

CRIMINAL RECORD CHECKS: GLOSSARY OF TERMS

A

Absolute discharge – used where a court has found the offender to be guilty of the offence charged but has decided that no further action is required on its part, beyond the finding of guilt. This may reflect the triviality of the offence, circumstances in which it came to be prosecuted, or factors relating to the offender.

AccessNI - this is the equivalent organisation to the DBS in Northern Ireland.

Acquit – where a judge or jury finds the accused not guilty at the end of a criminal trial.

Adult - someone who is treated by the law as no longer being a minor having reached the age of 18 in England and Wales, or age 16 in Scotland.

Assault - an unlawful attack on someone. This does not have to be a physical attack, it can also include words or deeds.

B

Bail - release of a defendant from custody until his/her next appearance in court. Sometimes subject to some form of security being given or a requirement to comply with certain conditions.

Basic disclosure – this is the process of applying for details about a person's unspent (current) convictions, cautions, reprimands and final warnings only. It is not employment specific so can be applied for by anyone e.g. individual, employer or the self-employed.

Although not mandatory, employers in England and Wales are permitted to require a basic level disclosure using the services provided by Disclosure Scotland – see entry for Disclosure Scotland. The DBS are considering offering this service from 2017. Further details will be published on the NHS Employers website once more information is provided by the DBS.

Battery - the deliberate use of unlawful force on somebody. This can include anything from touching, pushing or more severe physical violence.

Bind over - an order which requires the individual concerned to keep the peace for a fixed period of time, as specified by a court. Failure to observe this order may result in a forfeit or penalty being enforced on the individual.

Breach – a person failing to fulfil the requirements of either a court order or the conditions of a post-release licence.

C

Caution - a formal warning about future conduct usually issued at a police station by a senior police officer, after a person has admitted committing an offence. It is used as an alternative to imposing a charge and possible prosecution. Generally used for juvenile or first-time offences. There are two types of caution.

1. A simple caution – is used to quickly and simply deal with those who commit less serious crimes. It aims to divert offenders away from appearing in court and to reduce the likelihood of them offending again
2. A conditional caution – requires the offender to comply with certain conditions to avoid prosecution for the offence they have committed. Like simple cautions, conditional cautions aim to keep lower level offenders out of court. The conditions are usually in the form of rehabilitation or with a requirement for the offender to repair or make good any damage they have caused. The offender may be requested to pay financial compensation.

Charge - a formal accusation against a person that they have committed a criminal offence.

Child - the Criminal Justice Court Service Act 2003 defines a child as someone who is under the age of 18, or under the age 16 if the child is employed.

Committal

There are three types of committal.

1. Committal for trial - this is the procedure used by the magistrates to direct a case to the crown court to be dealt with.
2. Committal for sentence - where the magistrates consider that an offence justifies a sentence greater than they are empowered to impose. In this instance they may commit the defendant to the crown court for the sentence to be passed by a judge.
3. Committal order - this is an order issued from the crown court which imposes a prison sentence.

Concurrent sentence - a direction by the court that a number of sentences of imprisonment should run at the same time.

Conditional discharge – where no further action is taken against an offender unless they commit a further offence within a given period (no more than three years).

Consecutive sentence - an order for a subsequent sentence of imprisonment to commence as soon as a previous sentence expires. There is no restriction on the number of sentences that can run consecutively.

Contempt of court – any conduct that interferes with or prejudices the administration of justice, or when an individual shows a wilful disregard to the judicial process.

Conviction - the outcome of a criminal prosecution which concludes that the person accused is guilty of the crime they are charged of, or where the individual makes a plea of guilty. It does not include a final judgment that has been pardoned, set aside, reversed, or otherwise rendered inoperative.

Counter-signatory - a person within a body or organisation registered with the DBS to countersign disclosure application forms. Individuals who undertake the counter-signatory role must, by law, be aged 18 or over.

Criminal record – this is a record of convictions held on the Police National Computer (PNC) for individuals convicted of crimes. The police records contain details of all convictions, cautions, reprimands and final warnings in England and Wales. It also contains most the relevant convictions in Scotland and Northern Ireland. The DBS reserves the right to add new data sources.

D

Damages - an amount of money claimed as compensation for physical/material loss, e.g. personal injury, breach of contract.

Data Protection Act 1998 – the Act regulates the use of information about an individual. It sets out specific requirements for individuals or organisations that collect, store or are required, under specific circumstances, to share any such information. The Act also provides safeguards in relation to sensitive personal data which may include information on ethnic or racial origin, political opinions, religious beliefs, physical or mental health, and criminal records.

On 10 March 2015 [section 56 of the Act](#) was fully implemented. This amendment is intended to prevent the misuse of Subject Access Requests (SARs). From this date it is unlawful for any employer to require a prospective employee or existing member of staff (including agency workers and external contractors) to obtain a copy of their criminal record directly from the police, probation service or courts by using their subject access rights under the Data Protection Act, and share this information with them (known as an 'enforced subject access request').

Employers in England and Wales must only require any such information by obtaining a standard or enhanced disclosure through the DBS or a basic disclosure through Disclosure Scotland.

Any employer found to be in breach of Section 56 will be committing a criminal offence and, in England and Wales, may now face prosecution by the [Information Commissioners Office](#) (ICO).

Defendant - person standing trial or appearing for sentence.

Department of Education – this is the government department responsible for improving the focus on all aspects of policy affecting children and young people, as part of the government’s aim to deliver educational excellence.

Direction – a court order laying down procedural steps to be undertaken.

Disclosure & Barring Service (DBS) – established in 2012 under the Protection of Freedom’s Act, merging the services previously provided by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). It provides access to information about criminal convictions and other police records to help employers make an informed decision when recruiting staff across England and Wales.

The DBS also has a team of caseworkers who manage referrals from a range of sources including employers, charity bodies, regulatory bodies, and the public about individuals who have caused harm, or have carried out activities which may have the potential to cause harm to vulnerable groups with a view to including them on the children’s and/or adults barred lists. Individuals who are listed on one or both barred lists will be committing a criminal offence if they apply to work or engage in a regulated activity with the relevant group(s). It is also unlawful for employers to allow an individual to work or engage in a regulated activity from which they are barred.

Disclosure certificate – this is the term that is used to describe the document issued to the applicant when a DBS check has been completed.

Disclosure and Barring Service check – also known as a DBS check. This is the process by which a body registered with the DBS (known as a registered or umbrella body) obtains a DBS disclosure certificate.

DBS update service – this is a service provided by the Disclosure and Barring Service. It enables individuals subscribed to its service to keep their DBS certificates up to date online, and allows employers to check an applicant’s DBS certificate status online. See further information in our guidance for employers on the use of the DBS update service which is available on the [NHS Employers website](#).

Disclosure Scotland – this is the equivalent organisation to the DBS in Scotland. It also currently provides a basic disclosure service to employers within England and Wales – see entry for ‘basic disclosure’.

Dismissal - to make order or decision that a case be ceased.

Driving endorsements (endorsements) - penalty points given for motoring offences. Not usually relevant for employers in the NHS to consider, unless specifically relevant to the

position being applied for i.e. the individual will be responsible for driving patients to/from places where they will receive health care.

E

Eligibility - the process of establishing what level of criminal record check can be carried out.

Enforced subject access – see entry, Data Protection Act.

Enhanced DBS check - also referred to as an enhanced disclosure. These are for posts that involve a far greater degree of contact with vulnerable groups, including children. In general this covers work that involves regularly caring for, supervising, training or being in sole charge of these groups.

This level of check involves an additional check above the Standard DBS check - a check on local police records. If local police records contain additional information that may be relevant to the post the applicant is applying for, the chief officer of police may release information for inclusion in an enhanced check.

The following enhanced checks with information from the DBS' children and adults barred list is only available for those individuals engaged in regulated activity with adults and/or children and a small number of posts as listed in the Police Act regulations.

- Enhanced check + barred list check (child)
- Enhanced check + barred list check (adult)
- Enhanced check + barred list check (child & adult)

Exceptions Order - the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 sets out those occupations and professions that are exempt from the provisions of the ROA. These are generally positions of trust, where there is a valid need to see a person's full criminal history in order to assess their suitability for a particular position.

Excepted professions – these are set out in the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974, where an employer is entitled to ask a candidate to reveal details of all convictions, cautions, reprimands and final warnings which are not protected by the DBS filtering rules (whether spent or not). See entry under 'filtering rules' in the section below.

Exempted question - is a valid request for a person to reveal their full criminal history except for protected cautions or convictions, and is made possible by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Ex-offender - a person who has been convicted of a criminal offence and whose crime is now spent (deemed old) under the Rehabilitation of Offenders Act (ROA) 1974.

F

False accounting - providing information which is misleading or deceptive with a view to causing loss to another, or the destruction concealment or falsification of information relating to a financial account.

Filtering - the filtering rules came into force in May 2013. They allow for certain cautions and convictions to become protected or filtered when they meet a set criteria.

Any protected or filtered cautions and convictions will continue to be recorded on the Police National Computer (PNC) however, will never be disclosed as part of a standard and enhanced disclosure certificate. Individuals are not legally required to declare any such information when they apply for work or volunteering roles and employers must not take any such information into consideration as part of their recruitment process. Further information about filtering can be found in appendix four of the criminal record check standard on the [NHS Employers website](#).

Final warning - a formal verbal warning given by a police officer to a young person who admits their guilt for a first or second offence. However, unlike a reprimand, the young person is also assessed to determine the causes of their offending behaviour and a programme of activities is identified to address them.

Fines - are by far the most frequently used power available to the court for the less serious of offences. A fine may not be used in conjunction with an order for absolute or conditional discharge, probation or community punishment order. A magistrate court is required to take into account what it knows of an offender's means in fixing the level of a fine. Where a juvenile offender is ordered to pay a fine/damages/compensation or costs, the court may (must, if the offender is under the age of 14) order the sum to be paid by the individual's parent or guardian.

Fixed penalty notice (FPN)/penalty notice for disorder (PND) – these were introduced as a means of dealing with low-level, anti-social and nuisance offending which does not require a court hearing. Once a penalty notice has been issued, the recipient must either pay the amount shown on the notice or request a court hearing. This must be done within 21 days of the date of issue. Payment involves no admission of guilt and removes both the liability for the conviction, and a record of criminal conviction.

G

Guardian - a person appointed to safeguard, protect or manage the interests of a child or person lacking the capacity to do so.

Guilty plea - a case in which all defendants either plead guilty to all counts (or acceptable alternative counts) or plead guilty to some counts and not guilty to others and a jury is not sworn. The conviction, even where a defendant pleads guilty is not confirmed until a sentence is set by the court.

H

Harm test - someone who may harm or pose a risk of harm to vulnerable groups, including children will satisfy the harm test. They will be referred to the DBS to be considered for inclusion on the children's and/or adults barred list(s). Individuals included on one or both lists are prohibited from working or engaging in a regulated activity with these specific groups.

Home-based - a home-based role is when the prescribed purpose is carried out primarily at the applicant's residential (home) address. The prescribed purpose is the position for which the enhanced disclosure is in relation to. Roles are not considered home based if the work is being carried out at the home of the individual being cared for. The police will only consider an application for third party checks where it is deemed that the position applied for meets the criteria for a home based role dependent on a key word search from the position applied for field.

Hospital/guardian order – where a juvenile is found guilty of an offence which would normally be punishable by imprisonment, if committed by an adult, a hospital or guardian order enables the court to remand them in custody or on bail for medical examination and assessment under the Mental Health Act.

If the individual has a mental disorder, and is over the age of 16, the court can appoint a guardian for them under Section 37 of the Mental Health Act. This can only happen if it is deemed necessary for the person's welfare or for the protection of others. The guardian has powers and responsibilities to make decisions on behalf of and for the benefit of the person where they are lacking mental capacity to do so for themselves.

I

Imprisonment - the courts power to pass sentences of imprisonment, the maximum sentence for each offence is specified by law. If an offence is dealt with by the crown court, the maximum term of imprisonment that may be imposed is, in nearly all cases, higher than that available to the magistrates' court.

Indictable offence - offences for which an adult defendant must be tried by the crown court, e.g. robbery, arson, and rape. The different types of offence are classified 1, 2, 3 or 4. Murder is a class 1 offence.

Injunction - an equitable remedy in the form of a court order compelling a party to do or refrain from doing a specified act.

J

Judgment – the final decision of a court, a monetary judgment requires the payment of a sum of money by one party to another.

Juvenile – a person under 18 years of age in England and Wales.

L

Lead counter-signatory - a senior figure within a registered body who has been nominated to hold overall responsibility for authorising DBS checks in their organisation.

Licence period - the period of time between being released from custody and finishing a custodial sentence and during which individuals are subject to certain conditions.

Local police records – this relates to non-conviction information e.g. allegations, arrests etc., which may not have resulted in further action being taken or has resulted in a not guilty.

M

Minor - someone below 18 years of age in England and Wales or below 16 in Scotland.

Mitigation - reasons submitted on behalf of a guilty party in order to explain the circumstances leading to an offence.

N

NACRO - a social justice charity that aims to make society safer by finding practical solutions to reduce crime. Since 1966, NACRO has worked to give ex-offenders, disadvantaged people, and deprived communities the help they need to build a better future.

O

Order - a direction or instruction given by the court.

Other relevant information – non-conviction information which may be disclosed on an enhanced DBS certificate at the discretion of the chief police officer of the force that holds the information. This may include information about allegations, arrests, matters that resulted in no further action or not guilty verdicts. This information will only be given if it is relevant to the role being checked against.

Out-of-court disposals - allow the police to deal quickly and proportionately with low-level, often first-time offending which does not merit prosecution at court. For example,

community resolution orders, cannabis warnings, penalty notices for disorder and cautions are all out-of-court disposals.

P

Plea - a defendant's reply to a charge put to him by a court i.e. guilty or not guilty.

Police Act 1997 - Part V of the Act refers specifically to the disclosure process, now carried out by the DBS.

Police intelligence - see 'other relevant information'.

Police National Computer (PNC) - a police database which holds criminal record information.

Power of arrest - an order attached to some injunctions that allow the police to arrest a person who has broken the terms of the order.

Probation Order – also called a supervision order. The aim of a probation order is to leave the offender at liberty in the community but subject to certain conditions. The order requires the offender to be under the supervision of a probation officer for a specified period between six months to three years. The court has the discretion to include any further requirements that it considers necessary to secure the good conduct of the offender or to prevent them from committing further offences, for example attendance at a treatment clinic or programme.

Protected (also known as filtered) cautions, convictions, final warnings and reprimands refers to criminal record information which will not be included as part of a standard or enhanced disclosure certificate when certain conditions are met. These conditions are defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013. See previous section on filtering.

Public protection sentence - a sentence imposed for specified sexual or violent offences.

R

Recognisance – an undertaking before the Court by which a person agrees to comply with a certain condition, e.g. keep the peace/appear in court. A sum of money is normally pledged to ensure compliance.

Registered body - an organisation which has registered with the DBS to carry out standard and enhanced checks and has the right to ask an exempted question.

Regulated activity - is defined by the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) as work which an individual who is barred from working with vulnerable groups including children must not do.

Further information about regulated activity with adults can be found on the [UK government website](#).

Further information about regulated activity with children and statutory guidance on supervision can be found on the [UK government website](#).

Rehabilitation of Offenders Act (ROA) 1974 - enables some criminal convictions to become spent or ignored, after a specified 'rehabilitation period' which is set from the date of conviction. Once this period has elapsed, with certain exceptions, an ex-offender is not obliged to mention the conviction when applying for a job, volunteering activities, or a training course.

Relevant matters - relates to information which does not qualify for filtering and therefore police forces can include this when responding to a request for an enhanced DBS disclosure and where they deem it relevant to the purpose for which the disclosure is being requested.

Remand - to order an accused person to be kept in custody or placed on bail pending a further Court appearance.

Reprimand - a reprimand has replaced the caution for young people aged under 18. A young person given a second formal warning about future conduct is given a final warning.

S

Spent convictions - the Rehabilitation of Offenders Act (as amended in England and Wales) sets out to make life easier for many people who were convicted of a criminal offence but who have been conviction-free since.

A person convicted of all but the most serious criminal offences and who receives a sentence of less than two and a half years in prison may benefit from the Act i.e. if they have not offended again during a specified period (known as a rehabilitation period) the conviction is considered to be 'spent'.

Normally, once a conviction has become spent, the convicted person does not have to reveal it or admit its existence when applying for a job. In such cases, an employing organisation cannot refuse to employ someone or dismiss them on the basis of a spent conviction. However, in order to protect the most vulnerable there are some exceptions to this rule e.g. when assessing the suitability of a person for a position of trust in the NHS, the employing organisation is legally entitled to ask a candidate to reveal details of all convictions, whether spent or not. These positions of trust (known as excepted professions) are set out in the Exceptions Order of the Rehabilitation of Offenders Act.

Standard DBS check – also known as a standard disclosure, applies to people entering certain professions, such as members of health and social care, legal and accountancy professions. Standard checks contain convictions, cautions, reprimands and warnings held in England and Wales on the Police National Computer. Relevant convictions in Scotland and Northern Ireland may also be included.

Subject access - under current legislation, individuals can exercise their right to apply for access to information held on them including criminal record information under the 'subject access' provisions of Section 7 of the Data Protection Act 1998. See entry for Data Protection Act.

Suspended sentence – this is a custodial sentence which is normally issued when an individual has been convicted of a crime and given a sentence to serve time for that crime. It may include the individual carrying out a period of unpaid community work as part of/or instead of, a prison sentence. The person must meet certain conditions during the full term of the sentence e.g. have to stay away from a certain place or person. If they break the conditions of their sentence they will be sent to prison. A suspended sentence is not a substitute for non-custodial penalties or for probation but is intended to be an incentive for the offender to avoid getting into further trouble in the future.

U

Umbrella body – **this refers to an** organisation that has registered with the DBS to carry out standard and enhanced checks on behalf of other organisations that hold the right to ask applicants about spent and unspent convictions.

Unlock - is an independent charity and membership organisation, led by reformed offenders.

Unspent conviction - a conviction is described as unspent (current) if the rehabilitation period associated with it has not yet lapsed. A rehabilitation period is a set length of time from the date of conviction, according to the sentence imposed. See previous entry for the 'Rehabilitation of Offenders Act'.

Update service – see previous entry for the 'DBS update service'.

V

Volunteer - the DBS defines a volunteer as: 'a person who performs an activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than, or in addition to a close relative'.

People volunteering in eligible positions are entitled to have the fee for a standard and enhanced DBS check waived, they are also entitled to have free subscription to the update service.

W

Warning - a final warning is given to young offenders (aged 17 and under) who have committed a second offence. Police will refer the young offender to a youth offending team.

Y

Youth custody – previously known as borstal or youth detention. Where a person under the age of 17 is convicted of an offence which, if committed by an adult, would result in imprisonment, the Court may sentence the offender to be detained in a remand centre e.g. community home, youth treatment centre, or a young prisoner’s centre.