

Site Issues

Filtering of information on DBS certificates

From **29 May 2013**, the DBS will filter off old and minor convictions and cautions, reprimands and warnings from Certificates. This was one of the recommendations made by in the initial review by Sunita Mason, and supports issues raised about the impact of CRB checks on past offender's employment. Furthermore the Court of Appeal judged that the release of a person's full criminal record information infringed Article 8 of the European Convention on Human Rights.

The filtering rules apply to all DBS Certificates issued from **29 May 2013**.

Legislative Background

The filtering rules (which will remove certain old and minor convictions and cautions, reprimands and warnings from a DBS Certificate) were developed by the Home Office and the Ministry of Justice and introduced with new legislation, namely:

- Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) (England and Wales) Order Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013

The Filtering Rules.

The Filtering Rules can be found on the DBS website and are summarised below.

Adults - those 18 or over at the time of the offence:

An adult **conviction** will be removed from a DBS Certificate if,

- 11 years have elapsed since the date of conviction; and
- it is the person's only offence, and
- it did not result in a custodial sentence.

However, it will only be removed if it does not appear on the range of offences which will never be removed from a certificate, which include serious sexual and violent offences. If a person has more than one offence, then details of all their convictions will always be included.

An adult **caution** will be removed after six years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

Minors - those under 18 at the time of the offence:

For convictions, the same rules apply as for adult convictions, except that the elapsed time period is five and a half years.

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For cautions, the same rules apply as for adult cautions, except that the elapsed time period is two years.

Exceptions to the Rules

Some offences, such as the most serious sexual and violent offences, will never be removed from a DBS Certificate. The specified list of offences is [here](#): It is important to note that a DBS Certificate issued before 29 May 2013 cannot be disputed on the basis of filtering alone; however, DBS Certificates produced after this date **can** be on if the person thinks that a conviction or caution should have been filtered off in line with the rules.

Safeguarding referrals and barring decisions remain unaffected by the introduction of these filtering rules.

The DBS will not reissue existing DBS (and CRB) Certificates as these were issued under the legislation in place at the date of issue.

Important information for employers

Employers will **not** be able to take certain old and minor cautions and convictions into account when making decisions about any individual (see 'The Filtering Rules' section above).

Job application forms will need to reflect the filtering changes so that:

- a) employers ask the right questions.
- b) employees give the right (legally accurate) answer. Employers are encouraged to include the paragraph below in their standard application forms:

'The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found at the Disclosure and Barring Service website.'

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