

## Pre-Charge Bail and Released Under Investigation (RUI)

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## Policy Statement

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### Summary

This policy is in place to explain the differences between Pre-Charge Bail and Released Under Investigation (RUI). The Police, Crime, Sentencing and Courts Act 2022 amended the Police and Criminal Evidence Act 1984 and introduced a presumption regarding bail. Whenever it is necessary and proportionate to utilise bail, then it should be used. The Act also introduced statutory time limits and judicial oversight of extensions of bail beyond nine months.

This policy will explain the different between both pre-charge bail and released under investigation (RUI), and the process including responsibilities which officers must follow.

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### Scope

This policy applies to all police officers and police staff.

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## Pre-Charge Bail

### Principles

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#### Principles

- Pre-charge bail must not be used punitively, and investigators must endeavour to complete enquires within the first period of detention.
- Bail managers must ensure that the necessity and proportionality for bail is met, and that the decision process is transparent and open ensuring the need for bail is commensurate with the developing investigative plan.
- Authorisation may be considered necessary by the authorising officer if it is:
  - For preventing that person from failing to surrender to custody or committing further offences;
  - Preventing that person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to themselves or any other person; and/or
  - For that person's own protection or, if they are a child or young person, for their own welfare or in their own interests.
- Authorisation may be considered proportionate if the condition is not used unfairly and is limited to the minimum of what is required to achieve a legitimate policing purpose.
- Any restriction must be proportionate to the legitimate aim being pursued.
- Officers must be proactive when managing bail conditions and pursue all reports to maximise safeguarding of the victim and witnesses.
- Officers must consider arrests for any substantive offences that are suspected of having been committed alongside the breach of pre-charge

bail, such as witness intimidation, perverting the course of justice or harassment.

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## Applicable Bail Period (ABP)

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### Principles

- The police can authorise three main applicable bail periods:
    - Initial ABP for three months authorised by a custody sergeant;
    - Extension to the initial ABP to six calendar months from the bail start date, authorised by an inspector;
    - Extension to the initial ABP to nine calendar months from the bail start date, authorised by a superintendent; and
    - Further extension to the ABP of three calendar months for cases designated as being exceptionally complex, authorised by an Assistant Chief Constable.
  - All further extensions to the applicable bail period must be authorised by a Magistrates' Court and, when authorising bail, the suspect and/or legal representative must be allowed to make representations. Please refer to the Bail Guide for further information.
  - When making applications to a Magistrate, officers must use the Bail 2 series of forms. Please refer to the Bail Forms on Force Forms.
  - Officers must quality assure the forms, paying particular attention to the below points:
    - Correct regional court hub is selected;
    - Accurate dates throughout the application (including bail start date, current applicable bail period end date, new bail period end date, senior officer extension date, section 37(7)(a) bail date and application service date);
    - Ensure the applicable bail period as extended by the senior officer is accurate. This must not be confused with the date the person has been scheduled to answer to their bail where, due to shifts patterns, the person is answering to their bail a few days before the end of the applicable bail period;
    - All service details are completed; and
    - That a full chronology of work done is provided including dates when matters outstanding are likely to conclude.
  - Officers must also note the requirement to provide instructions to the court where any application to withhold information from the defendant is refused, as the substantive application to extend pre-charge bail must either be withdrawn by the applicant or determined by the court once the information has been served on the suspect.
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## Conditions to Satisfy Before Extending an Applicable Bail Period (ABP)

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### Conditions to satisfy made by an inspector/superintendent/ACC/Magistrate

- The bail decision maker must consider the below requirements before authorising an extension to bail:
    - Have reasonable grounds for suspecting the person is guilty of the relevant offence (police decision maker only);
    - Have reasonable grounds for believing that further time is needed to make a police charging decision, or that further investigation is needed in connection with the relevant offence;
    - Have reasonable grounds for believing that either the police charging decision or the police investigation is being conducted diligently and expeditiously; and
    - Have reasonable grounds for believing that bail is both necessary and proportionate. This decision must have particular regard to any conditions being imposed. The decision maker must record their rationale on the Custody Record.
  - For setting different bail return dates, please refer to the guidance notes.
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## Responsibilities

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### Investigating officer/officer in case (OIC)

The investigating officer/OIC is responsible for:

- Ensuring that investigations are timely and within realistic timeframes;
- For high harm crimes, consulting with a Safeguarding Supervisor for domestic abuse incidents or the Hate Crime Supervisor/Hate Crime Co-ordinator for hate incidents, before discussing bail with the Custody Officer;
- Liaising with the custody officer to determine whether bail is necessary and proportionate in all the circumstances known;
- Speaking to a custody officer, inspector, superintendent or ACC where appropriate, if bail is required, to seek authority for ABP or an extension to ABP in the case whereby a suspect has been previously released on bail;
- Obtaining the views of the victim on bail and bail conditions, and informing the custody officer of them. The OIC must record these views on the OEL; and
- Ensuring the evidence has been reviewed and documented by an inspector before seeking authority for a 37(7)(a) bail from the custody officer.

Officers must be proactive in their response to breaches of pre-charge bail to protect victims, witnesses and the public, and to enhance perceptions of safety and increase trust in the criminal justice system.

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- Custody officer** The custody officer is responsible for:
- Ensuring that there is an effective risk management strategy for the suspect and assisting the investigating officer in determining whether bail should be imposed:
    - Specific offences involving vulnerable victims may require bespoke considerations of bail, taking into consideration the safety of the victim in all serious and repeat incidents to offer greater protection.
      - If the incident is Domestic related, please also see the dedicated Domestic Abuse policy responsibilities.
      - If the incident is Hate related, please also see the dedicated Hate Crimes and Non-Crimes policy responsibilities;
  - Ensuring the victim's views on bail and bail conditions are sought, recorded on the OEL and considered;
  - Assisting the investigating officer in risk assessing the suspect and ensuring there is an investigation plan in place when the suspect is released from custody;
  - Updating and closing the custody record for bail cases in the event of a Charge/NFA decision; and
  - Ensuring that the evidence has been reviewed by an inspector when 37(7)(a) bail is sought, that the review has been documented on the detention log and OEL and there are no outstanding enquiries. Domestic abuse matters must be bailed for one month at a time, unless it is considered that this is insufficient time to complete the outstanding enquiries.

Further information can be found in the Niche Guide for Finalisation.

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- Supervising officer** The supervising officer is responsible for:
- Overseeing of investigations and ensuring enquiries are completed expeditiously.

The investigating officer's inspector is responsible for:

- Extensions to the ABP to six months; and
- Reviewing case suitability for 37(7)(a) bail and documenting the rationale on the custody record detention log and OEL.

**Supervisors must ensure their officers inform Custody of any changes to bail, i.e. ABP to CPS 37(7)(a) and any case disposal.**

Supervisors must ensure that officers deal with any Breach of Bail report in a proactive and positive manner.

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- District Chief Inspector Operations** The district chief inspector is responsible for:
- Ensuring a robust bail management process is in place; and
  - Periodically reviewing the effectiveness of the bail management process.

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## Released Under Investigation (RUI)

### Principles

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#### Principles

- All persons released from custody without bail will be deemed Released Under Investigation, unless a NFA disposal has been documented.
  - Investigating officers must aim to finalise investigations during the first period of detention wherever possible.
  - However, it will sometimes be necessary to release suspects without bail, whilst the investigation continues.
  - The RUI process, like that of pre-charge bail, must be capable of withstanding scrutiny, having due regard to proportionality and necessity in the circumstances.
  - A key consideration, however, must always be the need to protect victims and witnesses, and ensure public safety.
  - **The below process includes suspects who are initially released on bail and subsequently Released Under Investigation.**
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### Breach of Bail

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#### Principles

- A power of arrest is provided in the Police and Criminal Evidence Act (PACE) 1984 for breaching bail conditions, although breaching bail conditions is not an offence. An arrest for breach of bail under s46A attracts a three-hour pause to the detention clock, which is calculated from the time the suspect arrives at the police station. A person can also be arrested under s46A for failing to answer their bail.
- It is imperative that investigators consider arrest for any substantive offences that come to light alongside the breach of pre-charge bail, such as witness intimidation, perverting the course of justice and harassment, as a new detention clock begins in these circumstances.
- If a breach of bail comes to light as part of an investigation for another substantive offence, this must still be recorded for the purposes of risk management and data collection.
- **Suspects must be taken to the station they are bailed to.**
- **Three-hour pause begins when the suspect arrives at the station.** Individuals must use this to deal with the breach of bail and, providing continued detention is authorised, to assess the status of the investigation, complete any outstanding actions and proceed to the point of charge, where possible (Full Code/Threshold/emergency charge, as appropriate).
- As part of the assessment of the case status, individuals must:
  - Consider contacting the victim;
  - Address any safeguarding concerns; and

- Reassess the risk posed in the case and the effectiveness/ appropriateness of bail conditions.
  - Individuals must:
    - Consider whether a superintendent's detention extension is appropriate given the circumstances and risk posed to progress to the point of charge;
    - Record any representations made by the suspect on the breach of bail;
    - Consider any other protective orders appropriate to provide further protection to victims, witnesses and the public (e.g. Domestic Abuse Protection Order or Sexual Harm Prevention Order);
    - In the case of vulnerable child suspects, consider whether a police protection order may be in their best interests;
    - If a charging decision cannot be sought, liaise with the custody officer to establish whether re-bailing the suspect is appropriate. Consideration must be given to any bail conditions and whether these should be changed to better mitigate the risks in the case; and
    - If a charge has been authorised, liaise with the custody officer to decide whether post-charge bail should be refused.
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## Responsibilities

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### **Investigating officer/officer in case (OIC)**

The investigating officer/OIC is responsible for:

- Ensuring all reasonable lines of enquiry have been completed prior to arresting the suspect as this reduces the need for RUI and allows a more expedient investigation.  
(However, it is recognised that often this may not be practical due to the nature of the crimes we investigate, and officers will often find it is necessary to arrest the suspect at a much earlier stage in the investigation.);
- Liaising with the custody officer, following the in-custody investigation process, to determine the type of release (Bail or RUI);
- Assisting the custody officer to document on the Custody Record a risk assessment and detail the action(s) to ensure vulnerable people linked to the case are protected. When a suspect is RUI, it must be assessed in line with existing bail assessment processes to ensure the welfare of the suspect is considered and documented on the Custody Record. Further information can be found in the Custody and Detention policy;
- Performing onward suspect management and welfare assessment with oversight from their supervisor;
- Identifying a relevant service address for the service of a Postal Requisition and Charge or finalisation letter, e.g. NFA when a Released Under Investigation notice is issued and the individual is of No Fixed Abode;
- Enquiring into the availability of personal service on the individual, for those who are genuinely of No Fixed Abode; and

- Considering the use of Pre-Charge Bail in circumstances, for example, where the suspect lives out of force/genuine service address cannot be ascertained/limited knowledge of the suspect/intelligence is known that the person is a flight risk.
- If a suspect has been arrested in connection with an offence involving vulnerable people or domestic abuse, serious consideration must be given to the imposition of bail with conditions to safeguard the victim and witnesses. A detective inspector must be consulted and must provide authority before a domestic abuse or high-harm offence suspect is RUI. There must be a well-documented record of their decision making in each case. If the views of the detective inspector differ to those of the custody officer, the PACE provisions regarding the resolution of disputes must be followed and the case referred to a superintendent.
- The investigating officer must update the victims and witnesses in respect to a suspect being released on pre-charge bail or RUI. They must be provided with the necessary advice 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.

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**Custody officer**

The custody officer is responsible for:

- Undertaking a documented risk assessment in order to manage the risk to the complainants and witnesses, before releasing a suspect;
- Releasing the suspect without bail (RUI), if they are not satisfied that pre-charge bail is necessary and proportionate;
- Documenting the suspect's referral to appropriate in-custody or external support pathways. Further information can be found in the Custody and Detention policy;
- Authorising the RUI and providing the suspect with the RUI notice;
- For high harm crimes, requesting and recording the observations of specialist practitioners, which will include a Safeguarding Supervisor in domestic abuse incidents and the Hate Crime Supervisor/Hate Crime Co-ordinator for hate incidents. This will be on the custody record and Occurrence OEL. (The investigating officer's supervisor may support the completion of these assessments. The threat, risk or harm associated with the investigation must be proportionately managed, taking into consideration the safeguarding of all persons linked to the investigation.)
- Informing the suspect, if Released Under Investigation, that:
  - Any further interviews may be carried out on a voluntary basis. If they fail to return on request for a voluntary interview, or commit further offences whilst RUI they may be arrested again;
  - They will not have a set date/time to return to custody or any conditions but the investigating officer will contact them to keep them updated on the investigation; and
  - They must inform the police of any changes of address or contact methods.

- Ensuring, with the assistance of the investigating officer, where the individual is of No Fixed Abode that a suitable postal address has been recorded.
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**Inspector  
(Custody)**

Inspectors are responsible for:

- Ensuring this policy is adhered to by all; and
  - Authorising ABP to six months in situations where the investigating officer's inspector is unavailable. This must be under exceptional circumstances only and officers must ensure they prepare for extensions in advance.
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## No Further Action (NFA)

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**Information**

- The NFA disposal **must not** be used as an alternative to bail or RUI if the investigation is continuing and following active lines of enquiry.
  - Officers and staff **must not** use the disposal of 'Released Under investigation' for the sole purpose of retaining the biometrics of the suspect.
  - If there is insufficient evidence to charge, then the disposals of 'Released CCP Evidential test not passed', 'Released Under Investigation CANCELLATION' and 'Bail CANCELLATION' must be considered. These disposals will trigger the destruction of biometrics.
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## Expected Finish Date

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**Information**

- Investigations where suspects are RUI must be conducted expeditiously to ensure all parties are not subject to long delays, which can be stressful and lead to witnesses' issues at future court trials.
  - Supervisors must endorse the Occurrence OEL Expected Finish Date (EFD). This date must take into consideration the investigation plan including forensic and digital evidence submissions, which are deemed necessary.
  - Custody officers and supervisors must ensure that investigating officers have an effective investigation plan in place and they must be fully engaged in discussions surrounding RUI and the impact on investigation timeliness.
  - Custody officers must ensure individuals released RUI are reminded 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.
  - In **all** cases where a youth is involved, the custody sergeant must liaise with the Youth Offending Service (YOS) prior to releasing on bail or RUI.
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## Review

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### RUI Review

- Once a suspect has been released, investigations must have a documented supervisory review every 30 days until the investigation has been completed and a disposal actioned.
  - The supervisor will be responsible for reviewing and setting the post custody investigation plan with a particular emphasis on cases that will become Statute Barred.
  - At each review the investigating officer must ensure the victim, suspect and their legal advisor where applicable is provided with an update on the progress of the investigation.
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### Subsequent Reviews by Inspectors and Superintendents

- Inspectors will review all investigations where the suspect has been RUI for three months. The inspector must complete the review template on the Occurrence OEL.
  - Chief inspectors will review all investigations where the suspect has been RUI for six months. The chief inspector must complete the review template on the Occurrence OEL.
  - Superintendents will review all investigations where the suspect has been RUI for 12 months. The superintendent must complete the review template on the Occurrence OEL.
  - Any investigations over 12 months old must continue to be subject to supervisor reviews every 30 days, along with a superintendent review every six months until conclusion.
  - This will ensure RUI suspects will be subject to appropriate review and management supervision. Inspectors, chief inspectors and superintendents will need to satisfy themselves that RUI cases are being managed expeditiously and further investigation is appropriate. See Niche Guide for RUI Reviews.
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## Disposal

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### Principles

- At the end of an investigation, an appropriate disposal will be entered on the Custody Record to ensure PNC is updated with the outcome and any biometrics are retained/destroyed.
- The investigating officer must update the victim and suspect on the disposal (e.g. no further action, out of court disposal, postal charge requisition).
- **When completing a No Further Action Disposal on the Custody Record an MG4F Notice must be printed and sent to the suspect by the investigating officer. This is a statutory requirement.**
- Further information can be found in the Niche Guide for Finalisation.



## Additional Information

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**Compliance**

This policy complies with the following legislation, policy and guidance:

- APP Detention and custody
  - Data Protection Act 2018
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**Further  
Information**

Further guidance in relation to this policy can be sought from:

- Criminal Justice intranet site
  - Pre-Charge Bail and RUI ILearn
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