

---

**Deputy Chair of the UK Statistics Authority  
Professor Sir Roger Jowell CBE**

Sir Suma Chakrabarti KCB  
Permanent Secretary  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

30 March 2009

Dear Sir Suma

**Treatment of Penalty Notices for Disorder within published statistics**

Earlier this year there was media discussion about statements by Professor Rod Morgan on inconsistencies between the definitions used in the published statistics on Offences Brought to Justice and those on First-time Entrants to the youth justice system. These press reports have focused particularly on Penalty Notices for Disorder (PNDs), which are included in the former definition but not in the latter.

The Authority is concerned about whether the public and policy makers are getting appropriate and coherent information on the incidence of youth crime and on how it is dealt with by the justice system.


I think that the best way forward would be for officials from the Ministry of Justice and the DCSF to meet, under the chairmanship of the National Statistician, to discuss how to ensure that government as a whole delivers a clear set of statistical information that meets the needs of users, with a view to reporting back to the Authority in May 2009.

The Authority has both powers and obligations to report on matters of public concern relating to official statistics. However, in this instance, we would propose to hold off on the preparation of a report until the proposed discussions have taken place.

The attached Background Note contains some initial observations made by the Authority's Monitoring & Assessment Team.

Copies of this letter go to the Permanent Secretary at DCSF (David Bell) and the National Statistician (Karen Dunnell).

Yours sincerely



M. J. STEVENS  
P.P

**Professor Sir Roger Jowell CBE**

## Background Note

### Treatment of Penalty Notices for Disorder within published statistics

1. On 8 January, 2009, the Guardian<sup>1</sup> published an article on youth crime statistics which drew attention to comments made by Rod Morgan, a former chair of the Youth Justice Board. In the article, Professor Morgan stated that there were inconsistencies between the definitions used in the published statistics on Offences Brought to Justice and those on First-time Entrants to the youth justice system. He focused particularly on Penalty Notices for Disorder (PNDs), which are counted in the former definition but not in the latter. He argued that this inconsistency created a misleading impression of the government's success in tackling youth crime.
2. The claims made in Mr Morgan's article raise some concerns about definitional issues and, relatedly, the presentation of these statistics.
3. We note that the Offences Brought to Justice measure is a count of *offences* while the First-time Entrants measure is a count of *offenders*. We also note the arguments put forward by a DCSF spokesperson<sup>2</sup> that: "Penalty notices for disorder can be issued when there is no admission of guilt for minor offences – therefore receiving one does not make a young person a 'first-time entrant' to the criminal justice system. The distinct nature of PNDs is to prevent young people from being criminalised too early, yet being a serious enough measure to deter them from offending" and that "PNDs offer an opportunity to provide swift justice to avoid drawing a young person further than necessary into the criminal justice system for low-level offences and anti-social behaviour."
4. We would make two observations relating to such arguments:
  - i. It is difficult to see the logical basis of drawing a conceptual distinction between offences and offenders, in the treatment of PNDs within the Offences Brought to Justice and the First-time Entrants contexts. The first DCSF argument quoted above supports the exclusion of PNDs on the basis of there being no requirement for an admission of guilt. This seems inconsistent with the treatment of other offences where an admission of guilt is not a prerequisite for prosecution or conviction. The second DCSF argument, however, does seem to recognise that the recipient of a PND has already been drawn into the criminal justice system.
  - ii. That a PND is issued as the result of offending (and thus relates to offenders) is also recognised by the Home Office, for example in its 'Operational Policing' webpage<sup>3</sup> which states that the PND scheme's objectives include offering "... operational officers a new, effective alternative means of dealing with low-level, anti-social and nuisance offending" and to "increase the amount of time officers spend on the street and dealing with more serious crime and to free the courts to deal with more serious offending". This seems to accept that the receipt of a PND does constitute an engagement with the CJS and that it constitutes a form of criminal offending albeit not one considered 'serious'.
5. Turning to the presentation of these statistics – statisticians are bound by the Code of Practice for Official Statistics which requires, amongst other things, that

<sup>1</sup> <http://www.guardian.co.uk/society/joepublic/2009/jan/07/youth-crime-statistics>

<sup>2</sup> <http://www.guardian.co.uk/society/2009/jan/08/youth-crime-statistics-row>

<sup>3</sup> <http://police.homeoffice.gov.uk/operational-policing/crime-disorder/index.html/>

statisticians “Prepare and disseminate commentary and analysis that aid interpretation, and provide factual information about the policy or operational context of official statistics...” and that they “Publicise statistics in ways that enable users to identify and access information relevant to their needs ...”.

6. We believe there is scope to improve the coherence of published official statistics in this area, in order to improve understanding of the statistics and their context. Coherence could be improved, for example, by presenting statistics on First-time Entrants that accommodate offences which attract a PND as bona fide offences, and that also show PNDs alongside established CJS penalties for such offences. Similarly, it would be useful for statistics on Offences Brought to Justice to show both CJS and PND disposals, whilst clarifying any definitional issues.

**Monitoring & Assessment Team**  
**March 2009**