

Guidance on convictions, cautions, determinations and other methods of police disposal

Introduction

- 1 This document aims to set out the process for dealing with convictions, cautions, overseas determinations, police cases which do not result in a conviction and informal disposals for minor offending. Its primary intention is to provide a helpful overview for doctors, legal representatives and other interested parties of how we deal with these types of cases under our fitness to practise procedures.

Definitions

- 2 'Convictions' 'cautions' and 'determinations' are defined in Section 35C(2) of the Medical Act 1983 (as amended) ('the Act').

Convictions and cautions

'A conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England or Wales, would constitute a criminal offence.'

Determinations

'A determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.'

Convictions resulting in a custodial sentence

- 3 Rule 5 of the General Medical Council (Fitness to Practise) Rules 2004 ('the Rules') contains specific provisions for the management of cases which result from a conviction, police caution or a determination from another regulatory body.
- 4 Under Rule 5(1) the Registrar shall refer all convictions resulting in a custodial sentence, whether immediate or suspended, directly to a Medical Practitioners Tribunal ('MPT'). As soon as we receive information about such a conviction we will consider as a priority whether the matter should also be referred to an Interim Orders Tribunal (IOT). The IOT will consider if it is necessary for the protection of patients and/or in the public interest to suspend or restrict the doctor's registration while our investigation is ongoing.
- 5 A certificate of conviction will be obtained in all cases. Although the GMC does not have to prove the facts behind a conviction at a tribunal, we will usually obtain a full summary of the circumstances of the offence and, in some cases, the judge's sentencing remarks and other evidence such as witness statements. This will help the Tribunal assess whether the doctor's fitness to practise is impaired by their conviction and, if so, the appropriate sanction to be given.
- 6 Under Rule 5(2) the Registrar shall refer any other conviction, caution or determination directly to a MPT, unless they are of the opinion that it ought to be referred to a medical and a lay Case Examiner (CE) for consideration*.
- 7 In determining when to exercise their discretion to refer a conviction or caution to CEs, the Registrar will give consideration to the following criteria:
 - a the type and nature of the offence[†],
 - b the seriousness of the offence[‡],
 - c whether there is a significant risk to members of the public of serious harm caused by the doctor committing further offences[§],
 - d the type of sentence imposed, and

* Subject to rule 4(5), the Registrar shall refer any other allegation falling within section 35C(2)(c) or (e) of the Act 1983.

[†] With particular reference to the Disclosure and Barring Service list of autobar offences, Sch. 15, Parts I & II of the Criminal Justice Act 2003, the Misuse of Drugs Act 1971 and Theft Act 1968.

[‡] Section 224(2) of The Criminal Justice Act 2003 defines 'serious offences as specified offences that are punishable with either life imprisonment or with imprisonment for 10 years or more. Sections 13 to 18 of the Criminal Justice and Immigration Act 2008 define a 'serious' offence as one which merits at least two years of actual time served in custody.

[§] *R v Lang* [2005] EWCA Crim 2864. The Court of Appeal held that 'significant' means noteworthy, of considerable amount or importance. Risk must be to members of the public. This can include the offender, particular groups of members of the public and individuals.

e any other information available.

- 8 Upon receipt of all the requested investigation information and before writing to the doctor under rule 7 of the Rules, the GMC Investigation Officer (IO) will review the case papers and may, if the circumstances of the case indicate, seek advice from the CEs on whether they would be minded to conclude the case by issuing the doctor with a formal warning. Although the CEs will seek to adopt a consistent approach to certain types of offence, their decision will depend on the individual circumstances of each case and whether there are any aggravating factors.

Convictions for motoring offences

- 9 Motoring offences which result in a charge or summons to appear before a criminal court require disclosure to the GMC. We do not investigate speeding offences unless there are specific aggravating features which raise a question about the doctor's fitness to practise.
- 10 Motoring offences resulting in a Fixed Penalty Notice (FPN) being issued no longer require reporting to the GMC and if reported can be closed by the Registrar.

Convictions for driving under the influence of alcohol/drugs

- 11 From 5 December 2014, the law relating to driving under the influence of alcohol in Scotland changed. The legal alcohol levels in blood, breath and urine are lower in Scotland than in England, Wales and Northern Ireland (see Annex A, Table 1).
- 12 Driving under the influence of drugs is a criminal offence in the UK (Section 4, Road Traffic Act 1988). In April 2015, changes to the Act introduced a new offence within the UK of driving under the influence of a controlled drug above a specified limit. This covers eight illegal drugs and eight prescription drugs (see Annex A, Table 2).
- 13 When considering such convictions we would normally invite a doctor to undergo an assessment of their health. This also applies to convictions where the doctor has failed to provide a specimen for analysis.
- 14 Upon receipt of the health assessment reports and other requested investigation information, advice may be sought as to whether it would be appropriate in the circumstances to conclude the case by issuing the doctor with a formal warning, undertakings or other disposal.

Cautions

- 15 Cautions are given to anyone aged 10 or over usually for minor crimes e.g. theft, disorderly conduct or possession of cannabis. A caution requires an admission of guilt and an agreement to be cautioned. Where an offender refuses to admit the offence

or does not agree to the imposition of a caution, they may be charged with the substantive offence.

- 16** Cautions fall under Rule 5(2) of the Rules as they are stated as a ground for impairment under section 35C(2)(c) of the Act. Under Rule 5(2) the Registrar will therefore consider whether the caution should be referred directly for consideration by the CEs under Rule 8. In making this decision, the Registrar will have regard to the criteria listed at paragraph 7 above.
- 17** If a doctor is referred to an MPT hearing on the basis of a caution, the factual allegation the doctor will face is impairment by reason of a caution, as this is a stand alone head of impairment under s35C(2)(c) of the Act.
- 18** A caution requires an admission of guilt on the part of the recipient. However, unlike a conviction, there is no provision in the Rules which states that evidence of a caution being accepted is conclusive evidence of the offence having been committed. In these circumstances, it is necessary for the GMC to obtain all background information available in relation to the surrounding circumstances. As a caution is not conclusive evidence of the offence committed, it would be open to a doctor to challenge the events surrounding the acceptance of a caution. Such a challenge would most likely arise at the impairment stage of an MPT hearing. The GMC need to be able to produce evidence of both the caution itself and the events surrounding the incident and cannot simply rely on the caution alone.

Fines and conditional/absolute discharges

Fines

- 19** Any criminal conviction resulting in the imposition of a fine requires disclosure to the GMC. Under Rule 5(2), the Registrar will decide whether the conviction which resulted in the imposition of the fine ought to be referred to CEs (having regard to the criteria set out at paragraph 6 above.)

Conditional and absolute discharges

- 20** A conditional or absolute discharge may not be considered as a conviction for the purposes of the GMC's fitness to practise procedures - see Powers of Criminal Courts (Sentencing) Act 2000 s14(1). Consideration will be given to whether the doctor's fitness to practise is impaired by reason of misconduct. If there are concerns requiring investigation, we will obtain any available evidence to support the allegation of misconduct and progress the case in the same way as a non-criminal referral.

Bind overs

- 21** A bind over is not a criminal conviction but a civil promise before a criminal court to keep the peace and not to engage in any activity which may result in a further breach of the peace and/or commit any criminal offences within a fixed period of time. The defendant agrees to be bound over in a sum fixed by the court. Any criminal behaviour within the specified time period would result in a forfeit of the specified amount as well as prosecution for the new offence.
- 22** Bind overs do not fall within Rule 5 and will therefore be treated like normal referral cases. We will consider whether the behaviour which led to the imposition of the bind over requires further investigation as an allegation of misconduct.

Convictions and other methods of criminal disposal that can be concluded by the Registrar

- 23** There are currently a limited number of minor motoring offences that can be concluded by the Registrar. These include speeding, traffic light offences, talking on a mobile phone while driving, not wearing a seatbelt and careless driving (which is distinct from dangerous driving). These minor motoring offences will not generally be investigated regardless of whether they resulted in a conviction or another method of disposal by the Police. However, discretion can be used by the Registrar to open an investigation if there are any exceptional aggravating factors requiring investigation.
- 24** We also do not investigate the offence of urinating in public. However, as with the minor motoring offences described above, the Registrar can open an investigation if there are any exceptional aggravating factors that raise an issue about the doctor's fitness to practise.
- 25** We do not investigate any offences for which a Fixed Penalty Notice ('FPN') or Penalty Notice for Disorder ('PND') was issued at the lower tier unless the circumstances of the offence give rise to specific concerns about the doctor's fitness to practise.
- 26** We will investigate certain upper tier PNDs and FPNs issued under Part 11 of the Anti-Social Behaviour etc (Scotland) Act 2004. A list of these is at Annex C. However, discretion can again be used by the Registrar to open an investigation into upper tier PNDs and FPNs issued for offences not listed at Annex C if there are any exceptional aggravating factors requiring investigation. Doctors are therefore required to report all upper tier PNDs and FPNs to us.

Overseas convictions

- 27** If a doctor is convicted of an offence outside the United Kingdom (UK), we must establish whether there is a comparable offence under UK law. We will seek legal advice on this issue if there is any doubt. If there is a comparable offence, the

overseas conviction can be considered in the same way as a conviction which took place in the UK depending on the nature of the conviction and the sentence passed.

- 28** Overseas convictions where no comparable offence exists under UK law will be treated in the same way as non-criminal cases and investigated, where appropriate, as an allegation of misconduct.

Determinations

- 29** Under Rule 5(2) there is a presumption that overseas determination cases shall proceed directly to a MPT. However, the Registrar can exercise their discretion to refer the case to CEs if they are of the opinion that it is a case suitable for referral. In making their decision to refer, the Registrar will have regard to the following criteria:

- the type and nature of the matters giving rise to a determination;
- the age of the determination;
- the seriousness of the underlying events giving rise to the determination;
- whether the doctor poses a significant risk to patients and/or is likely to repeat the behaviour which led to the overseas determination;
- the type of sanction imposed, and
- any other information available.

- 30** We will request formal confirmation of the determination from the issuing body, together with a copy of the regulatory authority's statement of case and any other relevant documentation.

Criminal investigations which do not result in a conviction or caution

- 31** Where a criminal investigation or criminal court proceedings conclude without a conviction, we will consider whether the circumstances of the alleged criminal conduct at the centre of the case raise a question about the doctor's fitness to practise.
- 32** At the conclusion of the police investigation or court case, the existing paperwork will be thoroughly reviewed and a decision made on whether any further investigation is required.
- 33** If it is felt that further investigation is warranted, a set of additional investigation tasks will be identified and the case will then proceed in the same way as a non-criminal referral case. As a minimum, it is likely that we will need to request

disclosure of the police investigation file using our powers under section 35A of the Medical Act 1983 (as amended).

- 34** If it is felt that no further investigation is needed and we have sufficient information on file, the case will be referred to the CEs to make a decision under rule 8 of the Rules.

Penalty Notices for Disorder and Fixed Penalty Notices (issued under the Anti-Social Behaviour, etc. (Scotland) Act 2004)

- 35** Since June 2014, PNDs have been issued for various public order and anti-social behaviour offences, a number of which could be relevant to a doctor's fitness to practise*. In Scotland, FPNs have been issued under the Anti-Social Behaviour etc. (Scotland) Act 2004 for various public order and anti-social behaviour offences since 2004†.
- 36** Our guidance was revised in October 2008 to include a requirement for doctors to disclose any Penalty Notices for Disorder (PND) or Fixed Penalty Notices (FPN) issued under the Anti-Social Behaviour etc. (Scotland) Act 2004, (ASB(S)A 2014).
- 37** PNDs and FPNs are issued by the police to deal with low level, anti-social and nuisance behaviour which would otherwise constitute a criminal offence. The notices are either given to the offender at the scene of the offence or in some cases when they are in custody. A Notice can also be given weeks after the event if appropriate.
- 38** Penalty notices are divided into lower and upper tier offences, depending on the seriousness of the offence, and attract penalties of £60 and £90 respectively.
- 39** No criminal conviction or admission of guilt is associated with the issue of or payment of the penalty. If the offender fails to pay the PND or FPN, then the fine will be increased and eventually a warrant will be issued. If a PND or FPN is refused by the offender, then the case will proceed as normal to the courts. If found guilty the offence will be recorded as a criminal conviction.
- 40** In accordance with Part V of the Police Act 1997 an enhanced criminal records certificate issued by the Disclosure and Barring Service (DBS) may give details of a PND or FPN given to a person if the information is reasonably believed to be relevant.

* Under the Criminal Justice and Police Act 2001.

† FPNs issued for disorder under the ASB(S)A 2004 should not be confused with Fixed Penalty Notices issued under the Offences under the Road Traffic Regulation Act 1984 (c. 27) and the Road Traffic Offenders Act 1988 (c.52).

- 41** There is a growing range of offences where offenders are given the option of paying a PND or an FPN rather than being charged with a criminal offence. Many of these, particularly those PNDs in the lower tier penalty level would not be relevant to a doctor's fitness to practise and as such, no longer require reporting.
- 42** The commission of some upper tier PND offences and FPNs may, however, raise a question about a doctor's fitness to practise and must therefore be reported to the GMC e.g. where a PND or FPN is issued for offences of theft or possession of Class B drugs (cannabis/cannabis resin or Khat). For a list of upper tier PND and FPN offences which will be investigated under our fitness to practise procedures, see Annex C. The Registrar retains the discretion however to investigate upper tier PND and FPN offences which are not on this list if there are aggravating factors which raise a specific fitness to practise issue.
- 43** As PNDs and FPNs do not result in a conviction, we seek to obtain supporting evidence to prove the underlying events as with any other allegation of misconduct. This includes a copy of the PND or FPN from the issuing authority and details of the circumstances of the offence if these are available. We will also disclose our investigation to the doctor for their comments and seek feedback on their practice from their employing organisations and/or contracting bodies.
- 44** In the same way as we do for non-criminal cases, we will assess the strength of the evidence and whether there is a realistic prospect of establishing that the doctor's fitness to practise is impaired to a degree requiring action on their registration (the realistic prospect test.) This will be done prior to issuing a formal letter under rule 7 of the Rules and in the event that the doctor refuses an invitation to attend a GMC health assessment (likely to be applicable for offences involving alcohol or drugs).

Warnings for possession of cannabis and Anti-Social Behaviour Orders

- 45** Since October 2008 doctors are required to report cannabis warnings and ASBOs to the GMC.
- 46** Since 2008, however, cannabis has been re-classified as a Class B drug and can now also be dealt with by the issue of a PND (see Annex C).

Cannabis warnings

- 47** Cannabis warnings were introduced in 2004 when cannabis was a Class C drug. A cannabis warning involves a police officer giving a verbal warning, either on the street or at the police station to an adult who is found to be in possession of cannabis for personal use for the first time.

- 48** A Warning for Possession of Class B Drugs can be issued by the police where an individual admits possession of a small quantity of the drug for personal use and where there is no evidence of an intention to supply to others. Such a warning can only be given on one occasion and does not constitute a criminal record against the individual. On that basis these matters will be dealt with as misconduct cases.
- 49** A cannabis warning is likely to call into question the doctor's fitness to practise and in such cases we will consider whether an assessment of the doctor's health is indicated.

Anti-Social Behavioural Orders (ASBOs)

- 50** An Anti-Social Behavioural Order (ASBO) is a civil court order made against a person who has been shown to have engaged in anti-social behaviour. As such, the imposition of an ASBO may raise questions about a doctor's fitness to practise.
- 51** An ASBO is an order which prohibits a person from undertaking specified activities. For example, they might not be allowed to consume alcohol in a public place, go to a certain location, or associate with other, identified individuals.
- 52** ASBOs are generally issued by a Magistrates' Court (or Sheriff Court in Scotland) and will last for a minimum of two years. An ASBO does not constitute a criminal conviction and must therefore be dealt with as a misconduct case.
- 53** An ASBO will usually be sought by the police or by a local authority. However, in certain cases a Court may issue an ASBO following a criminal conviction. In those cases, under Rule 5(2) there is a presumption to refer the case directly to a MPT, unless the Registrar is of the opinion that it ought to be referred to a medical and a lay CE for consideration (see paragraph 6 above).
- 54** Once the case is triaged the GMC will, as soon as possible, request a copy of the Memorandum of conviction (if one is available) together with a copy of the ASBO from the convicting court and relevant background information from the police. Where there is no conviction, a copy of the ASBO will be sought.
- 55** Breach of an ASBO is a criminal offence punishable by a fine or up to five years in prison. Convictions for such offences will be dealt with in the usual way and in accordance with guidance outlined above.

Community Resolution, discretionary disposals, fiscal fines, diversionary options and formal adult warnings

- 56** With effect from 22 April 2013, our guidance* was revised to include, for the first time, a requirement for doctors to disclose any matter resulting in Community Resolution (CR), a discretionary disposal or a formal adult warning.
- 57** CR and discretionary disposals are relatively recent 'direct measures' (alternatives to prosecution) which have been introduced in England and Wales primarily to ensure low-level crimes are dealt with proportionately and recorded on local systems. They both involve an admission of guilt and an agreement by the offender to make reparation. CRs and discretionary disposals do not result in a formal criminal record but can be disclosed as police information if relevant to an enhanced criminal record certificate ('ECRC') and barring service report.
- 58** The Public Prosecution Service may offer an informed warning as a diversionary option in Northern Ireland as an alternative to prosecution only if the evidential test is met for prosecution and the offender accepts it (ie there is an admission of guilt). Informed warnings are recorded for 12 months and do not result in a formal criminal record but can be disclosed by AccessNI (the criminal record check body for Northern Ireland) on standard and enhanced criminal record certificates.
- 59** Formal adult warnings are issued in Scotland by police forces in consultation with the local Procurator Fiscal. If a person accepts a warning no further action will be taken, although this does not constitute an admission of guilt. If the warning is not accepted then the police may refer the case back to the Procurator Fiscal.
- 60** A fiscal fine is a form of deferred prosecution agreement in Scotland issued by a procurator fiscal for certain summary offences as an alternative to prosecution. The power to issue fiscal fines is conferred by section 50 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. Doctors are required to notify us of fiscal fines under our reporting guidance.
- 61** Fiscal fines are between £50 and £300 and a compensation offer may be issued either separately or combined with the offer of a fine but with payment going to the victim of crime. Compensation offers can be of any amount up to a maximum of £5000. Whilst not being recorded as a conviction, if the recipient pleads guilty to or is convicted of any offence in the two years following payment of a fiscal fine it can be presented to the court as a conviction prior to sentencing.
- 62** CR, discretionary disposals, fiscal fines, informed warnings and formal adult warnings may be issued for the same low-level offending for which PNDs, FPNs and ASBOs are

* Reporting criminal and regulatory proceedings within and outside the UK published 25 March 2013

issued. The GMC will not generally investigate CR, discretionary disposals, fiscal fines, informed warnings and formal adult warnings issued for offences which are disposed of by way of lower tier FPNs in England and Wales. A list of these is at Annex B. However, the Registrar can use their discretion to open an investigation if there are aggravating factors or specific concerns are raised about the doctor's fitness to practise. If an investigation is opened this will be dealt with as a misconduct case.

- 63** If a CR, discretionary disposal, fiscal fine, informed warning or formal adult warning has been issued for a drug or alcohol related offence, advice will be sought from CEs as to whether an assessment of a doctor's health is indicated.

Contractual Disclosure Facility (CDF) agreement

- 64** GMC guidance also requires doctors to disclose if they have entered into a Contractual Disclosure Facility (CDF) agreement with HM Revenue and Customs.
- 65** A CDF agreement is a voluntary admission of tax fraud and a contract to pay all taxes, duties, interest and penalties due. Entering into an agreement means the HMRC will not criminally investigate and prosecute. No formal criminal record results from entering into a CDF agreement.
- 66** Disclosures of CDF agreements will be dealt with in the same way as non-criminal cases involving an allegation of misconduct.

Deferred Prosecution Agreements (DPAs)

- 67** Under a DPA a prosecutor charges a company with a criminal offence but proceedings are automatically suspended. The company agrees to a number of conditions, such as paying a financial penalty, paying compensation and co-operating with future prosecutions of individuals. If the company does not honour the conditions, the prosecution may resume.
- 68** DPAs can be used for fraud, bribery and other economic crime. They apply to organisations, not individuals. A DPA could be appropriate where the public interest is not best served by mounting a prosecution. Entering into a DPA will be a transparent public event and the process will be supervised by a Crown Court judge. It may involve admissions relating to the facts of the alleged offence.
- 69** Entering into a DPA may raise issues of probity relating to a doctor either:
- a** where a doctor acts as part of a management team of an organisation subject to a DPA, or
 - b** where a doctor's conduct directly contributes to an organisation becoming subject to a DPA.

70 In these circumstances a DPA will be dealt with as a non-criminal case in order to establish whether a doctor's fitness to practise is impaired by way of their involvement in the conduct that led to the DPA.

Annex A

Table 1: Convictions for driving under the influence of alcohol*

Level of alcohol	England, Wales and Northern Ireland	Scotland
Mgs per 100mls of breath	35	22
Mgs per 100mls of blood	80	50
Mgs per 100mls of urine	107	67

Table 2: Convictions for driving under the influence of drugs†

Illegal Drugs	Blood drugs threshold level
Benzoyllecgonine	50µg/L
Cocaine	10µg/L
Cannabis and cannabinol (delta-9-tetrahydrocannabinol)	2µg/L
Ketamine	20µg/L
Lysergic acid diethylamide	1µg/L
Methylamphetamine	10µg/L
Ecstasy (MDMA - methylenedioxymethamphetamine)	10µg/L
Heroin and diamorphine (6-MAM - 6-monoacetylmorphine)	5µg/L
Prescription Drugs	Blood drugs threshold level
Amphetamine	250µg/L

* Alcohol limits - <https://www.gov.uk/drink-drive-limit>

† Drugs limits – Regulation 2, The Drug Driving (Specified Limits)(England and Wales) Regulations 2014
<http://www.legislation.gov.uk/uksi/2014/2868/regulation/2/made>

Clonazepam	50µg/L
Diazepam	550µg/L
Flunitrazepam	300µg/L
Lorazepam	100µg/L
Methadone	500µg/L
Morphine	80µg/L
Oxazepam	300µg/L
Temazepam	1,000µg/L

Annex B

Penalty Notices for Disorder at the lower tier penalty level

Lower Tier - £60 for 16 year olds and over (£30 for 10-15 year olds)	
Offence	Notice
Trespass on a railway	S 55, British Transport Commission Act 1949
Throwing stones/matter/thing at a train	S 56, British Transport Commission Act 1949
Drunk in highway	S 12, Licensing Act 1872
Consume alcohol in designated public place, contrary to requirement by constable not to do so.	S12, Criminal Justice & Police Act 2001
Depositing and leave litter	s87(1) and (5) of the Environmental Protection Act 1990
Allowing consumption of alcohol by a person under 18 on relevant premises	*s150(2) of the Licensing Act 2003
Buying or attempting to buy alcohol by a person under 18.	Section 149(1) of the Licensing Act 2003 (c.17)
Consume alcohol in designated public place, contrary to requirement by constable not to do so	S12 Criminal Justice & Police Act 2001
Drop/leave litter/refuse except in a receptacle provided for the purpose in a Royal Park or other open space	Regulation 3(3) of the Royal Parks and Other Open Spaces Regulations 1997
Use pedal cycle/skates/blade/board/foot-propelled device in a Royal Park or other open space	Regulation 3(4) of the Royal Parks and Other Open Spaces Regulations 1997
Unless the person is registered blind, failing to immediately remove animal faeces from a Royal Park or other open space	Regulation 3(6) of the Royal Parks and Other Open Spaces Regulations 1997
Possession of a controlled drug of class C (May only be given on one occasion)	S5(2) and Schedule 4 Misuse of Drugs Act 1971

Annex C

Penalty Notices for Disorder at the upper tier penalty level and Fixed Penalty Notices issued under Part 11 of the Anti-Social Behaviour etc. (Scotland) Act 2004 which will be investigated

Upper Tier - £90 for 16 year olds and over (£40 for 10-15 year olds)	
Offence	Notice
Wasting police time or giving false report	s5(2) of the Criminal Law Act 1967
Disorderly behaviour while drunk in a public place	s91 of the Criminal Justice Act 1967
Possession of a controlled drug of Class B – cannabis/cannabis resin or Khat (may only be given on one occasion)	S5(2) and Schedule 2 of Misuse of Drugs Act 1971
Theft (under £200 retail/commercial only)	s1 of the Theft Act 1968
Destroying or damaging property (limited to damage under £500)	s1(1) of the Criminal Damage Act 1971
Words/behaviour likely to cause harassment, alarm or distress	s5 of the Public Order Act 1986

List of offences set out in Part 11 of the Anti-Social Behaviour etc. (Scotland) Act 2004:

- (1) For the purposes of this Part “fixed penalty offence” means—
- an offence under an enactment mentioned in the first column in Part 1 of the following table and described, in general terms, in the second column in that Part;
 - an offence created in subordinate legislation made under an enactment mentioned in the first column in Part 2 of the table which is of the general description mentioned in the second column in that Part; and
 - a common law offence mentioned in Part 3 of the table.

PART 1	
Enactment	Description of offence
Section 78 of the Licensing (Scotland) Act 1976 (c. 66)	Riotous behaviour while drunk in licensed premises
Section 79 of the Licensing (Scotland) Act 1976 (c. 66)	Refusing to leave licensed premises on being requested to do so
Section 50(1) of the Civic Government (Scotland) Act 1982 (c. 45)	Being drunk and incapable in a public place
Section 50(2) of the Civic Government (Scotland) Act 1982 (c. 45)	Being drunk in a public place in charge of a child

Section 54(1) of the Civic Government (Scotland) Act 1982 (c. 45)	Persisting, to annoyance of others, in playing musical instruments, singing, playing radios etc. on being required to stop
Section 52(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	Vandalism
PART 2	
Enactment	Description of offence
Sections 201 and 203 of the Local Government (Scotland) Act 1973 (c. 65)	Consuming alcoholic liquor in a public place
PART 3	
Common law offence. Breach of the peace. Malicious mischief.	