the custody officer in deciding whether to release a suspect with or without bail, and with or without conditions.

The custody Officer must also ensure that they are in possession of the view of the victim when considering the bail conditions and ensure the OIC has provided a risk assessment. This will help custody officers to consider any safeguarding concerns, putting appropriate measures in place and ensuring that victims feel involved in the process.

Decisions on the pre-charge bail conditions which are set, remain a matter for the custody officer, considering the views fed in from the victim as well as other considerations. For example, some victims may underestimate the risk they are in and / or may diminish the crime that has been perpetrated against them. Professional judgement and the facts of the case should be considered alongside the victim's view, to decide on the most appropriate response.

The custody officer must add a detention log to the custody record on whether the views of the victim have been sought or not, or if they are not applicable (for example a state-based crime or the victim is a business and not an individual). If the views of the victim have not been sought this must also be explained – for example if the victim is too traumatised, in line with the above guidance on the views of the victim. A detention log template has been created under the bail authorisation 'type' to streamline this process.

Inspector 6-month authorities: Conditions A-D for Imposing PCB

Before a suspect can be bailed beyond the 3-month ABP, an extension of 6 calendar months must be authorised by an officer of the rank of Inspector or above.

The OIC's Inspector is likely to be in the best position to provide the relevant ABP extension because they will be able to:

- ascertain that the investigation is being conducted diligently and expeditiously
- hold the OIC to account
- ensure that victim and suspect contact has been completed correctly
- manage performance issues and identify any relevant trends

The ABP cannot be authorised for a shorter or longer period, it must be 6 calendar months. The start date for the 6-calendar months is the day after arrest. Conditions A-D below must be achieved before an extension can be granted.

The Inspector's authority to extend bail must be sought in advance of the ABP. There is no provision for extending the ABP if the Custody Officer's authority has lapsed (ABP has passed).

The Inspector must arrange for the suspect and / or their legal representative to be informed and given time to submit representations before any determination can be made. This should be documented along with the rationale for the final decision on the bail authorisation templates on the custody record – this can be accessed, updated, and saved on the custody record. Consideration must also be given to the welfare of the suspect and a risk assessment. A postal notification has been created to assist where the suspect is difficult to locate.

Parallel consultation must also be undertaken with victims to ensure police have a full picture when decision making. This should be carried out in a similar way to the consultation at the initial bail decision. The police must assess risk when deciding whether to extend bail after the initial period at three-month intervals. An accurate risk assessment will be informed by the views of the victim in most cases. Compliance with bail conditions should not be a reason to cease PCB. PCB and conditions may be having a deterrent effect, and this can equally be justification for maintaining bail and the conditions that have been set.

Consultation with victims every three months may also reduce attrition rates, as victims often disengage from the criminal justice process when they have no communication or feel that their safety is being disregarded.

The OIC must update the bail authorisation form with this information and inform the Inspector of the victim's views and the suspect representations.

There are four statutory conditions that need to be considered by the relevant officer before an extension to the ABP can be granted.

Condition A The relevant officer has reasonable **grounds for suspecting** the person is guilty of the relevant offence.

Condition B The relevant officer has reasonable **grounds for believing** that either:

- Further time is needed to make a police charging decision or
- That further investigation is needed of any matter in connection with the relevant offence.

Condition C The relevant officer has reasonable grounds for believing either:

- The police charging decision or
- The police investigation is being conducted diligently and expeditiously.

Condition D The relevant officer has reasonable grounds for believing that bail is both necessary and proportionate in all the circumstances. This decision should have regard to any conditions being imposed. The decision maker should record their rationale for their decision making.

Imposing PCB

The relevant officer is satisfied that bail is necessary and proportionate and authorises bail. The decision maker must consider conditions A-D before authorising bail:

Condition A:

Are there reasonable **grounds for suspecting** the person is guilty of the relevant offence?

Condition B:

Are there reasonable **grounds for believing** that further time is needed to make a police charging decision or further investigation is needed.

Condition C:

Are there reasonable **ground for believing** the police charging decision or the investigation is being conducted dilligently and expeditiously.

Condition D:

Are there reasonable **grounds for believing** that bail is both necessary and proportionate.

College of Policing conditions A-D guidance

Condition D: Necessity and Proportionality

The process requires balancing a right to a private and family life, for the suspect against the rights of the complainant, witnesses and the wider community or the needs of the investigation.

In determining whether releasing the person on bail is necessary and proportionate in all the circumstance, the relevant officer must consider the necessity and proportionality as per the above guidance for custody officers.

Every bail decision made by the authorising officer must be capable of withstanding scrutiny, having due regard for any supporting evidence to justify its legality, proportionality, and necessity in the circumstances.

Superintendent 9-month Authorities

This process should follow the same process as for the Inspector's extension.

Before a suspect can be bailed beyond the 6-month ABP, an extension of nine calendar months must be authorised by an officer of the rank of Superintendent or above. The ABP cannot be authorised for a shorter or longer period, it must be nine calendar months. Conditions A-D above must be

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achieved before an extension can be granted. The start date for the nine calendar months is the day after arrest.

The Superintendent's authority to extend bail must be sought in advance of the ABP. There is no provision for extending the ABP if the Inspector's authority has lapsed.

As per the above Inspector's guidance the views of the victim must be sought where reasonably practicable to do so. Again, this should be carried out in a similar way to the consultation at the initial bail decision. The police must re-assess risk when deciding whether to extend bail and an accurate risk assessment will be informed by the views of the victim in most cases. Compliance with bail conditions should not be a reason to cease PCB. PCB and conditions may be having a deterrent effect, and this can equally be justification for maintaining bail and the conditions that have been set.

Reasonable efforts must be taken to obtain representations from the suspect and /or solicitor and considered by the Superintendent before any determination can be made. A postal notification has been created to assist where the suspect is difficult to locate. Consideration must also be given to the welfare of the suspect and a risk assessment.

Non-standard cases

Under the current legislation, cases investigated by the Serious Fraud Office (SFO) are referred to as 'non-standard cases'. The PCSC amends PACE so that non-standard cases will also include cases investigated by the Financial Conduct Authority (FCA), Her Majesty's Revenue and Customs (HMRC) and the National Crime Agency (NCA). These agencies should produce their own guidance on these matters. As such, this guidance does not seek to provide detailed information on the changes in relation to non-standard cases.

However, several of the changes will have some peripheral impact on policing.

- The initial applicable bail period in non-standard cases is now six months (instead of three months). This will be authorised by a custody officer. Their considerations are the same as for all standard cases.
- Further extensions to ABPs will now be authorised by designated officers from those agencies, not the police.
- Magistrate extensions will be submitted by designated officers from those agencies, not the police.

Exceptionally Complex Cases

Section 47ZE of PACE provides for a case to be designated as exceptionally complex by the Director of Public Prosecutions (DPP). This allows for extensions to the ABP from nine months to 12 months. Extensions in these cases will be authorised by a qualifying police officer, which is a police officer of the rank of commander or assistant chief constable, or above.

Before determining whether to authorise an extension, the qualifying police officer must arrange for the suspect or their legal representative to be informed and consult with the DPP. The qualifying police officer must consider any representations made by the suspect or their legal representative and arrange for them to be informed whether an authorisation has been made.

Any designation must be made, and any extension authorised, before the ABP has ended (s 47ZE(8)).

Magistrates Court Authorities

To extend the ABP in almost all cases beyond 9 calendar months, the decision-making process is passed to the Magistrates Court. There is no provision for extending the ABP if the Superintendent extension has lapsed.

It is recommended that the Magistrate's Court extension application should be quality checked by sending it to the PCB.CourtExtensions mailbox at least 10 working days before the current ABP expiry; it should be sent to the court at least 5 working days in advance of the current ABP expiry.

Where the ABP has not lapsed, but there are less than 5 working days before the ABP expiry, then the application may still be considered by the court. The relevant section on the application form should be completed outlining the reasons why there are less than 5 working days before the ABP expiry.

The Magistrate's process is covered by the Criminal Procedure Rules and a determination will be made on the papers to extend the ABP by a further 3 or 6 months. The magistrates' court only have to apply conditions B to D listed above, when considering whether bail can be extended. All further extensions will be considered by the Magistrate until the conclusion of the investigation. Where it is in the interest of justice or on request of the police or the suspect, this can be deferred to an oral hearing. The applications are served on both the Court and the suspect.

Where an application has been submitted to the Courts for an extension, and the ABP expiry date then passes, the ABP is suspended for as long as is necessary for the Magistrate to decide. We are not informed of when the court hearing will occur so in effect, we have an indefinite suspension of the ABP to manage.

Where a suspect requires re bailing beyond the current ABP end date as the court is still considering the application, the Custody Sergeant should re-bail the suspect in line with the needs of the investigation up to a period no longer than 3 calendar months as if an extension had been granted. If conditions are requested that differ from the current conditions, the new conditions should be applied to the re-bail, otherwise the current conditions should be continued. The ABP date is not recalculated like with CPS as the police are still investigating.

If the ABP is subsequently extended by the Court, then the suspect must answer that bail date as normal. It must be noted that this extension by the court is an authority to extend bail; it does not count as the actual re-bail. The suspect must still answer bail and be re-bailed on the custody record for it to be legal and any bail conditions to be continued and enforceable. If the application is refused, then the Custody Sergeant must immediately release the suspect as RUI and PNC updated to avoid them being unlawfully arrested for breach of any bail conditions.

Bailing Young People

Section 37 and 47 of PACE make no distinction for young people. However, it is worth noting the following:

Under section 47(4A) to (4D) PACE - the bail return date can be varied to an earlier date to accommodate any requests from the suspect or their legal representative, for example to avoid a

return date falling on a school day or to accommodate any policing requirements such as demands on shift patterns or bail diaries. We can use short 'turnaround' bail (i.e. return the next day) to avoid young people being kept in custody overnight.

S34 (5) (b) of PACE states that in respect of young people, if the custody officer releases them from custody this shall be a release on bail if the pre-conditions are met and it appears to the custody officer they may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998.

Where the suspect is less than 18 years of age the Custody Sergeant should where possible, consult with the Youth Justice Service (YJS) prior to release on bail.

The Youth Justice Service is concerned with ensuring the police adhere to the following principles and therefore it is also necessary that the Custody Officer also considers these aims in respect of children and young people:

- Are detained by police for the minimum necessary time.
- Are not detained in a police cell overnight unnecessarily.
- Are not subject to unnecessary or inappropriate police bail.
- Attend court as required.
- Minimise the use of custody.
- Reduce the likelihood of further offending on bail.

When dealing with children and vulnerable suspects, consideration should be given to the use of pre-charge bail as a tool for suspect management, which may include protective factors.

Special consideration is required to expedite investigations where the suspect is approaching 18 years old, as they will have been arrested for the offence as a child but will be treated by the court as an adult and may be disproportionately affected by the transition from being treated as a child to an adult.

Encountering the criminal justice system when under 18 or with vulnerabilities can influence social development, education, access to services and future job prospects. Restrictive bail conditions on children and young people can have a particularly significant impact. These conditions may disregard their everyday circumstances and affect whether they get access to further support services, such as education or employment. There are circumstances where a Police Protection or Emergency Protection Order may be a better option, to safeguard the child suspect.

Imposing certain bail conditions without considering a child or vulnerable person's wider lifestyle and environmental factors may put them at further risk of harm. Any representations made by the suspect and their legal representative should be carefully considered and weighed against the risk the suspect poses to the victim, witness and public. The investigator and custody Sgt should ensure that the child or vulnerable person fully understands their rights and what being on bail means to them. This is particularly important because nearly two thirds of children in the criminal justice system have speech, language and communications issues.

Consider the situation and the punitive nature of conditions the suspect may be subjected to, and whether there are other lifestyle factors that would prevent them from adhering to conditions or would place them at risk of harm.

Unconditional Bail

Unconditional bail should be used where conditions are not likely to assist in safeguarding any victim or witness but there is a concern that we will have difficulty in locating the suspect. Unconditional bail may be appropriate in these circumstances, as they will be required to answer their bail on a specific time, date and location.

A supervisor should review any case where the investigator considers conditional bail to no longer be necessary and requests a conversion to unconditional bail. If the case is considered to be high harm², or involves domestic abuse, vulnerable persons or sexual abuse, the National Policing Lead for bail recommends that a detective inspector should review the case and provide a rationale for why unconditional bail is now suitable.

Conditional Bail

There is a duty on the OIC, to seek a victim's views on bail, where this is reasonably practicable. The victim's views should be sought on whether relevant conditions should be imposed and if so, what those conditions should be. The OIC should inform the relevant officer of the victim's views. The OIC must re-seek the victim's views, regarding any relevant conditions imposed, every 3 months as well as if there is consideration of varying those conditions at the request of the suspect. Once bail and conditions have been imposed, the OIC must update the victim as soon as reasonably practicable.

Conditions should be proportionate, legitimate, and necessary to manage the risks posed by the suspect. They must not be applied wholesale to any situation. Conditions imposed with PCB can represent a substantial infringement on the rights and liberties of the suspected party. This may be the intention where there are substantial grounds to believe the suspect presents a bail risk. However, consideration should be given to the likely impact of the bail conditions on the suspect, alongside the length of bail granted. Unnecessarily restrictive or unreasonable conditions may lead to a further risk of offending, absconding or risk to the suspect if they are vulnerable.

Any restrictions should be directly relevant to the offending or offences being investigated. Forces should review all conditions, as the perceived risk posed by the suspect may change.

Where a custody officer imposes bail conditions, they are required to make a note of the reasons for imposing those conditions and include it in the custody record. Custody officers should test the investigator's rationale and challenge it where necessary, prior to authorising a release on bail, to ensure that the conditions of release are both necessary and proportionate.

Conditions may only be imposed where it is necessary:

- to prevent the suspect from failing to surrender to custody
- to prevent the suspect from committing an offence while on bail
- to prevent the suspect from interfering with witnesses or otherwise obstructing the course of justice

² High harm is defined by the Home Office's Pre-charge bail government response 2021 as: 'cases where the offences incur significant adverse impacts, whether physical, emotional or financial upon individuals or the wider community'.

- for that suspect's own protection – or, if a child or young person, for their own welfare (s 3A(5), Bail Act 1976)

Police **cannot** impose conditions on pre-charge bail:

- to reside at a bail hostel
- to attend an interview with a legal advisor
- to make the suspect available for enquiries and reports
- that contain electronic monitoring requirements

OIC's and custody officers must consider whether any condition is placing the suspect at increased risk of harm, especially when identified as vulnerable. For example, curfew orders should only be imposed when officers can be sure the suspect can reside at a place of safety during the curfew.

Re-Bailing & Updating Custody

The Police, Crime, Sentencing and Courts Bill 2022 has introduced a new duty to seek a victim's views on bail, this includes prior to any re-bail (47ZZA). A new or updated risk assessment must also be done at this time. The OIC must discuss with a victim, those conditions which relate to the victim's safeguarding, where this is reasonably practicable. Custody Officers must therefore ensure they are in possession of this information when deciding on re-bail if any variations to conditions are considered.

The OIC must complete the 'custody update' enhanced OEL on the occurrence linked to the custody record, at least a day before the bail date. If the OIC is not on duty immediately prior to the bail date, they must complete it, at the latest, on their last shift prior to the bail date. OIC's are sent bail reminder emails to assist in this process. The purpose of the OEL is to inform custody of the action to be taken when the suspect answers bail – it does not replace the need for the OIC to be present when a suspect answers bail. If the suspect is to be re-bailed, the bail authorisation template must have been completed on the custody record. If they are to be moved to RUI, the RUI authorisation template must have been completed on the custody record. If a final disposal is to be applied (NFA, charge, CRD etc) then this must be indicated on the 'custody update' enhanced OEL and the officer must give due regard to each offence the suspect was arrested for, as each offence requires a disposal, whether it is final or not. Where a final disposal is to be applied, there must be a Supervisor final disposal decision recorded for each offence the suspect was arrested for, as per the existing process and the 'custody update' OEL does not replace the need for this.

When a suspect answers bail, the custody officer must reach a fresh decision as to whether to re-bail the suspect and whether to impose bail conditions. Every time a suspect returns to custody, there is an opportunity to change the bail conditions, at the behest of the police or the victim, provided the requirements for imposing bail with conditions are met. Any bail conditions imposed on the suspect when they are re-bailed are not constrained by the earlier conditions.

Often re-bails are postal or done in the front office by the OIC, without the Suspect ever coming through to custody. In these circumstances, the custody officer is still responsible for the re-bail and therefore must consider the suspects welfare and consult with the OIC. Custody Officers should advise the OIC to speak with the suspect either face to face (front office re-bails) or via the phone (postal re-bails) as appropriate, to contribute to this risk assessment. If the re-bail is in custody, it must be logged as per normal procedure. The Custody Officer must log a risk assessment on the

custody record prior to the re-bail on Niche, even if this is to advise there are no risks. This log should also include what directions have been given to the OIC i.e., who was asked to speak with the suspect. Where there is an issue or concern, the offender should not be postal re-bailed or re-bailed in the front office but re-bailed in custody, for a more in-depth risk assessment by the Custody Officer and to allow for referrals for on-going support via third parties to be put in place.

The above is applicable to all cases but is particularly important when a suspect is being investigated for Indecent images of children or other sexual offences as the risk to that individual is generally higher than for other offences.

Calculating an applicable bail period (ABP)

An authorising person whether Custody Officer, Inspector, Superintendent or Magistrate cannot amend an end date. It will always be a set period fixed in law. A Custody Officer will authorise an ABP of 3-months starting from the day after arrest. An Inspector will authorise an extension of that ABP to 6 calendar months and a Superintendent will authorise an extension to 9-calendar months, starting from the day after arrest. A Magistrate will authorise a further extension of either 3, 6, or 9 months. There is no limit on the number of extensions. An extension can be granted up until midnight on the day of the ABP, but Magistrates require applications served on the suspect and submitted to the Court 5 working days prior unless reasonable grounds exist as to why this was not possible. It should generally follow this pattern:

Suspect arrested: 28/09/2022

Bail Start Date: 29/09/2022

Custody Officer's ABP: 28/12/2022

Inspector's ABP: 28/03/2023

Superintendent's ABP: 28/06/2023

Magistrates Court ABP: 28/09/2023 or 28/03/2024

Further Magistrates Court ABP: 28/06/2024 or 28/09/2024

Lapse of ABP

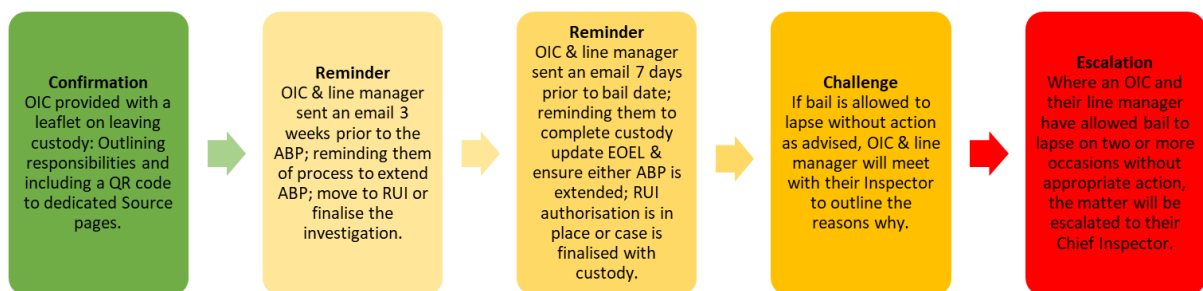
An ABP has an expiry or end date, beyond which a suspect cannot be bailed. The suspension of the ABP clock can happen during any ABP be it the Custody Officer, Inspector or Superintendent's authorities, or any of the magistrates' extensions. There may be examples where the ABP clock stops and starts several times due to repeated requests from the CPS for further work. The important point is that the revised ABP must not lapse if continued bail is required.

Please note that the Prosecution Team is an NYP department and is not part of CPS. Sending a file to the Prosecution Team will not suspend the bail clock.

If an ABP expires without being extended, the suspect automatically defaults to a position of being RUI. The lapse of an ABP does not mean the investigation is lost or should cease, the matter should still be investigated to its conclusion. The lapse of an ABP means that there is no requirement to return to a police station on bail or to adhere to bail conditions. However, offences such as witness intimidation may still be applicable, fresh evidence legislation applies and postal charge can be utilised.

The OIC is responsible for contacting the Custody Team prior to the lapse of the original ABP to advise if there have been any suspensions or extensions. Where the ABP has lapsed and there are no suspensions or extensions to the ABP or the OIC has not contacted the Custody Team, the Custody Team will send out RUI paperwork to the suspect. This process will be managed locally.

If an ABP has lapsed without update, action or rationale from the investigator, the National Policing Lead for bail recommends that the matter should be reviewed by a superintendent as soon as practicable, to ensure the safety of the victim, witnesses and public, and to hold the investigator to account. An escalation process has been implemented to review these cases which will also be included in IPM's and TPM's.



Suspensions to an ABP and CPS charging decisions within an Existing ABP

Where a suspect was initially released on bail for further enquiries then, during the ABP, the case is sent to the CPS for a charging decision the ABP is suspended under 37(7)(a). The day the file is sent to CPS does not count as an ABP day. The day when the file is returned does count.

Regardless of how much time remains of the ABP, the custody officer can set a new bail return date to reflect the time needed for the CPS to make a charging decision. There is no legal limit on the time CPS can retain the case for consideration, but they do have a 28 day SLA to review cases.

If the CPS request further work the ABP clock resumes on the day CPS reply. In these circumstances, as the original bail date for the suspect may be beyond the ABP end date, care needs to be taken to ensure that a revised ABP is calculated to ensure that an ABP does not lapse. The suspect will need to be notified in writing of a revised bail date using section 47(4A). This date cannot be after the end of the ABP.

Revised bail date = days with CPS + remaining ABP Total number of days the file is with CPS + remaining ABP days. 	Day file sent to CPS: The ABP doesn't start or is suspended (this day doesn't count as an ABP day). 	Day file returned from CPS: The ABP starts or restarts (this counts as an ABP day).
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The Prosecution Team is an NYP department and is not part of CPS. Sending a file to the Prosecution Team will not suspend the bail clock. It is therefore necessary to allow time for the CQRT in PT to review the file, this should be well within the ABP to ensure the ABP does not lapse whilst the file is reviewed by PT. OIC's should not rely on the bail clock being stopped the day the file is sent to PT.

If on the day the CPS request further work there are less than seven days remaining of the revised ABP, the ABP will be further suspended to ensure a minimum of seven days ABP. During this time a decision as to how best to progress the case will be needed. If the action plan can be completed within the re-calculated ABP, the ABP will be suspended again when the file is sent back to the CPS (s47ZL(4D)), this can happen on multiple occasions. If the work cannot be completed this time should be used to obtain an extension from the relevant authorising person or Magistrate. The 7-day grace period is not permanently added to the ABP clock.

In practice you need to apply to the court and serve the application on the suspect at least 5 working days before the ABP ends. This means the application will need to be submitted the day it is received back from CPS – if the 7-day grace rule is applied.

An application can be submitted up until midnight on the day the ABP expires, but in this circumstance an explanation would need to be provided. If it appears to the court that it would have been reasonable for the application to have been made in time for it to have been determined by the court before the end of the ABP, it may refuse the application (PACE section 47ZJ(4)).

Therefore, at the time of submission if there is not much time left on the ABP it is advisable to prepare an extension application in case the file is returned from CPS for further work so that it can be submitted straight away.

If an ABP expires without being extended, the suspect automatically defaults to a position of being RUI.

Where a decision to charge is authorised by CPS, then the Custody Officer can wait until the suspect answers bail to charge and bail to court as appropriate. Alternatively, they can consider altering the bail to come in earlier and be charged. Cancelling bail and progressing by postal charge is also an

option however bail conditions cannot be continued or imposed and therefore this can only be used for unconditional bail.

Setting Different Bail Return Dates

The bail return date will normally fall on the same date as the ABP end date, but an earlier time and date can be set by the Custody officer, for three reasons:

1. Firstly, to align with another bail return date if the person is already on bail for another offence (PACE 47ZA (3)).
2. Secondly, if a custody officer feels an earlier charging decision is likely (PACE 47ZA (4)).
3. Lastly and probably the most widely used under section 47(4A) to (4D) PACE - The bail return date can be varied to an earlier date to accommodate any requests from the suspect or their legal representative or to accommodate any policing requirements such as demands on shift patterns or bail diaries.

The custody officer should record the rationale for their decision making. Whenever a new time or date is set for the suspect to answer bail the custody officer must provide the suspect with a written notice informing them of the use of section 47(4A) PACE to do this.

Varying and changing conditions of bail within an ABP

Where a custody officer has granted bail in criminal proceedings, they, or another custody officer serving at the same police station may, at the request of the suspect to whom it was granted, vary the conditions of bail; and in doing so may impose conditions or more onerous conditions (s 3(8) The Bail Act 1976). Normally the Custody Officer will require that a request is in writing and the custody officer should consider the whole circumstances. The request to vary bail conditions template can be found in the documents tab of the custody record.

Where a suspect is not currently in detention and at the request of the person to whom bail was granted, then only the Custody Officers authority is required.

The victim should be consulted, and their views sought where there is consideration of variation of bail conditions. Where conditions are altered then the suspect will need to sign for this alteration on a new bail disposal in the custody record. The suspect should not be bailed beyond the current ABP unless it has been sent to CPS for a charging decision.

Conditions imposed by a custody officer may also be varied by the magistrates' court on application by the suspect (s. 47(1E) PACE). The magistrates can confirm the same conditions, impose further conditions, different conditions or direct that bail shall be unconditional. It will continue to be police bail.

Bail conditions can be **changed** in most circumstances, whenever the suspect is in front of the custody officer, at the behest of the police or on request by the victim. The suspect can be re-released on bail with different conditions at any point during an active ABP, if new conditions are necessary and the usual requirements for imposing pre-charge bail with conditions are met.

This does **not** apply where the suspect is arrested for breach of bail under section 46A of PACE and they were originally released under 37(7)(a) or (b) (bail for CPS charging decision or where there is sufficient evidence to charge, but for some reason the police are not charging the suspect and are releasing them for any other reason). In these circumstances, the conditions cannot be changed if the suspect were subsequently re-bailed. It would be expected that in these circumstances, an urgent charging decision would be sought, and a request placed with CPS for any amendments.

Postal Variations

Under s47(4A) of PACE where PCB has been granted with a duty to attend at a police station, the custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail. The different or additional bail date must not be beyond the current ABP, unless this has been suspended. The custody officer must give the person a notice in writing, and this can be done by post. This variation is in relation to the bail date and does not apply to conditions of bail.

Breach of PCB

Any suspect released from custody on PCB must have an investigation plan, which includes a plan to deal with any breaches of bail. This should be consulted before any arrest for breach of PCB takes place.

Any breach of pre-charge (and post-charge) bail must be logged by the OIC as an enhanced OEL. The OEL should be added to the occurrence linked to the custody record on which the bail conditions are logged that have been breached. An enhanced OEL must be logged each time a breach is reported. It is the OIC's responsibility to add the enhanced OEL, when they become aware of the breach. Where there is no intention to arrest for the breach of pre-charge bail, a task must be created within the enhanced OEL, to flag this for review by the OIC's supervisor.

For any arrest of breach of PCB to be lawful, it must still be within the ABP. If a defendant is arrested for breach of pre-charge bail (**section 46A of PACE**), then a three-hour pause to the original custody clock will be triggered, please see below.

Before arresting for breach of PCB, officers must first consider whether any new substantive offences have been committed and arrest where appropriate. Arresting for new substantive offences generates a new 24-hour custody clock. It is important that if an arrest is made for a substantive offence (such as harassment, perverting the course of justice or witness intimidation), the breach of bail is also recorded as an arrested offence on the custody record to assist with data collection and with bail, remand, and civil order decisions at court.

There are two powers of arrest under which you can arrest for failure to answer bail:

Section 24 of PACE gives a power of arrest for any offence where there are reasonable grounds for suspecting the person has committed an offence. This general arrest power can be used in respect of a failure to surrender to bail under **S6 of The Bail Act 1976**. An arrest under section 24 will generate a new custody record and 24-hour detention clock.

Section 46A of PACE gives a constable the power to arrest, without warrant, any person who has been released on pre-charge bail and fails to attend at the police station at the time appointed to do so. A constable can also arrest a person, without warrant, where they have reasonable grounds to suspect that the person has broken any of the conditions of bail. A person arrested under this power must be taken to the police station appointed as the one they were to surrender to - this is not a change in the legislation.

When a person is arrested under 46A, the detention clock is paused for three hours. This allows time to deal with the breach of bail without impacting the original detention clock. Note that the three-hour pause does not begin until the suspect reaches the station, so travel times will have no impact on the pause.

A constable also has power of entry under **section 17 of PACE**.

If the person is not in a fit state to enable them to be dealt with, they may be kept in police detention until they are (**section 37D(5) of PACE**).

Following an arrest for breach of pre-charge bail, a review of the current investigation and any outstanding actions that can be progressed, will need to be conducted to decide whether the file meets either the threshold or full code test for charge. The custody officer should consider a breach of pre-charge bail in their decision to remand if the suspect is charged with the original offence. This may also be an opportunity to change any bail conditions in place to be more suitable or onerous to strengthen the web of protection and manage the risk. The arrest triggers a new bail decision for the custody officer, who can amend bail conditions as appropriate (except for those released under **section 37(7)** bail, as described below).

Where a suspect is arrested under **section 46A of PACE** and is on bail under **section 37(7)(a)** for a CPS charging decision, further considerations apply. **Section 37C of PACE** states that where a person is originally released on bail under **section 37(7)(a)** and is to be re-bailed following an arrest for breach on that bail, they 'shall be subjected to the same conditions (if any) which applied immediately before his arrest'. Bail conditions therefore must not be varied, changed or removed. If this is required due to a change in the circumstances and risk assessment, CPS should be advised and will make a decision to apply to the court as needed for a variation.

The same applies where a person was originally released on bail under **section 37(7)(b)**, where there is sufficient evidence to charge, and the person is released on bail not for a CPS charging decision.

Breach of PCB is not an offence, and the suspect should be returned to custody on the original custody record. However, failure to answer bail at the specified time and date without reasonable cause is an offence under S6 of the Bail Act 1979. This is a summary offence, and a suspect may be charged and brought before the court in respect of this matter. A suspect can be charged with this offence, even if the original matter the bail was issued for leads to NFA.

There is an expectation that the police will be proactive in respect of these offences, to strengthen pre-charge bail and establish it as a legitimate policing tool to protect victims, witnesses, suspects, and the public. Arrests and charging for this offence will assist in managing the risk of the suspect in relation to bail in the future, as well as informing decision making around any post-charge remand considerations. This offence is subject to statutory prosecution time limits.

Any substantive offences identified should take precedence to an arrest for breach of PCB.

Three-hour pause to the detention clock

To simplify arrangements for arrest for breach of pre-charge bail conditions The Police, Crime, Sentencing and Courts Bill 2022 has introduced a 'pause' on the detention clock where such an arrest has been made. Where a suspect has been arrested under section 46A of PACE, for a breach of pre-charge bail, there will be a 'pause' on the custody clock of 3 hours, beginning with the time at which the person arrives **at the police station following arrest**. This means that when someone is arrested for breach of bail, the suspect can be held for up to three hours without any effect on the original clock.

This is to ensure officers take a more proactive approach to arresting suspects for breach of pre-charge bail. This will help to manage the risk posed by the suspect to protect victims and witnesses and progress the investigation, whilst ensuring that there is still sufficient time to investigate the original offence. The pause on the detention clock is not cumulative, so if a person is released after only 1hr, the remaining 2hrs is not added to the detention clock. There is no limit to how many times a person can be arrested for breach of PCB – and each time there is up to a 3 hour pause on the detention clock.

Where a breach of PCB occurs alongside a substantive offence, the suspect should be arrested for both the offence and the breach of PCB. The substantive offences identified should be the priority, however the arrest for breach of PCB will also need to be recorded not only to provide accurate data, but to assist in suspect management and future risk profiling. The OIC must keep in mind that when bail conditions are enforced this increases the victim's perception of safety and encourages continued engagement in the criminal justice process.

When a suspect is arrested for a breach of pre-charge bail, the overriding objective should be to progress the investigation to a full code test charging decision. However, this will not always be possible depending on the circumstances of the case, outstanding investigative actions, and the point when the breach has occurred (for example, a few hours, days, weeks, or months after release). The three-hour pause can be used with any time remaining on the original detention clock.

The three-hour pause comes into effect at the moment when the suspect arrives at a police station. Detention does not require further authorisation as it forms part of the original detention. If the suspect requires hospital treatment, then the three hours is paused, in the same way that the detention clock would be paused. If the suspect is taken straight to hospital from the place of arrest, the detention clock would not start until they arrived at a police station. The three-hour pause works in the same way and will not begin until the suspect reaches the station. It should be noted that the review clock continues as per the original detention clock.

Where a suspect is arrested for a breach of pre charge bail, any representations made by the suspect in relation to the breach should be recorded.

The purpose of the pause may include the following, but are not limited to this:

- Whether to obtain a charging decision – consider a threshold or emergency charge if possible.
- Whether you could obtain any outstanding evidence that could progress the case to a charging decision.

- Whether a PACE interview is required. If the alleged breach has been reported by a third-party, a PACE interview will be necessary. An interview will not be necessary if the breach has been witnessed by an officer or police staff member and a witness statement is provided.
- Whether further safeguarding and support is necessary for the victim, including referral to support services and target hardening.
- Whether further safeguarding and support is needed for a vulnerable suspect, including referrals to support and diversion partners as appropriate.
- Whether a change to existing bail conditions would better manage the risk posed.
- Whether other protective orders could support bail and assist in risk management.

Where a detainee is unfit for charge or release, please see the additional guidance contained in the College of Policing implementation pack #2.

Failure to Answer PCB

In this case the OIC should make enquiries as to why bail had not been answered. If appropriate the suspect should be circulated on PNC as wanted, following existing procedures. All enquiries and actions should be logged on the OEL. Custody Sergeants should monitor the bail diary and ensure that any such offenders are brought to the attention of the OIC.

There is a power of arrest for suspects who fail to answer PCB. If a suspect is arrested, they should be returned to custody under the original custody record. They can be detained for the remaining period on the detention clock and the three hour pause will apply. They can be re-bailed up to the end of the current ABP expiry date.

There is an offence of absconding by person released on bail under S6 of The Bail Act 1976. This relates to failing to answer bail to court or a police station, where they have been released on bail in criminal proceeding, and without reasonable cause fail to surrender to custody. This is a chargeable offence, and it is encouraged that where this is appropriate, this offence is charged.

If the ABP has expired the suspect can be arrested for failing to appear but they cannot be re-bailed under PCB. For a suspect to be re-bailed on PCB, then the OIC must have obtained an extension to the ABP prior to the current expiry date in the usual way and make reasonable efforts to representation from the suspect or their solicitor.

If the ABP has expired the suspect cannot be arrested for any subsequent breach of PCB conditions. If a suspect is charged with the original offence(s) following an arrest for failing to answer PCB, they must be given post charge bail or remanded.

On rare occasions a suspect may be an in-patient at hospital on the expiry date of the ABP. In these cases, the ABP is suspended for each day they remain an inpatient in a similar manner to the court suspensions. This is problematic to administer. The onus is on the suspect to demonstrate they have been an inpatient. They are bound in law to answer their bail unless they have reasonable excuse and there is a power of arrest available for failing to appear.

An Inspector, Superintendent or Court extensions should be applied for in the usual way prior to the ABP expiring if PCB is still required, in their absence where necessary.

Street Bail

NYP does not advocate the use of PACE S30A bail or 'street bail'. There are occasions however where this may be required and the suspect is released on bail before they arrive at a police station. Such as where an arrested person is taken straight to hospital prior to arrival at a police station. The constable should consider the impact of street bail, particularly in relation to vulnerable suspects, as they will not have access to the same level of safeguards and support as quickly as if they were taken to a police station, for example access to an appropriate adult.

Pre-Conditions for Imposing Pre-Charge Street Bail:

If this is the case, then the constable must be satisfied that releasing the person on bail is necessary and proportionate in all the circumstances, having regard to any conditions of bail which would be imposed.

In determining whether releasing the person on bail is necessary and proportionate in all the circumstance, the constable must have regard to;

- I. the need to secure that the suspect surrenders to custody
- II. the need to prevent offending by the person
- III. In relation to the offence for which the person has been arrested, there is a need to safeguard victims and witness of crime, considering any vulnerabilities of the victim or witness, where these vulnerabilities have been identified
- IV. the need to safeguard the suspect, considering any vulnerabilities that have been identified by the constable, and
- V. the need to manage risks to the public.

A custody officer must authorise the release on bail (s30A(1A)), having considered any representations made by the suspect.

A suspect may be released without bail at any time before they arrive at a police station if the conditions for bail are not met (s 30A(2)).

Officers can impose conditions on street bail where necessary to:

- I. ensure the suspect surrenders to custody
- II. prevent the suspect committing further offences while on bail
- III. prevent the suspect interfering with witnesses or obstructing justice
- IV. provide the suspect with protection (or if under the age of 18, for their own welfare) (s 30A(3B))

A bail notice must be served on the suspect by the constable. This must give details of the offence for which they were arrested, the grounds on which they were arrested and whether they are being released without bail or on bail (s 30B). If the suspect is being released on bail, the notice must also inform the suspect which police station they must answer bail at as well as the time and date they must answer.

Re-arrest on Fresh Evidence

Fresh evidence has been defined as “new evidence” or “analysis of existing evidence has been made which could not reasonably have been made before”.

Where a suspect has been bailed and subsequently answers their bail (enters police premises) and is re-arrested on fresh evidence, then the original custody record, detention clock and therefore ABP must be used.

Where a suspect has been RUI or released on bail and prior to answering bail, is re-arrested on fresh evidence, then they will be subject of an entirely new custody record and “detention clock”. Where bailed, this re-sets the ABP and any previous extensions are now void. Provided the requirements for bail with conditions are met, this may lead to bail where conditions can be altered if required.

Where there are two custody records, the custody officer should cross reference them and the first custody record for the original arrest should be closed. The second custody record must be used for all further updates until there is a final disposal for all offences.

Incidents/investigations involving more than one force area:

This section is also relevant to those suspects who are RUI.

The people you encounter when dealing with an incident may have connections in other force areas. For example, they may live in one force area, but work in another or they may be in a relationship with someone living in another force area. Where you identify a safeguarding risk for any person; a victim, witness or a suspect (or otherwise connected, e.g., family member), it is critically important that you consider the safeguarding implications of them moving between force areas. It is essential that each force is clear about what is in place and who is taking overall responsibility for any risks identified.

The OIC, must contact the other force area and ensure that they are fully aware of any concerns and the safeguarding measures that have been put in place to mitigate the risk whether that be in NYP or any measures, such as bail conditions, relevant to the other force area. The OIC must provide sufficient information to allow the other force to put appropriate safeguarding measures in place also.

The OIC Must:

- Provide details in writing of your concerns and the safeguarding measures adopted by North Yorkshire.
- Obtain details of a named SPOC in the other force area with whom you can maintain contact to provide updates as necessary.
- Agree with the named SPOC which force will take primary responsibility for safeguarding measures for the person at risk (subject to which force is best placed to take primacy).
- Agree with the named SPOC a timetable to maintain contact and share information.
- Update the OEL with details of what has been agreed, together with the identity and contact details of the SPOC.

The OIC Must Not:

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- Assume that the other force has the information they need to protect the person(s) at risk.
- Assume that the other force will implement appropriate safeguarding measures.
- Assume that the other force will take responsibility for safeguarding person(s) at risk.

PCB and Detainees Dealt with Out of Force Area

If the suspect is being dealt with out of NYP'S area, then the OIC must follow the local procedure for that force. In these circumstances the OIC should obtain all necessary paperwork (such as copies of the custody record and the bail authorisation) and email the PCB. CourtExtensions inbox to enable reminders to be sent regarding the submission of extension applications to the relevant Magistrates Court if required.

It is possible for an NYP Custody Officer to give authority to bail a suspect dealt with outside of NYP: PACE does not give specific requirements over the actual decision maker, for each authority it is any officer of the designated rank or above.

If the suspect is required to answer bail in NYP then the OIC should ensure the relevant Custody Suite is informed and provided with a copy of the custody record, so a back-record conversion can be completed in time for their bail return date. Please see NYP's Out of Force Arrest Process for BRC onto NYP Niche process.

There are additional PNC requirements that the OIC must be mindful of that but are outside the scope of this policy. Further guidance is contained on the Police National Computer subsite.

PCB and Detainees Dealt with in NYP by a Foreign Force

Where a detainee is being dealt with in NYP for an offence that has taken place out of force or being investigated by an OIC employed other than by NYP, NYP procedure should be followed. It is possible for an NYP Custody Officer or a Custody Officer from the Foreign Force to give authority to bail a suspect in these circumstances: PACE does not give specific requirements over the actual decision maker, for each authority it is any person of the designated rank or above.

If the detainee is to subsequently answer bail outside of North Yorkshire, then following PCB Custody Officer authorisation the appropriate conditional / unconditional bail disposal should be used, with the relevant address for answering bail. This ensures that the suspect has the relevant paperwork. The suspects ongoing bail management will be dealt with by that Police Service or investigating body. This should be made clear by the Custody Team, to the OIC and the detainee, and should be logged on the custody record.

If the detainee is to continue to be dealt with in the NYP area, then care must be taken by the Custody Team to get contact details, including email of the OIC to enable ongoing suspect management.

For Inspector and Superintendent authorisations to extend the ABP, this should be completed by an Inspector or Superintendent of the police service responsible for the management of the investigation.

Protective Orders

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There are a wide range of protective orders available that investigators should consider using in conjunction with pre-charge bail and any conditions imposed. Using orders can mean that a breach is a criminal offence with specific arrest powers.

Pre-charge bail can be limited in its impact, due to a lack of enforcement powers. A breach of bail conditions may allow for the use of civil orders by the police, in particular a Domestic Violence Protection Notice (DVPN) or possibly a Stalking Protection Order. Once these are in place, a further breach will be a criminal offence.

Where a protective order is in place as well as conditional bail, officers should consider whether there is evidence of a breach of an order and take appropriate action. This is because breach of these orders has criminal or civil justice consequences, whereas breach of police pre-charge bail does not.

It is the role of police to help make victims safe. It is not appropriate for officers to routinely advise victims to seek civil orders themselves. However, there are some orders that can be obtained as part of civil proceedings and victims may wish to explore these options.

If bail cannot be extended due to delays in the police investigation, police may be able to apply for other protective orders where the criteria for the civil order are met.

Further guidance can be sought here:

- Protective measures and civil orders | College of Policing
- Stalking Protection Orders

Roles and Responsibilities (PCB)

The College of Policing has issued role specific guidance which should be referred to for a full picture. Pre-charge-bail: Role Specific information

Investigating Officer (OIC)

The OIC must aim to complete the investigation in the first period of detention wherever possible and otherwise within realistic timeframes. If further time is required, then the presumption against bail has been removed and the OIC should consider whether to RUI or bail based on the circumstances. OIC's will be required to make an initial determination on whether to seek a Custody Officer's approval for bail. RUI should only be used when there is little or no risk involved for the victim, witness, suspect or the public as a key consideration must always be the need to protect these individuals.

OIC's are required to seek a victim's views on bail and conditions and conduct risk assessments with them prior to each of the police and Magistrate's authorisation periods, this must be recorded on the OEL. OIC's must also seek representations from suspects and /or their legal representatives prior to each of the re-authorisation periods (Inspector, Superintendent and Magistrate), as the initial representations will be sought by the Custody Officer whilst the suspect is in custody.

OIC's must consider other protective orders or actions that can add to the 'web of protection'. Pre-charge bail should not be used in isolation where there is a risk of harm to the victim, witnesses,

suspect or the public. OIC's must also liaise with other force areas where applicable, as per the guidance contained in the section '**Incidents/investigations involving more than one force area**'

OIC's must update the authorising person as well as the Custody Officer (if different) in respect of the representations from victims and suspects. The OIC must apply to the appropriate senior officer or Magistrate in advance of the ABP end date for extensions. The OIC must detail a suspect management strategy, which includes advice on how to deal with any breaches of PCB. The OIC must also complete a 'custody update' OEL prior to a suspect answering bail and if there is the intention to move them to RUI, they must also complete the RUI authorisation template on the custody record.

The OIC is also responsible for contacting the Custody Team prior to the lapse of the original ABP to advise if there have been any suspensions or extensions otherwise the OIC will need to complete the RUI authorisation documentation and ensure RUI is appropriately authorised. Custody will need to send the RUI paperwork to the suspect. Where this is not done and the ABP lapses without an RUI authorisation in place, the case will be referred to a senior officer for review, as per statutory guidance.

Where a decision is made to release a suspect from PCB and utilise RUI a full justification must be provided and documented by the OIC on the RUI authorisation form. Where this involves domestic abuse, child abuse, sexual offences or cases involving a vulnerable victim or witness, this should be referred to an Inspector.

OIC's also have a duty to ensure any breach of bail or new substantive offences are investigated, where these are reported, or they become aware of such.

Supervising Officer

The Supervising officer will normally be the OIC's line manager. All decisions must be logged on the bail authorisation form and should follow the NDM process. The supervising officer must ensure the OIC has attempted to obtain the views of the victim regarding bail and any conditions relating to their safeguarding, as well as ensuring a risk assessment has been undertaken, in line with the above guidance. They must ensure regular victim and suspect updates are completed and that the investigation is being conducted diligently and expeditiously.

The responsibilities of the supervising officer also include a requirement to ensure the investigation plan includes a suspect management regime outlining realistic timescales and advice on how to deal with any breach of PCB as well as consideration of the suspect's welfare. There is also a responsibility to conduct reviews; and ensure timely bail extensions are authorised where applicable and ensure the investigation is progressing diligently and expeditiously. There should be a review at least monthly.

A supervisor should review any case where an investigator deems conditional bail is no longer necessary and requests a conversion to unconditional bail, prior to submission to a custody officer for their decision.

Where a decision is made to release a suspect from PCB and utilise RUI this must be ratified by the Supervising Officer. Where this involves domestic abuse, child abuse, sexual offences, cases

involving a vulnerable victim or witness or 'high harm' cases, the supervising officer should check this has been referred to an Inspector. Where PCB lapses without an RUI authorisation being in place, this should be referred to a senior officer (Inspector or above) for review in line with statutory guidance.

The supervising officer must ensure that the OIC updates the Custody Team of any case disposal so that all legislation in respect of PACE, PNC and biometrics is complied with.

Custody Officer

The Custody Officer has responsibilities both pre and post release. When considering initial bail the Custody Sergeant must consider it proportionate and necessary, following the information provided in this policy in relation to the authorisation. This includes a consideration of the victim's views on bail and conditions, as well as any representation made by the suspect / their legal representative and take account of any suspect vulnerabilities and the impact of conditions on them. These decisions should be made following consultation with the OIC. The custody officer must also, where possible liaise with YJS prior to releasing a young person on bail.

The custody officer is responsible for deciding on whether conditional or unconditional bail will be imposed and will ensure any conditions are appropriate: They should be necessary and proportionate; relevant to the offence; enforceable and not punitive.

The custody Officer will only accept extensions to the ABP on the authority of the appropriate senior officer or magistrate. Where bail has been refused by the senior officer, they will RUI the suspect following the completion of the RUI authorisation form. Where bail has been refused by the Magistrate, they will RUI the suspect immediately – no RUI authorisation form is required, as this is the Magistrate's decision.

Where an ABP has lapsed and there are no suspensions, the Custody Team will send out RUI paperwork to the suspect. It is the OIC's responsibility to liaise with the Custody Team to update them regarding any suspensions or extensions to ensure there is no misunderstanding, for example where a case has been sent to CPS, the suspect is in hospital or, for example, where personal service of RUI paperwork may be more appropriate. Where PCB lapses without an RUI authorisation being in place, this will be referred to a senior officer for review in line with statutory guidance. Such cases will be identified by the usual daily administration check on the bail diary.

Custody Officers also have responsibilities in relation to breach of PCB, as detailed in this policy.

Inspectors and Superintendents

Inspectors and Superintendents also have responsibilities in relation to PCB. The College of Policing has issued role specific guidance which should be referred to for this information.

Post Charge Bail

Overview

Post charge bail remains unchanged. There is still a presumption under S38 of PACE that there is a right to bail unless s25 of the Criminal Justice and Public Order Act 1994 applies or unless S38 (1) (a), (b) or (c) is applicable and the custody officer determines there are grounds to refuse bail. In these circumstances the OIC is responsible for ensuring that the Custody Sergeant is provided with all the relevant information to make an informed decision. The Custody Sergeant shall take representations from the suspect and /or the solicitor as is the current practice and make a full record on the custody record.

Voluntary Attendance (VA)

It is the policy of North Yorkshire Police (NYP) to deal with those that attend voluntarily to be interviewed in compliance with Section 29 of PACE 1984 and the PACE Codes of Practice, Code C 3.21 and 3.22 and E. VA can expedite the investigation of offences without the need to arrest. Guidance on the process to follow can be found on the Voluntary attendance intranet page or the Voluntary-Attendance Guidance. This page gives guidance on: Necessity to arrest; arranging the interview and legal advice; opening the VA record; foreign nationals; legal safeguards; recording the interview and interpreters. Any decision to deal with a suspect by way of VA, as opposed to arrest, must be documented on the OEL.

If a suspect has attended a police station voluntarily and is subsequently arrested, they should be dealt with in line with the bail or RUI policy if applicable. The following covers the processes that take place post interview in respect of VA suspect management, specifically: Conclusion of the interview; disposal decisions; Updating the VA record; biometric samples (fingerprints and DNA) and Photographs; leaving the police station / Closure of the VA record and audit / management.

This policy should be applied where the interview takes place not in police detention but under caution and this could also include interviews conducted away from police buildings. There are a number of considerations for suspect management and interviews conducted under such circumstances and the VA Guidance section 2.2 should be followed. This guidance must also be followed in respect of the conclusion of the VA interview and Common Law Disclosure, as well as biometric samples and photographs.

All disposal decisions should be made with reference to the Diversions & Out of Court Resolutions processes. Reference should also be made to the DPP Charging Guidance to establish whether the matter requires CPS referral. Other disposal decisions for a VA should be agreed with a supervisor as per the current processes and with reference to the VA Guidance, including postal charges.

The VA guidance also sets out the roles and responsibilities of the OIC, the supervising officer and the VA operator.

Definition of Special Terms

ABP Applicable Bail Period

CPS Crown Prosecution Service

DPP Director of Public Prosecutions

NPCC National Police Chief's Council

OEL Occurrence Enquiry Log

OIC Investigating Officer / Officer in Charge

PCB Pre-Charge Bail

RUI Released under investigation (not on bail)

VA Voluntary Attendance / voluntary attendee

VAUI Voluntary Attendee under Investigation