

Community Penalty Practice Guide for London Criminal Justice Service practitioners



Ensuring community penalty orders are complied with and breaches are enforced – a good practice guide for criminal justice agencies by the London Criminal Justice Board.

It is important that people have confidence in the Criminal Justice Service (CJS).

To help raise their confidence we must ensure that community penalties given by magistrates and judges are enforced and, where non-compliance occurs, there is effective and timely enforcement action.

To achieve this, it is necessary for all agencies to work together and exploit opportunities throughout the whole process: from the offence through to conviction, sentence and breach.

Effective action at the start of the process means that there is a much better chance of compliance with orders, and of more effective action where a breach occurs.

This good practice guide is a tool for all practitioners in the CJS who have a part to play in ensuring that community orders are enforced and that breaches of orders are dealt with effectively.

The whole process can be sub-divided into four phases:

- Phase 1: offence > first appearance
- Phase 2: first appearance > sentence
- Phase 3: sentence > breach
- Phase 4: breach > warrant > resolution.

This guide describes each of the four phases in the process, the parts played by the agencies and the opportunities and good practice that have been developed by local practitioners.

In relation to Phase 4 (breach > warrant > resolution), these are targets set at national level to drive efficiency in the court process and enforcement.

The primary targets are to:

- resolve 60% of community penalty breach cases within 25 days
- execute 75% of warrants issued against adults breaching community sentences within 20 working days
- execute 75% of warrants issued against youths breaching community sentences within 10 working days.

Phase 4 is where the targets are delivered and this guide illustrates where agencies contribute to the process to meet the targets. An additional overview of Phase 4 is provided at the end of this guide.

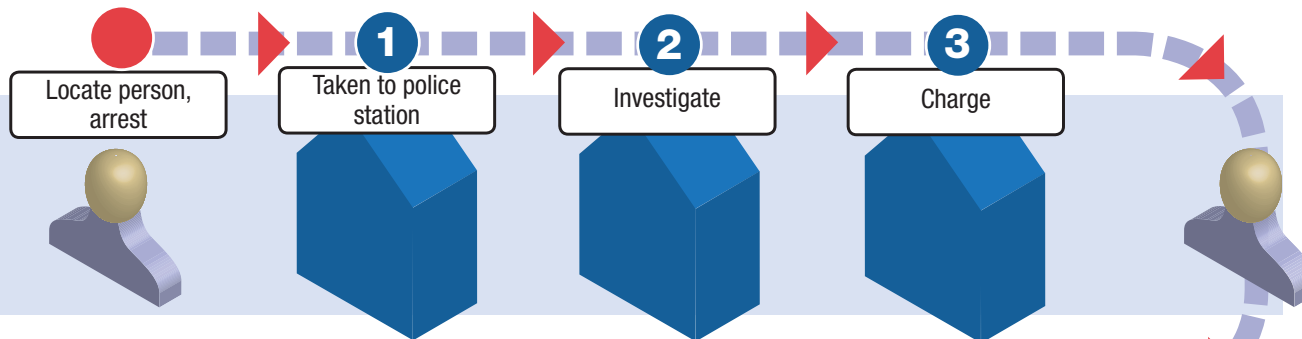
We hope you find this guide useful. If you would like more information please email: London.cjb@cps.gsi.gov.uk.

Offence to first appearance

Secure the identity of the offender and obtain the correct address (page 3)

Key Agencies

Police CPS

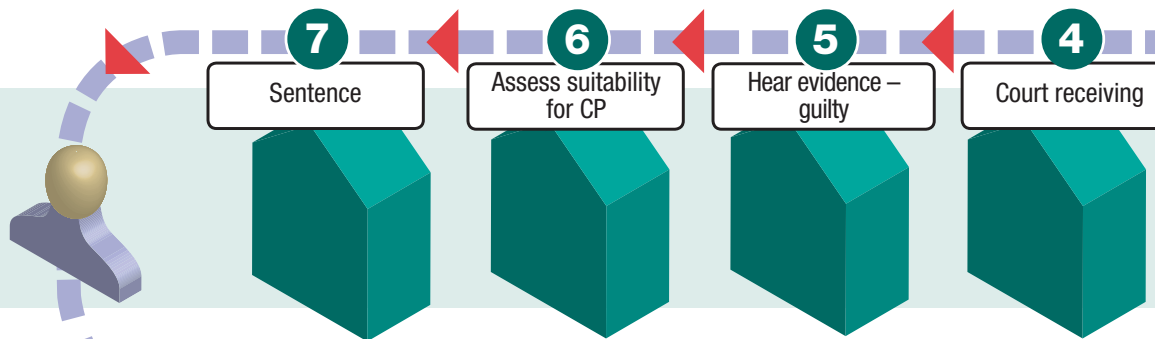


First appearance to sentence

Confirm identity, address or change of address and suitability for a Community Penalty (page 4)

Key Agencies

CPS HMCS YOTs Probation

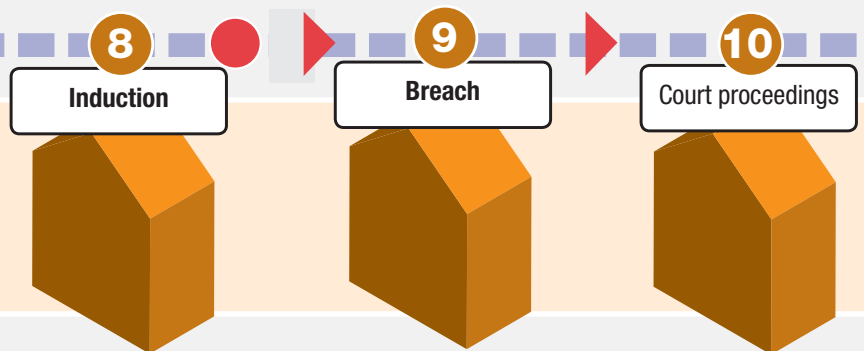


Sentence to breach

Administrate Court Orders and deliver the offender to court for resolution (pages 5 and 6)

Key Agencies

CPS HMCS YOTs Probation

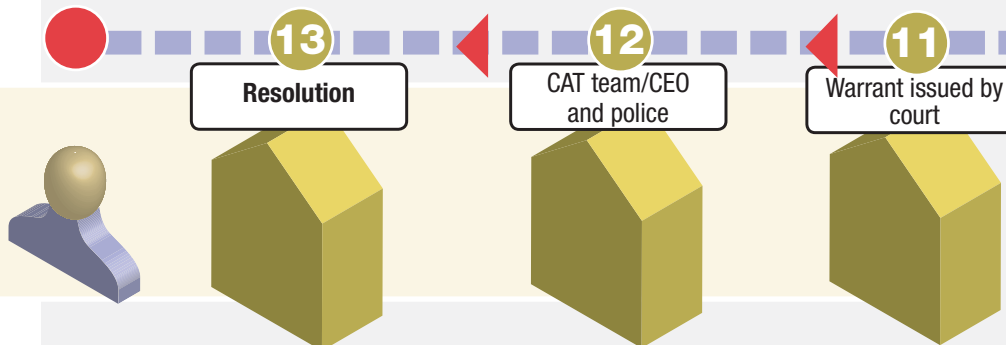


Breach to warrant to resolution

Deliver offender to court for resolution as soon as possible (pages 7-9)

Key Agencies

Police HMCS YOTs Probation



Offence to first appearance

1

2

3

As well as being essential for bringing the offender to justice, securing the identity of the offender and obtaining the correct address is crucial to ensure compliance and timely enforcement.

Locate person/arrest – Police Station

Identity confirmation

At the custody suite (National Strategy for Police Information Systems)

1. Police National Computer (PNC) checks:
 - Confirm ID – previous convictions/other identifiers (tattoos, scars etc)
 - Outstanding matters.
2. Live Scan – fingerprint records
 - If detainee is known to PNC, Live Scan will either confirm identity already given by PNC check (assuming detainee gave correct details on arrest) or will provide the correct identity of detainee where incorrect details given at outset.
3. DNA swabs.
4. Personal physical search (for documents/cards which may confirm ID).

Investigate

Address confirmation – systems available

1. Criminal Intelligence (CRIMINT).
2. Crime Reporting Information System (CRIS).
3. Electronic Warrant Management System (EWMS).
4. Voter's register.
5. Physical bail enquiry at the given address.
6. If address in a different area, then Computer Aided Dispatch (CAD) to local police for bail enquiry.
7. Custody sergeant's decision – if in doubt should consider keeping in police detention.

Charge

CPS review available evidence

1. Authorise charge in accordance with Director of Public Prosecutions' guidance.
2. Incomplete or inadequate enquires by the police about the bail address should be challenged.
3. Build case and disclosure for first appearance at court.

Good practice and opportunities

- At the beginning of the process the police should obtain telephone number(s) for the defendant and include with address on charge sheet.
- Information gathered and checks made at the beginning of the process should be utilised later by all agencies should a warrant be issued.
- Searching for the offender on the CRIS as a victim could be fruitful and is more likely to contain accurate information.
- Request and check the postcode.
- When charged, the accused should be told that if they change address before any court appearance, they should bring proof of address to court. This could be council tax forms, utility bills etc. This could be made clear on the leaflet handed to the defendant.

First appearance to sentence

4

5

6

7

Confirm identity, address or change of address and suitability for a Community Penalty (CP).

Court receiving

Identify offender

1. Confirm name and address and date of birth of offender through open questions.
2. If in custody, more stringent checks should be made before bail is granted.

Hear evidence – guilty

Guilty plea/finding of guilt

1. If in doubt about address after conviction, court may consider imposing bail conditions or remand in custody pending reports.

Assess suitability for CP

Probation

1. Oral/Fast Report (FDR)
 - Notify offender of first appointment of CP.
2. Standard Report (SDR)
 - Write to offender within 5 days to invite them to attend first appointment stipulating details, with text reminder (where facility implemented).
 - Request proof of address for appointment.
 - Delius and Enforcement Tracker checked for outstanding matters.

Sentence

Court

1. Notification of Community Order and consequences of breach explained to offender.
2. Court order to probation/Youth Offending Team/Serco on same day and at least within 72 hours.

Good practice and opportunities

- Legal adviser should ask for telephone contact number(s), check date of birth together with name and address.
- Court documentation could be changed to stipulate that proof of address could be required at court hearings, in particular changes of address.
- Probation at Oral/FDR stage to question accused about address, request proof and warn about failing to comply.
- On the day, probation should check Delius and Enforcement Tracker for FDRs and if the address is not verified should refer the matter back to the court to inform of risk and ask for a decision.
- Should not let offenders go without notification of first appointment. Court can announce appointment details at point of ordering FDRs.

Sentence to breach

8

9

10

Efficient administration of Court Orders and delivering the offender to court for resolution as soon as possible.

Induction

- Structured Induction highlights the benefits of compliance and consequences of breaching a CP order.

Breach

Probation/offender manager

- First missed appointment – warning letter is sent and noted on file. If an explanation for failure is received it is assessed as acceptable or unacceptable.
- A second missed appointment would be sufficient to initiate breach action (National Offender Management Service provides guidance on the use of discretion). Second warning letter sent within 2 days giving the offender 10 days to respond.
- If high risk: first instance warrant will be applied for without summons.
- Offender manager submits breach to probation prosecutor by day 8, including:
 - Copy of Court Order
 - Cases summary
 - Warning letter
 - Offender additional information sheets (OAIS), breach prosecution statement and an up-to-date MG16.
- Prosecutor completes checks and issues summons through enforcement tracker by day 10.
- A warrant should be prepared for issue on the day if offender fails to answer summons.

Court proceedings

- Prosecutor schedules first appearance at court within 20 days of failure, allowing 7 days for service of summons.
- Lodge summons with court (hand delivery, fax, email, post).

Court

- As soon as the breach application is received, court should aim to get summons signed within the hour.
- Enter it on COMET straight away, including where first instance warrants issued.
- Court issues and serves breach summons to attend court on specified date.
- Good service is 7 days (including postage).

Offender manager/probation

- Collect summons from court.
- Post summons to offender.
- Send text message or phone call reminders to offender to ensure attendance at court.
- Copy of breach report and reminder letter to accused to seek legal advice prior to attending to avoid adjournment.

Court

- Check ID and address – if pleads guilty then deal with on the day; if pleads not guilty then short adjournment, subject to Criminal Procedure Rules.

Good practice and opportunities

- Information can be laid after the first unacceptable breach – consideration can be given to invoke this for more serious breaches, e.g. disrupting a work placement.
- It is not a legal requirement for the second warning letter to have a response time of 10 days.
- Court could send a letter to the offender (after summons issued) advising of the importance of attending court and the consequences of non-attendance.
- After above letter has been sent, probation should send a text message confirming the hearing date.
- First instance warrants: (i) probation should inform the court at the earliest opportunity so that they can enter it onto COMET; (ii) court should ensure that the case is on COMET at the time the warrant is issued.
- Case should be updated on COMET immediately and before resulted on other systems.
- Probation prosecutor should have access to the list and, in consultation with the court, schedule in hearings rather than court providing a date.
- An adjournment for legal aid should be for no longer than 2 working days. This is an HMCS national target.
- The probation prosecutor should not seek an adjournment for a fresh report if one has been previously completed – a breach statement should be sufficient.
- Should not recommend further unpaid work if the initial unpaid work order has already breached. Discretion to be exercised if they have worked well; further hours may be appropriate.
- A photocopy of the probation diary could be used by the court to double-check cases that may have slipped the net.

Breach to warrant to resolution

11

12

13

To deliver offender to court for resolution as soon as possible.

CPBW issued by court

- If offender fails to attend court in response to the summons then a warrant is issued on the day.
- Court to ensure full address is entered on the warrant.
- Warrant officer/listing section to inform COMET inputter to update COMET before resulting.
- The warrant is faxed by the court to the CAT team (court keeps original).

CAT team/CEO

CAT team carry out

- PNC checks within 2 days of receipt (normally done within a day).
- Check Equifax and DWP.
- Enter onto database.
- Conduct Risk Assessment/Warrant Profoma and send checks to CEO.
- Circulate on PNC.
- High risk identified and sent to police (see criteria on page 8).

CEO

- Will call at the address of the offender on the day of receipt and, if not present, leave a letter; otherwise bring offender in.
- Will telephone/text message and re-call at the address and other addresses identified from DWP/PNC/Equifax until result gained.
- Once contact has been made the suspect is either bailed or sent direct to court.
- Where this is outside of custody provision at court, the suspect should be taken to a designated police station as soon as practicable after the arrest.

Police – priority offences – high risk

- Entry on EWMS.
- Tasking enforcement weekly.
- PINS checks/other intelligence.

Police – non priority

- Check Probation Enforcement Tracker and liaise with local police to share intelligence info.

Police – custody after arrest

- Where a person has been arrested on warrant not backed for bail outside of custody provision at court, police will hold them in custody for appearance at the next available court date (does not have to be a designated 'breach court').

Resolution

- If offender dealt with at court in custody then matter resolved.
- Current legislation means that where a CPBW is executed the breach can only be dealt with by the local justice area (LJA) in which the offender resides or where the place of residence is uncertain the LJA that made the order (see note below).

Note: further and more detailed guidance will be issued to address the various scenarios that can arise as a result of this and how they need to be handled. In addition, work continues on securing a legislative change to improve our flexibility and enable any breach to be dealt with within the LJA where the offender is actually arrested.

Good practice and opportunities

- Deputy justices' clerks should satisfy themselves that reasons for any adjournment are appropriate.
- Offenders who failed to appear could be telephoned/texted (by court and probation) and made aware that a warrant has been issued for their arrest.
- Court should take proactive approach: no case should be adjourned without proper investigation and the court should aim to deal with all cases in no more than 2 hearings. Should strive for shorter adjournments and quicker trial dates.
- Whenever a warrant is issued (i.e. at this stage or on initial breach for high-risk cases) paperwork in all instances should include an OAIS sheet with contact numbers for the offender, normally provided via Probation Enforcement Tracker.
- CAT team/CEO should link up with Safer Neighbourhood teams who may have extra information about the offender.
- If an inaccurate address has been entered on the warrant, it is left as it is on the PNC – should look at the extensive bail enquiries made during the early stages to verify address (an address of a close relative may have been provided at the beginning).
- Delius (probation database) would list all addresses that have been provided by the offender.
- Any court should accept and deal with an offender brought before them to execute a breach warrant. The court will then need to consider the breach proceedings and the option of sending the matter to the original court.

Criteria for assessing high risk of harm to the enforcer of community penalty breach warrants

The list below is a guide for those undertaking risk assessments, and is by no means an exhaustive list of factors to take into consideration.

Each risk assessment is calculated individually and there are no hard and fast rules to apply. For example, a defendant might repeatedly have used weapons around 10 years ago and been in regular contact with police since then, but has not committed any weapon offences.

Each risk assessment is individual and will need to be informed by a host of secondary contributing and demographic factors.

Offence types:

- murder/manslaughter
- firearms/explosives (recent)
- repeat violence (especially towards police/authority)
- kidnap/false imprisonment
- weapons (especially use of)
- previous history/incident with CEO.

Contributing factors:

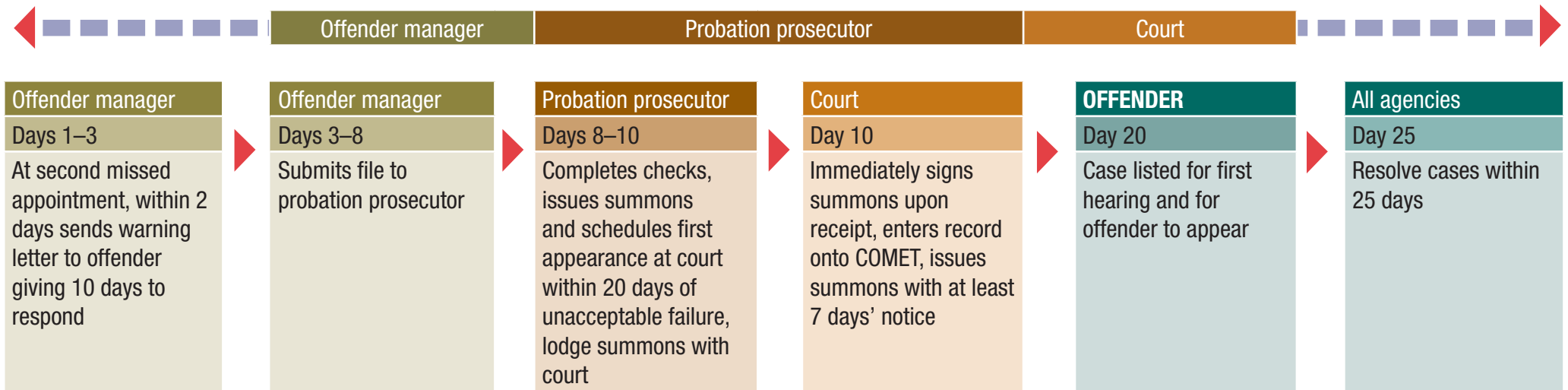
- violent offences triggered by alcohol/drug misuse
- violent sexual offences
- contagious/ailments (HIV+, hepatitis C)
- self-harmer/suicidal
- substantiated threats to kill
- escaper
- mental health issues
- racially motivated offence
- received extended sentence
- obsessive behaviour/stalker.

Other considerations:

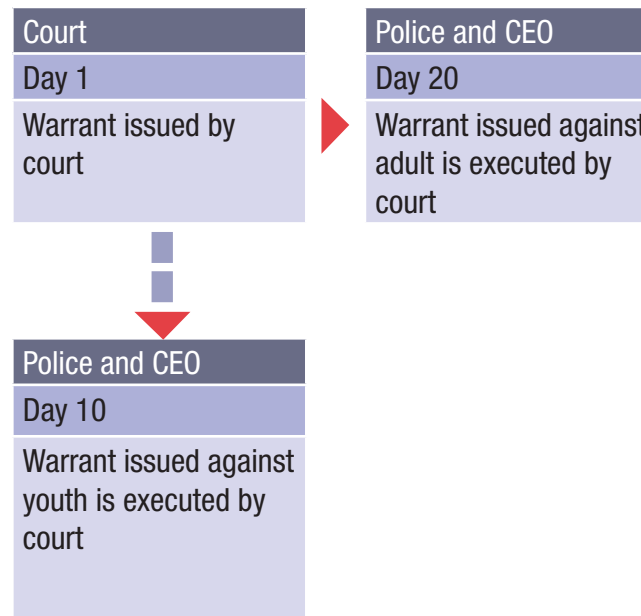
- information or intelligence from police concerning high-risk locations unsuitable for CEOs
- known associates posing significant risk to CEO.

Note: All MAPP (Multi-Agency Public Protection Arrangement) cases will be assessed as high risk and executed by the police.

Agency responsibility for resolving community penalty breaches



Targets for executing community penalty breach warrants



MANAGING THE DATA – COMET – HMCS

COMET is the primary source for reporting performance against the community penalty performance targets and it is imperative that the databases are as accurate as possible. All possible records must be updated on COMET by the **fourth day of each month** as this is the cut-off point for performance data to be extracted.

1. Make use of the support available

The link below will take you to lots of top tips and guidance on how to maintain COMET and gives details on what cases should and, just as importantly, shouldn't be entered. <http://libra.lcd.gsi.gov.uk/courtwork/criminal/guidance/3865.htm>

2. Have local ownership

Have a lead administrative contact for COMET and ensure that there is a Community Penalty Legal Advisor Champion for each courthouse.

3. Spot checking

Rigorous standards should apply to resulting and to the management of COMET. Ensure the following:

- COMET should be spot checked on a weekly basis.
- Particular attention should be given to checking long-running cases.
- Checks must be complete by the **fourth day of each month**, ensuring all case records for the preceding month are updated.
- Every unresolved entry on COMET should have either a live warrant outstanding or a future adjournment date. If it doesn't you should investigate the case to check the case status, contacting probation or the CAT team as necessary.
- In particular, check cases that have been updated as 'Warrant Executed' have not been resolved already.

4. Take the old cases back

Courts should on a monthly basis take all COMET cases that take over 2 years and 10 months to their Local Borough Criminal Justice Groups and ask probation and police colleagues to confirm the status of the cases.

5. First instance warrants

Ensure first instance warrants do not slip through the net. This can happen when probation has not requested a summons and therefore a case has not been created on COMET. Ensure that a process is in place so that in all first instance warrants a case is created on COMET and the case resulted as a warrant.

6. Points to note

- In cases where warrants are executed at the weekend at another courthouse or if you deal with a breach case/warrant originating from another court (including Crown courts), an extract must be sent to the originating court so that COMET and Libra can be updated.
- If the offender has been arrested and charged on one offence and the breach is shown as a second offence, the breach should be listed separately as a case. This will increase the chances of the resulting team identifying the case and putting the appropriate data onto COMET.

Technical Note

Conducting your own data reconciliation:

Use 'filters' on COMET to identify all cases showing as unresolved (including warrant cases). Follow these steps:

- Using the filter on Column O (titled 'Transferred out of area'), select 'Blanks'.
- Then, using Column Y (titled 'Date breach case resolved'), also select 'Blanks'. This will leave all unresolved live cases displayed.
- Check these cases, using Case Enquiry, against Legacy Equis system (if still available), Court Case files or Libra.

Some cases may need checking against a combination of these depending on the age of the case:

- Cross-reference cases against the CAT Database and/or the CAT Archive Database. These can be found in the same Workgroup folder (GLMCA/GLMCA General/CPBW Administration/CPBW Database). Warrant execution information can be found in a comments box in the column titled 'Execution Data'. On the second 'tab' there is information on Police Station Codes (eg: 01PL = Lewisham).
- If CPBW date of issue is pre-CAT implementation, contact your local Area Enforcement Office to check CPBW Register/Database.
- Depending on the initial prosecutor, cross-reference cases with probation, Serco or YOTs.
- Finally, update COMET to reflect correct case status.

Produced by the London Criminal Justice Board, 50 Ludgate Hill, London EC4M 7EX

This guide is also available to download from the London Criminal Justice Board website: <http://lcjb.cjsonline.gov.uk/london>

Guide published June 2009. Job No: 291286

© London Criminal Justice Board 2009

