Hertfordshire County Council - Safe Staffing Policy

Protocol for dealing with DBS Traces

Related Legislation:
The Rehabilitation of Offenders Act 1974
(Exceptions) (Amendment) Order 2001
Criminal Justice and Court Services Act, 2000
Safeguarding Vulnerable Groups Act 2006
Protection of Freedoms Act 2012

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Appendix 1 - HCC - Rehabilitation of Offenders Policy
Appendix 2 - List of example Low Risk Offences
Appendix 3 - Glossary of Legal Terms
Scope

This protocol is for employees (including volunteers) and for organisations that use the Herts County Council umbrella body who work in partnership with us.

Please note where organisations use the umbrella body service and have no connection with Herts County Council, the Herts HR Safe Staffing team will process the DBS application and on receipt of the Disclosure forward it immediately to the customer who is then responsible for assessing the suitability.

Protocol

Enhanced level DBS Disclosures provides the highest level of safeguard and in addition to a check for criminal convictions also covers:

- DBS Children’s Barred List
- DBS Vulnerable Adults Barred List
- Relevant information held by the Police National Computer (PNC)
- Relevant and proportionate information held by the local police force

This check provides employers with both hard information relating to criminal records and ‘soft data’ which means information about investigations, cautions etc that has not led to a conviction but is nevertheless of potential concern.

Spent and Unspent Convictions

If an offender does not re-offend for the time specified within the Rehabilitation of Offenders Act 1974 their conviction becomes ‘spent’. This means that in most circumstances the offender would not be required to reveal their offence to their employer. However the act lists a number of exceptions to this including working with children and vulnerable adults. In these circumstances DBS checks will reveal both spent and unspent convictions, in line with the revised DBS guidance on filtering of convictions [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203519/Filting_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203519/Filting_guidance.pdf)

Recruitment of Offenders and Ex-Offenders

Having a criminal record does not automatically debar someone from working with children or vulnerable adults unless they fall into one of the categories covered below. Neither does the disclosure of soft data. (the council’s policy on the Recruitment of Ex-Offenders is attached at Appendix 1)

In circumstances where the DBS check reveals hard and/or soft data the manager is notified and it is the Council’s responsibility to undertake a thorough risk assessment to determine whether or not it is safe to appoint, or for existing employees whether to continue to employ the person concerned.

Under the Safeguarding Vulnerable Groups Act 2006 it is unlawful for organisations to employ persons, regardless of any mitigating circumstances who may engage in regulated activity with children and/or vulnerable adults who are:
VERSON 2

- Included on the list maintained by the Disclosure and Barring Service (DBS) of people judged to be unsuitable to work with children and/or vulnerable adults

Guidance for decision-making

These guidance notes are provided as a reminder of the types of offences that the Council considers high risk when employing an individual to work with either children or vulnerable adults. They take into account the 2006 guidance from NACRO (National Association for the Care and Resettlement of Offenders).

Apart from cases covered by the above paragraph, having a criminal record must not automatically bar a person from employment. Employers are required to consider whether ‘the conviction or other matter revealed is relevant to the position in question.’

Managers must review the job and the person and weigh up whether there is a risk to the service user(s) against possible safeguards and precautions. Remember our foremost duty is the safety of our children, young people and vulnerable adults.

The Risk Assessment document (available on Compass / the Grid) is used to guide decision makers and to ensure consistency of decision-making.

In addition the following examples, whilst not exhaustive, can be used as guide:-

Work with Children

Under the Protection of Children Act 1999 and the Criminal Justice and Courts Services Act 2000, it is unlawful for the Council to employ persons, regardless of any mitigating circumstances, who may have regular contact with children who are either:

- included on the list maintained by the Disclosure and Barring Service of people judged to be unsuitable to work with children. Unsuitability includes but is not limited to previous convictions. Referral to the list must be made by a "childcare organisation" if the person concerned was employed in a post involving the care of children and commits misconduct (whether or not within the course of his/her employment) which has harmed a child or put a child at risk of harm;

OR

- subject to a disqualifying order made on being convicted or charged with the following offences against children:
  - murder;
  - manslaughter;
  - rape;
  - other sexual offences;
  - grievous bodily harm; and/or
  - other acts of violence

Therefore, the Council will not employ persons to work with children who are barred from working with children for the reasons detailed above.
It is the Council's normal policy to consider it a **high risk** to employ persons, who may have regular contact with children if they have been convicted or charged at any time of the following offences against adults:
- murder;
- manslaughter;
- rape;
- other sexual offences;
- grievous bodily harm; and/or other acts of violence.

It is the Council's normal policy to consider it a **high risk** to employ persons, who may have regular contact with children if they have been convicted or charged at any time of the following offences against children or adults:
- serious class A drug related offences or a recent pattern of possession
- robbery/burglary/theft; and/or
- deception/fraud.

**Work with Adults**

It is the Council's normal policy to consider it a **high risk** to employ persons, who may have regular contact with vulnerable adults if they have been convicted or charged at any time of the following offences against children or adults:
- murder;
- manslaughter;
- rape;
- other acts of violence
- other sexual offences;
- serious class A drug related offences or a recent pattern of possession
- robbery/burglary/theft; and/or deception/fraud.

**General**

It is the Council's normal policy to consider it a **high risk** to employ persons, who may have regular contact with children or adults if they have been convicted or charged at any time of the following offences:
- drink driving and other driving offences where driving/escorting children or adults is a requirement of the job.

A helpful glossary of terms relating to information found on a certificate can be found in Appendix 3.
Please note the above is a guide only. Each individual case must be reviewed in light of evidence that the candidate is able to supply to support the employment decision.

The Process for Handling Traces within HCC departments and HCC managed schools;

1. Applicant’s self declaration form is received by Safe Staffing Team who will inform the hiring manager of any concern.

2. Disclosure certificate is returned to the applicant from the DBS. The applicant must present the original certificate to the hiring manager within a reasonable timeframe (no later than 28 days). The hiring manager must take a copy of the certificate and contact the Safe Staffing team for advice if the certificate reveals any convictions. The Safe Staffing team will make a comparison with the self-declaration form (if available) with any information that may appear on the DBS Disclosure, and provide advice to the manager on carrying out a risk assessment.

3. If the DBS reveals a Risk Level 1 conviction (low level) the manager should complete a shortened risk assessment. The Safe Staffing team will assess if case is risk level 1 once the manager has discussed the certificate with them, and advise the appointing manager / head teacher they can appoint without the formal risk assessment interview and completion of the form. The hiring manager will need to respond to email confirmation from the Safe Staffing team. Once confirmation is received then the case will be approved by the Safe Staffing team and Assistant Director, and ‘appointment can proceed’ email will be sent. Examples of Low Risk offences can be found at Appendix 2.

4. If the level of risk is higher, a risk assessment interview must be completed by the hiring manager. The Risk Assessment form can be downloaded from the Grid/Connect/Compass or emailed. If the certificate indicates an automatic debarring, the hiring manager, Assistant Director and any other necessary individuals will be immediately informed.

5. The hiring manager will conduct a Risk Assessment using the Risk Assessment Form.

6. The hiring manager will review the answers provided given by the candidate. They will consider both the job and the person weighing up whether there is a risk to the service user(s) against possible safeguards.

7. After conducting the Risk Assessment, the hiring manager may wish to speak to the officers within the Safe Staffing Team if they require further advice.

8. The Safe Staffing team will assist the hiring manager on all minor traces and make recommendations for the Assistant Director to sign off.

9. Hiring managers will send the completed Risk Assessment and a copy of the DBS certificate to the Safe Staffing team who will review each case with the relevant Assistant/Deputy Director.
VERSON 2
10. The Assistant Director will note his/her decision and any comments on the Risk Assessment form and return it to the Safe Staffing team at their regular meetings.
11. For complex or high risk cases, a final review must be carried out by either the Assistant Director responsible for Safeguarding Vulnerable Adults or the Director of Children's Safeguarding and Specialist Services. They are responsible for making the final decision.

12. The Safe Staffing Team will store the Risk Assessments and self declarations securely on the personal file. The Council’s electronic disclosure system and SAP will be updated with the DBS disclosure number and date of issue.

13. Once a decision has been made, this will be sent via email by the Herts HR Safe Staffing team as an ‘OK to proceed email’/ ‘do not proceed email’ to the Resourcing team if the post was initiated via that team. This email will then be stored on the personal file. If the post was not initiated by that team, the relevant appointing manager and transactions team will be sent the decision via email, and a copy should be stored on the personal file.

14. For appointments covered by Care Quality Commission, and any other groups covered by regulatory bodies, a second copy of the ‘OK to proceed’ file note should be placed on the management file by the manager, which must be held locally in each establishment.

15. Department Links and Business Partners may be contacted whenever applicable by nominated Assistant Directors throughout the process identified above.

An individual is not DBS cleared to work until confirmation has been sent by the Safe Staffing team; this includes applicants who may have shown managers a clear Disclosure certificate.

Record Keeping
The Safe Staffing team will store the completed Risk Assessments and Self Declarations securely for future reference including any re-checks. PaSS and SAP will be updated with the DBS disclosure number and date of issue. These records are registered under the Data Protection Act.

All departments will be sent an ‘OK to proceed ’email, which should be kept on the management file where regulations request this, and also on the personal file of the employee.

Nominated Senior Managers
Only nominated Senior Managers, agreed by the Safe Staffing board can give final review of trace cases. This includes the senior managers who will provide cover when the main service lead is absent. The Safe Staffing Team will agree regular timeslots with the nominated Assistant/Deputy Director or Authorised signatory to discuss traces. Authorised signatories and Business Partners may be contacted whenever applicable by nominated Assistant Directors throughout the process identified above. A list of nominated Assistant/Deputy Directors can be obtained by contacting the Safe Staffing Team.

Governance
There will be bi-annual consistency and improvement reviews. The Safe Staffing team, nominated Assistant Directors, their Deputies, Authorised signatories and Business Partners will be involved. (For a full list of these, contact the Safe Staffing team)
If a trace outlines any allegation of violence, rape, grooming, viewing of indecent images of children, sexual abuse / assault of a child or vulnerable adult and the Assistant Director
responsible proposes to proceed to appointment, it must first be referred to the Assistant Director responsible for Safeguarding Vulnerable Adults or an Operations Director for Safeguarding and Specialist Services for final authorisation.

**Reasons for not completing a Risk Assessment form**

The following are a list of situations where a Risk Assessment form need not be completed provided the reasons are put in writing and the relevant Assistant/Deputy Director is happy with the decision:-

- The appointment will not be proceeding for other reasons such as applicant withdraws their application or unsatisfactory references
- The information revealed is an automatic bar
- The Disclosure reveals information where the hiring manager believes that they would be at risk themselves if they were to have an interview with a potentially violent or unstable person
- Low Risk Level cases, outlined in Appendix 2.

**Re-Checks (for HCC employees)**

- The Safe Staffing team produce monthly service reports which outline all DBS gaps and those requiring a re-check. The manager is required to complete the Risk Assessment form - When in Service (This is available from Compass) and store on the person’s management file.

The process for handling traces will be the same as stated except:-

a) That the Assistant/Deputy Director and not the line manager will deal with the trace in the first instance, for any new offences. If no new offence appears, the Safe Staffing team will contact the line manager to risk assess the situation, once the risk assessment is completed it will be shown to the Assistant/Deputy Director or Authorised signatory for them to review along with the trace and self declaration form.

b) For new traces the Safe Staffing team will send the nominated Assistant/Deputy Director the trace, self declaration form, personal file, the risk assessment form and any risk assessment, certificate and file note from a previous check, to assist decision making.

c) The nominated Assistant/Deputy Director will complete a DBS Disclosure Risk Assessment form.

d) The Assistant / Deputy Director will then discuss any issues and possible solutions with the line manager.

e) The Safe Staffing team will generate a file note for the employee’s personal file and send this to the transactions team and line manager where required for where required by regulatory bodies.

f) Where a recheck is needed on someone who is a volunteer (including members, panel members, police officers), the Herts HR safe staffing team require managers to inform them of any new people in order to ensure they are recorded on the Council’s electronic DBS system.
Traces and dismissal

If, after proper consideration of all the facts and mitigating circumstances, the decision is to terminate employment, the disciplinary route is the correct route to follow to reach a fair dismissal. The disciplinary process may be evoked for at least two reasons:

a) on the basis that the employee has knowingly concealed the information (our disciplinary procedure states that they would need to disclose) and

b) the nature of the conduct means that the employee poses a risk in the job that he or she does.

c) Furthermore, in some roles employees are under a duty to disclose what are in normal circumstances 'spent' convictions, failure to do so is in breach of a statutory obligation which would be a good reason to consider dismissal.

The recommended process is a shortened investigation based on the risk assessment. The Hearing Officer being the nominated Assistant / Deputy Director, who has accountability for DBSs within their area. If gross misconduct was found, a summary dismissal would be possible (i.e. immediate dismissal/termination). In all cases refer to the HR Business partner team for further guidance.

Starting Prior to DBS
- No individual should be starting work prior to DBS clearance unless:
  - for exceptional circumstances where there is significant operational pressure to appoint prior to the receipt of a satisfactory DBS check. In these circumstances the relevant Assistant/Deputy Director or Authorised signatory must agree and be accountable for the decision to appoint. An exemption risk assessment must be completed by the line manager.
  - the Recruitment team is advised
  - the declaration has been reviewed and a thorough risk assessment has been conducted including ensuring that the individual is appropriately supervised with all other checks completed.
  - They are part of the school workforce, and in this instance all pre-employment checks should have been conducted, including a DBS first check and the individual is appropriately supervised.
- The Assistant Director will also be advised if the person has had a previous DBS check and if there was any trace information.
Recruitment of Ex-Offenders Policy

and Procedure

1. Key Points

- Identification of where the Disclosure process should be used
- Understanding of Spent and Unspent convictions
- Equal opportunities for all candidates

2. Introduction

Hertfordshire County Council (HCC) is committed to equality of opportunity and fair treatment for all job applicants and aims to select people for employment based on their individual skills, abilities, experience, knowledge and where appropriate qualifications and training.

The council will consider ex-offenders for employment based on individual merit, HCC’s approach towards employing ex-offenders differs; however, depending on whether or not the vacancy exempt from the provisions of Rehabilitation of Offenders Act 1974.

3. Scope

This policy and procedure applies to all appointments within HCC; including those appointments made to fixed term contracts and uniformed fire fighters, except for those staff employed by schools governing bodies, unless otherwise agreed.

This policy excludes individuals that are already employed by HCC, employees are required to disclose any personal concerns that conflict between their work duties and private interests. Further information can be found in:
- Code of Conduct
- Discipline Policy

4. Policy

Hertfordshire County Council is committed to the fair treatment and equal opportunities of all employees, potential employees and the users of the services it provides regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.

Wherever possible the council actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. In all circumstances candidates will be selected for interview based on their skills, qualifications and experience.

The council will not automatically refuse to employ a particular applicant just because they have had a previous criminal conviction.
Jobs that are covered by the Rehabilitation of Offenders Act 1974

Unless the nature of the position allows HCC to ask questions about applicant’s entire criminal record only ‘unspent’ convictions as defined under the Rehabilitation of Offenders Act 1974 are required to be disclosed.

If the applicant has a conviction that is not spent and if the nature of the offence is relevant to the job for which they are applying, HCC will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment.

Jobs that are excluded from the Rehabilitation of Offenders Act 1974

If the job in which the council is seeking to recruit is one of the excluded jobs listed on the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975, HCC will require the applicant to disclose all convictions whether they are spent or unspent. Even in these circumstances the council will not refuse to employ a particular individual unless the nature of their conviction has some relevance to the job for which the individual has applied.

HCC as an organisation uses the Disclosure and Barring Service (DBS) to assess applicants’ suitability for positions agreed as falling within scope of a ‘regulated activity’ role. The council will seek the applicant’s agreement to make a joint application to the Disclosure and Barring Service for a standard or enhanced Disclosure with or without a barred list check whichever is relevant for the position.

The council is committed to ensuring that all information provided about an individual’s criminal convictions, including any information contained within a Disclosure, is used fairly and stored and handled appropriately in accordance to the Data Protections Act 1998 and the council’s Data Protection Policy.

Failure to reveal information that is directly relevant to the position being appointed to could lead to a withdrawal of an offer of employment, or dismissal if the employment has already begun under Some other Substantial Reason (SOSR) Policy.

5. Procedure

The following procedure should be read in conjunction with the Recruitment of Ex-Offenders Policy to assist hiring managers and HR Teams in the recruitment of ex-offenders in relevance to jobs that are covered by the Rehabilitation of Offenders Act 1974 and excluded jobs listed under the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975

For all in scope of this policy the following procedure should be adhered to ensure safe recruitment processes are carried out.

Where it has been identified that a Disclosure is to form part of the recruitment process, HCC will encourage all applicants called for interview to provide details of their relevant criminal record. The council requests that all information with reference to a Disclosure is sent under a separate, confidential cover, to the HR Manager of the HR Resourcing Team prior to attendance at the interview. The disclosure form will then be assessed to identify if anything has been disclosed that is of relevance to the position being appointed to.
Disclosure of convictions

Candidates will only be required to disclose their conviction if:

- the ex-offender has served a prison sentence of over 30 months regardless of how long ago they served the sentence (to be disclosed when applying for any job)
- Any conviction that is regarded as not ‘spent’ or ‘unspent’ (a table detailing the rehabilitation periods for conviction to be deemed spent can be found in the toolkit document ‘Rehabilitation Periods’)

Candidates will not be required to disclose their conviction if:

- The ex-offenders, has not re-offended for a period of time (rehabilitation period) in these circumstances the conviction is considered ‘spent’. Details of how long it takes before a conviction can be regarded as spent are determined by the Ministry of Justice.

There are, however, exceptions to this law which means that certain types of jobs/employment are classed as ‘exempt’ from the Rehabilitation of Offenders Act. This means that if an individual has ever received a criminal conviction, caution, reprimand or warning they must disclose it, regardless of how long ago it occurred and how minor it was. This list includes the main job categories as follows (a full list relating to jobs can be found in the Rehabilitation of Ex-Offenders Act 1974 (Exemptions) Order 1975):

- Healthcare professionals
- Solicitors, barristers
- Chartered Accountant, Certified Accountant
- Police Constable
- Social Services Personnel
- Posts involving schooling or other dealings with young people (including teachers)
- Posts involving regulated activity with children or vulnerable adults within the meaning of the Safeguarding Vulnerable Groups Act 2006

Recruiting officers and hiring managers must also be aware that it is an offence for any organisation to offer employment that involves regular contact children or vulnerable adults to:

- anyone who has been convicted of certain specified offences
- anyone who is included on lists of people considered unsuitable for such work held by the Disclosure and Barring Service (formerly the Independent Safeguarding Authority)

At the interview or in a separate discussion the council will conduct an open and measured discussion with the candidate on the subject of the offences or any other matters that might be relevant to the position. Failure to disclose information that is directly relevant to the position being appointed to could lead to withdrawal of an offer of employment or dismissal if employment has already begun.

Where a disclosure of a conviction has been detailed for positions that require a DBS Check or where there is a trace returned as a result of the check the Trace Protocol and Risk Assessment procedure must be followed. For further information contact the Safe Staffing Team.
Appendix 2

List of example Low Risk Offences

- Benefit fraud
- Breach of the peace
- Deception
- Driving under the influence
- Drunk/Disorderly behaviour
- Handling stolen goods
- Harassment (caution/warning or reprimand ONLY)
- Low level driving offence
- Obstruction
- One-off possession of class C/B Drugs
- Property damage
- Shoplifting
- Theft
- Criminal damage (caution/warning or reprimand ONLY)

Criteria for determining low risk cases:

- The offence was carried out more than 5 years ago and no offences have occurred since
- The offence must be one of those listed above
- The offence was declared either in the self-declaration, or during the interview. The only exception may be if the offence occurred a considerably length of time ago, and the applicant may not realise the relevance of including this (eg. a reprimand that occurred 5 years ago).
- The relevance of the offence within the context of the role being appointed to must be given consideration. For example, if someone applied for a driving role and had been convicted of a drink driving offence previously

Example A:

MR A was convicted on possession of Class B drugs at age 19 and has had no further convictions or other information revealed on the DBS certificate. He is now 29 and has worked since the age of 21.

He has applied for a position of Classroom Assistant and this trace is considered to be low risk.

Example B:

MISS C was convicted of shoplifting at age 22 and again at age 23. She has had no convictions for the last 5 years and is now age 28. She revealed one of the convictions on her self-declaration.

She has applied for a position of Support Worker in HCS where there is considered to be a risk of theft from vulnerable adults. Therefore, the recommendation is that a full risk assessment is carried out before a decision is taken on whether to appoint her.
### Appendix 3

**Glossary of Legal Terms – including those likely to be used on a Disclosure Certificate**

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<tr>
<td>Abscond</td>
<td>To secretly seek to evade legal proceedings or the jurisdiction of a court usually by leaving the country</td>
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<td>Absolute Discharge</td>
<td>An absolute discharge (which is not to be confused with a finding of not guilty) is used where the court, having found the offender guilty of the offence charged, considers 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.</td>
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<tr>
<td>Accused</td>
<td>The person charged. The person who has allegedly committed the offence.</td>
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<td>Acquittal</td>
<td>Discharge of defendant following verdict or direction of not guilty</td>
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<td>Adoption</td>
<td>An act by which the rights and duties of the natural parents of a child are extinguished and equivalent rights and duties become vested in the adopter or adopters, to whom the child then stands in all respects as if born to them in marriage</td>
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<td>Adult</td>
<td>Someone who is treated by the law as no longer being a minor, having attained the age of 18 in England and Wales or 16 in Scotland</td>
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<td>Appeal</td>
<td>Application to a higher Court or authority for review of a decision of a lower Court or authority</td>
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<td>Appearance</td>
<td>The attendance by a party to legal proceedings in court either personally or by a legal representative</td>
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<td>Arrestable Offence</td>
<td>An arrestable offence is one for which the penalty on first conviction can be at least five years imprisonment or for which the penalty is fixed by statute. In addition some offences have been declared arrestable by parliament. These include taking a vehicle without authority or driving with excess alcohol</td>
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<tr>
<td>Assault</td>
<td>An unlawful attack on someone by words or deeds. Physical contact is not essential</td>
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<tr>
<td>Bail</td>
<td>Release of a defendant from custody, until his/her next appearance in Court, subject sometimes to security being given and/or compliance with certain conditions</td>
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<td>Battery</td>
<td>The deliberate use of unlawful force on somebody, ranging from touching them to the use of physical violence.</td>
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<td>Bind over for sentence</td>
<td>An order which requires the defendant to return to Court on an unspecified date for sentence. Failure to observe this order may result in a forfeit or penalty to be enforced</td>
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<td><strong>Breach</strong></td>
<td>Person failing to fulfil the requirements of either a court order or the conditions of a post-release license.</td>
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| **C** | **Care Order** The Care order is available both in care proceedings in the juvenile court and in criminal proceedings if a juvenile is prosecuted and found guilty of an offence punishable in the case of an adult with imprisonment. It commits the offender to the care of the local authority who decides on the placement in a residential centre, community home, voluntary home or boarding with foster parents. **Category A, B or C Conviction** See Conviction **Caution** A caution can be given when there is sufficient evidence for a conviction and it is not considered to be in the public interest to institute criminal proceedings. For a caution to be issued there must be evidence of the offender’s guilt sufficient to give a realistic prospect of conviction; the offender must admit the offence; and the offender must understand the significance of a caution and give informed consent to being cautioned. **Simple Caution** - A simple caution should only be given if the public interest justifies it and in accordance with Home Office guidelines. Where it is felt that such a caution is appropriate, Crown Prosecutors must inform the police so they can caution the suspect. If the caution is not administered, because the suspect refuses to accept it, a Crown Prosecutor may review the case again. **Conditional Caution** - Conditional Cautions are a new disposal introduced in the Criminal Justice Act 2003. A Conditional Caution may be appropriate where a Crown Prosecutor considers that while the public interest justifies a prosecution, the interests of the suspect, victim and community may be better served by the suspect complying with suitable conditions aimed at rehabilitation or reparation. These may include restorative processes. **Charge** A formal accusation against a person that a criminal offence has been committed. **Committal** i) Committal for trial: Following examination by the Magistrates of a case involving and indictable or either way offence, the procedure of directing the case to the Crown Court to be dealt with ii) Committal for Sentence: Where the Magistrates consider that the offence justifies a sentence greater than they are empowered to impose they may commit the defendant to the Crown Court for sentence to be passed by a judge iii) Committal Order: An order of the Court committing someone to prison **Community Punishment Orders (CPO)** Community Punishment Orders are a community sentence for offenders aged 16 years+, who have committed an offence punishable by imprisonment. The Order requires offenders to perform unpaid work in the community, from a minimum of 40 hours to a maximum of 240. **Community Punishment and Rehabilitation Orders (CPRO)** Community Punishment and Rehabilitation Orders are similar to CPOs. Offenders perform unpaid work in the community, from a minimum of 40 hours to a maximum of 100, under the supervision of a probation officer for between 12 months and three years. **Community Rehabilitation Orders (CRO)** Community Rehabilitation Orders are a community sentence for offenders aged 16 years+ with a pattern of offending which could be dealt with by being in regular contact with the Probation Service. Orders range from six months to three years. Offenders attend regular meetings with a probation officer, initially once a week, tapering off towards the end of the order if progress is adequate. **Community Service Order** The community service order was introduced with the primary purpose of providing a constructive alternative for those offenders who would otherwise have received a short custodial sentence. The effect of the order is intended as a penal sanction that makes serious demands on the offender, working for the benefit of the community, as a viable
alternative to a custodial sentence. Work for offenders is found with local voluntary or public bodies or on projects directly organised by the Probation Service.

**Compensation Order**
The courts may, in addition to dealing with the offender in any other way, order him to pay compensation for any personal injury, loss or damage resulting from the offence or from any other offence which is taken into account. The compensation order may be combined with any other sentence or order (such as probation, conditional discharge and absolute discharge). The court may order compensation in any case where it appears appropriate, whether or not the victim has made an application.

**Concurrent Sentence**
A direction by a Court that a number of sentences of imprisonment should run at the same time

**Conditional Discharge**
A discharge of a convicted defendant without sentence on condition that he/she does not re-offend within a specified period of time

**Consecutive Sentence**
An order for a subsequent sentence of imprisonment to commence as soon as a previous sentence expires. Can apply to more than two sentences

**Contempt of Court**
Disobedience or wilful disregard to the judicial process, or conduct that interferes or prejudices the administration of justice.

**Conviction**
A conviction is each finding of guilt for every (notifiable) offence considered by a criminal court for each convicted person. A finding of guilt would include a plea of guilty.

Convictions are classified by their severity into Category A, B or C. This categorisation will decide the retention policy for such conviction details. Annex A identifies a selection of more common convictions in categories A and B, further information can be found using this link ACPO which includes full lists of all convictions

**Count**
An individual offence set out in an indictment

**Criminal**
Person who has been found guilty of a criminal offence

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

**Defendant**
Person standing trial or appearing for sentence

**Deposition**
A statement of evidence written down and sworn on oath, or by affirmation

**Direction**
Court Order laying down procedural steps to be taken

**Disability**
The inability of a person to handle their own affairs (e.g. through mental illness or a minor under 18 years of age) which prevents involvement in civil legal proceedings without representation

**Discontinuance**
Notice given by the Court, on instruction by the claimant, that they no longer wish to proceed with the case

**Dismissal**
To make order or decision that a case be ceased

**E**
**Entry of Judgment**
Decision of the Court in favour of one or other of the parties

**F**
**False Accounting**
Providing dishonestly, information which is misleading or deceptive with a view to cause loss to another, or the destruction concealment or falsification of information relating to a financial account

**Fines**
Every criminal offence, except murder, is punishable by a fine, and for many of the less serious offences a fine is the only penalty prescribed by law. Fines are by far the most frequently used power available to the Court. A fine is a principle, not ancillary, sentence and may not be used in conjunction with an order for absolute or conditional discharge, probation or Community Punishment Order. A Magistrate’s 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 – and must if the offender is under the age of 14 – order the sum to be paid by the parent or guardian.

**Fixed Penalty Notice**
FPNs, including the Penalty Notices for Disorder (PND) scheme, have been introduced as
Formal warning for Possession of Cannabis

A formal (street) warning for the possession of cannabis

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 sentence is set by the court

Hospital/Guardian Order

Similar to the Care Orders, Hospital and Guardianship orders enable a juvenile court, where a juvenile is prosecuted and found guilty of an offence punishable in the case of an adult with imprisonment, to remand the offender in custody or on bail for medical examination and assessment under the Mental Health Act 1959

Imprisonment

The power of the Courts to pass sentences of imprisonment and the maximum for each offence is specified by law. Where 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 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

Infant

Also known as a minor: A person under 18 years of age which prevents them from acting on their own behalf in legal proceedings

Judgment

Final decision of a Court A monetary judgment requires the payment of a sum of money by one party to another

Juvenile

Person under 17 years of age

Licence

If an offender is released from prison under licence, they are placed under the care of the Probation Service. Certain conditions are attached to the release. Breach of these conditions will result in the offender being returned to prison.

Minor

Someone below 18 years of age in England and Wales or below 16 in Scotland, and unable to sue or be sued without representation, other than for wages.

Mitigation

Reasons submitted on behalf of a guilty party in order to excuse or partly excuse the offence committed in an attempt to minimise the sentence

Order

A direction by a Court
<table>
<thead>
<tr>
<th><strong>P</strong></th>
<th><strong>Q</strong></th>
<th><strong>R</strong></th>
<th><strong>S</strong></th>
<th><strong>T</strong></th>
<th><strong>V</strong></th>
<th><strong>W</strong></th>
<th><strong>Y</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Plea</strong></td>
<td>A defendant's reply to a charge put to him by a court; i.e. guilty or not guilty</td>
<td><strong>Quash</strong></td>
<td>To annul; i.e. to declare no longer valid</td>
<td><strong>Recognisance</strong></td>
<td>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</td>
<td><strong>Spent Convictions</strong></td>
<td>A conviction that, after a period of time, can be treated as if it never existed and no longer needs to be disclosed, unless applying for a post that would warrant an Enhanced Disclosure from the DBS</td>
</tr>
</tbody>
</table>
The Children and Young Persons Act 1969 provided for the phasing out of Borstal training and Detention Centres.