



# LINCOLNSHIRE POLICE

## Policy Document

### Code of Ethics

All staff involved in carrying out functions under this policy and associated procedures and appendices will do so in accordance with the principles of the Code of Ethics. The aim of the Code of Ethics is to support each member of the policing profession to deliver the highest professional standards in their service to the public

#### 1. POLICY IDENTIFICATION PAGE

<b>POLICY TITLE:</b>	PRE CHARGE BAIL MANAGEMENT POLICY
<b>POLICY REFERENCE NO:</b>	PD 187 (3)

<b>POLICY OWNERSHIP:</b>	
<b>ACPO Commissioning Officer:</b>	Assistant Chief Constable [Local Policing]
<b>Portfolio / Business-area Owner:</b>	Assistant Chief Constable [Local Policing]
<b>Department Responsible:</b>	Partnership and Licensing
<b>Senior Owner:</b>	Supt Partnership and Licensing
<b>Links or overlaps with other policies/strategies:</b>	
Custody Policy PD 107 (3)	

<b>POLICY EFFECTIVE DATE:</b>	JULY 2014
<b>POLICY REVIEW DATE:</b>	JULY 2016

VERSION:	DATE:	REASON FOR ISSUE:
	Dec-11	Development of new policy.

(1)	Apr-12	Updated to align with strategic partner – no major changes made
(2)	Mar-13	Business area owner and department responsible amended.
(3)	Jul-14	Periodic review completed

**2. Legislative Compliance**

**This document has been drafted to comply with the principles of the Human Rights Act.**

**Public disclosure is approved unless otherwise indicated or justified.**

**Adherence to this policy will ensure compliance with all relevant legislation and internal policies.**

**3. POLICY STATEMENTS/INTENTIONS**

**3.1 *The principles and scope of the policy***

The policy is aimed at all police officers and police staff who are working for the Force and includes those staff who are or may be contracted to the Force or who interact with the Force on behalf of other agencies. The custody function of Lincolnshire Police is a corporate responsibility and, as such, the policy is set centrally. The management of the County’s custody facilities is the responsibility of the Custody function within the Operations Support Department.

**3.2 *The aim of the policy***

- To regulate and improve management of police pre charge bail.
- To hold Officers in the Case [IOC] accountable for managing their enquiries and bail diaries
- To ensure timely investigations are conducted to improve the number of offenders brought to justice.
- To streamline the Custody function by reducing the number of incidents of detainees answering bail.
- To ensure that offenders who fail to answer bail are properly and robustly managed and brought into Custody for process as soon as possible.

By achieving these aims we will support the Force priorities of “Protecting the Public” and “Improving Our Services” by managing and decreasing the time between arrest and disposal, expeditiously obtaining best evidence to support charging decisions and dealing robustly with so called “bail bandits”.

## 4. INTRODUCTION/LEGAL BASIS

### 4.1 *The origins/background information*

The use of pre charge police bail, either with or without conditions, is a vital tool in managing investigations and the limited detention time available to Police for each person arrested. The use of such bail also minimises the time a detained person remains in police detention while under presumption of innocence.

### 4.2 *Motivators/Driving Forces*

Although pre charge bail is a vital tool for police to manage enquiries, the process itself requires management to ensure that enquiries are conducted expeditiously and that detainees are not bailed and rebailed without good reason.

Where unrealistically short bail dates are set the requirement to re bail detainees has an impact on the efficiency of the Custody function and presents a less than professional image.

The management of persons who fail to answer bail is vital, not just in terms of timeliness of offenders brought to justice but also in terms of public confidence in the robust administration of the law.

There are statistically significant variations in use of bail between different parts of the Force; the introduction of a Force Bail Policy seeks to bring uniformity of outcome to all detainees across the Force area.

### 4.3 *General Principles of the Policy*

- To ensure that all enquiries that can reasonably be done in Custody on first arrest are completed expeditiously without recourse to bail
- That where bail is necessary the enquiries required are identified and recorded, and a realistic bail date set accordingly.
- To hold investigating officers to account for their management of their enquiries and bail diary.
- To ensure that instances of failure to answer bail as required are noted and dealt with robustly and promptly
- To ensure uniformity of approach to bail wherever a detainee may come into police contact across the Force area.

### 4.4 *Legal Basis*

The granting and management of pre charge bail is based on:

- Police and Criminal Evidence Act 1984 [See particularly S 37(2) and S 47]
- Bail Act 1976 [see particularly S 3]

### 4.5 *Human Rights Considerations/Articles Engaged*

Article 5 [Right to Liberty and Security of the Person]

Article 6 [Right to a Fair Trial in Civil and Criminal Matters]

Article 8 [Respect for Private and Family life, Home and Correspondence]

5. **APPENDICES**

Appendix A - Force Administrative Instructions on the Management of Pre-Charge Bail

6. **IMPLICATIONS OF THE POLICY**

**It is recognised that the guidance contained under this heading may not be directly applicable to all policies. Where it is relevant however, the following areas should be considered:**

6.1 ***Financial Implications/Best Value***

There are no costs directly related to implementation of this policy. There will be uncoded efficiency savings resulting from better management of the bail process and savings in staff time.

6.2 ***Human Resources/Training***

Nil

6.3 ***Strategic/Business Plan***

Nil

6.4 ***Risk Management***

Nil

6.5 ***Health and Safety***

Nil [Generic Risk assessments exist for working in Custody]

6.6 ***Diversity***

Initial impact assessment attached

6.7 ***Children and Young People***

Nil

6.8 ***Crime and Disorder Act***

Nil

6.9 ***Internal Policy/Strategy Links***

Links with PC 107 (3) Custody Policy

6.10 ***Consultation***

Annex "A" has been subject to limited consultation via Chief Inspector Criminal Justice and Custody and Detective Chief Superintendent Crime Support

6.11 ***Publication***

This policy is suitable for general disclosure to the public under the principles of the Freedom of Information Act.

7. **PROMOTION/DISTRIBUTION**

Publication to the Public will be via the Force Internet Website.

Publication to Force personnel will be via the Force Intranet and upon request via the Policy and Strategy Support Officer for a hard copy.

Publication to Custody Officers and Custodians will be via the Force Intranet and by the provision of a hard copy at each custody facility in use within the Force.

8. **MONITORING/REVIEW**

This policy will be fully reviewed every two years. Earlier review may be prompted by the monitoring process detailed above, or by inefficiencies being identified. Reviews will cover compliance with the Law, Human Rights, Equality and Diversity issues.

<b>Appendix A</b>	<b>Force Administrative Instructions on the Management of Pre-Charge Bail</b>
<b>1.</b>	<b>INTRODUCTION.</b>
1.1	Effective pre charge bail management is key to the success of Lincolnshire Police. The objective of this policy is to deal with suspects in such a way as to reduce the need for bail and, where it does have to be granted, to reduce the number of occasions where this is extended or cancelled as “No Further Action”.
1.2	All bail must be made in accordance with relevant legislation, specifically the Bail Act 1976 and the Police and Criminal Evidence Act 1984. There is a positive expectation that charging advice should be sought while a person is still in custody. This policy aims to ensure that bail is managed properly and suitable time constraints are utilised so as not to expose an individual to lengthy periods on bail.
1.3	Bail management should be considered as an appropriate PDR objective for those staff employed in investigations – such as Custody Officers, Designated Decision Makers [DDM] and all supervisors of staff who conduct investigations.
<b>2.</b>	<b>POST ARREST PROCEDURES.</b>
2.1	Detainees must be dealt with expeditiously and should not be held in cells overnight unless necessary. They should be interviewed as soon as there are sufficient resources to do so if sober.
2.2	The arresting officer will comply with the requirements of the <a href="#">Force Investigation Protocol</a> in relation to primary investigations.
2.3	Where a handover package is required it must be completed in accordance with the <a href="#">Force Handover Protocol</a> .
2.4	Subsequent investigations will be completed by appropriate Response, Neighbourhood Policing, Ops Support or CID staff as dictated by the Force Investigation Protocol and under the supervision of their line supervision.
<b>3.</b>	<b>INITIAL DISPOSAL</b>
3.1	When the OIC has interviewed the detainee(s) and completed all enquiries possible with due regard to the detention clock they should in case of any doubt seek the advice of line management to ascertain whether further work is required prior to seeking disposal by charge or other means and whether the Custody Sergeant should be asked to grant bail.

3.2	The final decision as to whether there is sufficient evidence to charge, and if not whether bail is appropriate, remains with the Custody Sergeant. Wherever possible potential evidence should be gained expeditiously and without resort to bail.
3.3	Where the disposal decision falls to the Custody Sergeant they will establish what evidence is available to support a charge, what evidence may become available through further enquiries and the time scale for those further enquiries. They will then authorise charge, CPS advice, bail or other disposal as appropriate, in consultation with the supervisor of the OIC if requested.
3.4	Where CPS advice has been sought and an investigation plan agreed the relevant MG3 must be produced to the Custody Sergeant so that they are aware of the state of the investigation and able to make an informed decision.
3.5	Where there is insufficient evidence to charge but there are further material enquiries to be made the Custody Sergeant will apply the test under Section 37(2) of PACE: 37(2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail unless the custody officer has reasonable grounds for believing that his detention without being charged is <i>necessary</i> to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.
3.6	Where outstanding enquiries could be made within a reasonable time while the detainee remains in Custody it is appropriate for those enquiries to be made to allow for a final disposal decision to be made without recourse to bail, on the basis of an expedited resolution for the detainee and the avoidance of unnecessary Custody activity in terms of bailing and booking back in to Custody.
3.7	The length of any bail granted must be commensurate with the complexity of the case and anticipated conclusion of outstanding enquiries, the presumption will be that bail periods should be kept as short as possible.
3.8	When setting a bail date the Custody Officer should ask the detainee if that date and time are convenient and accommodate as far as possible any reasonable representations.

3.9	It is the duty of the officer in the case to propose conditional bail pre charge under 47(1) (a) PACE if they consider it advisable under all the circumstances as known to them. It shall be for them to show reason to the Custody Sergeant why conditional bail is necessary as per Section 3(6) Bail Act 1976 and to outline how the conditions proposed would effectively mitigate the perceived risk. Where a Custody officer refuses such representations that fact shall be recorded on the Custody Record
3.10	<b>All decisions re bail will be recorded on the Custody Record including what enquiries required bail be granted and brief timescales for completion.</b> A record of “Further Enquiries” is not acceptable, if only because it can not inform later decisions about extension of bail
4	<b>PROCEDURE DURING BAIL BACK PERIOD</b>
4.1	It is the responsibility of the OIC to manage their workload and diary. It is their responsibility to complete enquiries and obtain CPS or other advice in a timely fashion and certainly prior to the bail date, and to be available to deal with their bail back or to have made definite arrangements with another officer. It is not acceptable to have detainees answer bail at the police station only to be given a new bail date or be told that their case has been recorded as NFA. <b>Where no officer in the case can be identified or where the officer has not obtained an extension of bail and is not in a position to proceed, the detainee will be released NFA pending arrest with new evidence. The case should then be drawn to the attention of the relevant detective or uniform Chief Inspector.</b>
4.2	Where an OIC having completed their enquiries considers that there is insufficient evidence to proceed against an individual bailed to return and no further enquiries are possible they will consult a Supervisor prior to the bail date for the case to be reviewed. Custody Sergeants will not under any circumstances review bail files on the bail date.
4.3	No bail date will be altered or cancelled except through the Custody Sergeant. All changes will be recorded contemporaneously on the NICHE system.
4.4	Where an extension of bail becomes necessary the OIC will consult with their supervising Sergeant no less than <b>three working days</b> prior to the bail date. The reason for the extension and the name of the supervisor will be endorsed both on the Custody record and the NICHE crime occurrence.

4.5	Should a second extension of bail be necessary the OIC will consult with their supervising Inspector or area Detective Inspector. Only in <i>exceptional</i> circumstances will a second extension be allowed.
4.6	For officers above the rank of Constable the relevant first line and second line supervisors will apply.
4.7	In case of an application for an extension of bail under S4.5 or S4.6: should the OIC be unable to satisfy their supervisory officers that there is good cause for the extension it shall be <b>refused</b> and the Custody Sergeant informed to cancel the relevant bail. The OIC will then be required to re arrest the offender should further evidence become available.
5	<b>FAIL TO APPEAR</b>
5.1	Where a detainee fails to answer to bail the OIC will make immediate enquiries to trace them and bring them to Custody.
5.2	The Custody Sergeant will raise a NICHE task via the Custody system for the officer in the case. Until resolved this task, which should be tagged for supervisor disposal only, will serve to alert the relevant supervisor that the bail remains outstanding whenever they check the officer's task pot. It is the responsibility of the officer's line supervision to ensure that the offender, if not promptly traced, is circulated as wanted. The Custody Sergeant will endorse the Custody record that the suspect failed to appear and that the relevant task has been raised.
5.3	Where a suspect has without good reason failed to answer to police bail every effort should be made to ensure that a suitable charge is subsequently laid against them.
5.4	Where a suspect cannot be traced having failed to answer police bail the OIC will produce a circulation file and arrange for the relevant PNC circulation. It will be the responsibility of the Custody Sergeant to endorse the outstanding Custody record with the pick list entry "Circulated as Wanted" which is subject to search within the NICHE system for statistical and performance purposes.
6.	<b>COMMUNICATION</b>
6.1	It is the responsibility of the OIC to update the suspect on any changes to their bail arrangements. Further, it is their responsibility to update the complainant on all relevant bail events in line with the "Victim's Charter".
6.2	To raise a NICHE task from a custody record:

	Go to the <b>Arrest Details/Offences</b> tab
	Go to “ <b>Occ #</b> ”: right click on occurrence number and select “ <b>OPEN</b> ”
	Go to “ <b>TASKS</b> ” tab on opened occurrence
	Right click in grey area.
	From drop down list select “ <b>NEW</b> ”
	Select “ <b>GENERAL TASK</b> ”
	Complete task template, remembering to tick for “Supervisor Approval Requires”
	Select “Assign” and pick OIC from dropdown list.
7	MONITORING
7.1	High level statistics on numbers of bails set and reset will be produced by the NICHE systems manager and passed to Force Performance Officers
7.2	Force Custody Inspectors will monitor compliance with this policy by Custody Record audit as part of the Force audit and inspection regime
7.3	Performance will be on the basis of exception i.e. those outstanding bails where Policy has not been followed and which require management escalation to resolve.