

I've been given a warning by the police

The police may issue you with a formal warning if they believe you have committed a minor offence. If a police officer takes your name and address this might mean they will make a formal record of the warning on a database. A police warning is only recorded locally, not on the police national computer, however this local record could remain on the database indefinitely. A warning would not normally show up on a Criminal Records Bureau (CRB) check, but may be disclosed on an enhanced CRB check as it asks the police about local information held on you. For more information on disclosures see the Galop fact sheet on Sexual Offences and CRB checks.

I've been given a penalty notice

If the police or others (such as police community support officers, council officers and head teachers) have reason to believe you have committed a minor offence you can be issued with a fixed penalty notice or penalty notice for disorder. These are both one-off fines issued for 'low level' antisocial behaviour. The police have also been known to issue penalty notices to people they believe to be committing minor sexual offences such as cottaging.

Fixed penalty notices generally deal with environmental offences such as litter and graffiti and can be issued by local authority officers and police community support officers. These notices can be issued to anyone over 10 years old.

Penalty notices for disorder are issued for offences such as intentionally harassing people, or being drunk and disorderly. These notices can be issued to anyone over 16 years old. Penalty notices are not the same as criminal convictions. However, failure to pay your fine may result in higher fines, or imprisonment.

A penalty notice or fixed penalty notice is issued in lieu of prosecution and should be paid within 14 days. If you receive one your only right of appeal is in a court. If you wish to dispute the fixed penalty notice you must wait for a court summons to attend a Magistrates' court. The case must be heard within court within six months of the alleged conduct. Sometimes the person issuing the penalty notice (the prosecution) might not challenge your appeal and not attend court. If they fail to do so then criminal proceedings will no longer be pending and you would not have to pay the penalty notice. However, if they do and you're convicted you could be subject to a higher fine, have to pay court costs and end up with a criminal record. If you do want to appeal the penalty notice you should get legal advice.

I've been cautioned

If a police officer has reason to believe you have committed an offence, they must first caution you before deciding if there is enough evidence to charge you. Depending on the seriousness of the offence, the police may then charge you, or they may send information through to the Crown Prosecution Service, which will decide whether to charge you. In some cases, the police may issue you with a formal caution, rather than charge you with an offence. A formal caution is issued by a senior

POLICE WARNINGS, CAUTIONS & PENALTY NOTICES

HOMOPHOBIC TRANSPHOBIC ABUSE?

TELL US ABOUT IT

020 7704 2040
www.galop.org.uk

Homophobia and transphobia are crimes. Report them by calling or texting our helpline or online at our website.

Galop is part of the LGBT community. You do not have to give your name and we will treat what you tell us in confidence.

police officer and is a strong warning that you could have been sent to court, and almost certainly will be if you commit further offences. A formal caution can only be given if you consent and sign for it. By consenting, you are in effect agreeing that you are guilty of the offence, and once you have consented, you cannot then argue that you were innocent. You should therefore not accept a caution without a solicitor explaining the implications to you, even if you are told that the matter will be cleared up more quickly if you sign.

A simple caution is not a criminal conviction, but it will be recorded on the police national computer. It may be used in court as evidence of bad character, or as part of an anti-social behaviour order (ASBO) application. The record will remain on the police database along with photographs, fingerprints, your DNA and any other evidence taken.

Do I have to tell my employer?

Cautions (or reprimands and final warnings if you are under 18) and warnings are not criminal convictions. This means that you don't have to declare a caution to a future employer but if you are asked questions like "Have you ever been in trouble with the police?" or "Have you a criminal record?", then you should give details of these cautions or warnings if you think that the police hold information about this.

Guidance states that cautions and warnings should be deleted after five years, though this doesn't happen automatically. Some police forces retain records for longer than five years, and some indefinitely. If you have been cautioned you may want to contact your local police station to find out when this will be removed.

If you are convicted or cautioned for a sexual offence (after 1997) you will be placed on the Sex Offenders Register. An enhanced CRB check may also provide 'soft' intelligence about allegations and concerns, for example if someone has been warned about a sexual offence.

For more information on CRB checks and finding out about checking your police record, see the Galop fact sheet, Sexual Offences and CRB checks or contact Galop.

Making a Police Complaint

If you feel you have suffered or witnessed police misconduct, you may want to make an official complaint. Misconduct can range from minor incidents such as an officer being rude to you, through to unlawful arrest, use of force or even suspicious injuries or death in custody. Galop can advise you on making a complaint. See our separate factsheet 'Police Complaints' for more detailed information.

For further information and general enquiries about legal advice you may find the following sites useful:

www.clsdirect.org.uk

www.law4today.com

www.thesite.org

www.homeoffice.gov/police/powers

Always dial 999 if it is an emergency and you think you are in immediate danger.