

DBS Checks

Standard Disclosure and Barring Service checks

All prospective employers are entitled to know about any convictions that are not 'spent'. Most employers are *not* entitled to know about any spent convictions, cautions, reprimands or warnings (in the rest of this fact sheet, cautions, reprimands and warnings are referred to as "cautions"). Information on whether a conviction or caution is spent can be found on the fact sheet 'Disclosure of convictions'.

For certain jobs, however, employers are entitled to know about some spent convictions and cautions and, in some circumstances, other information that the police hold about you. These, and only these, employers are entitled to request a **standard** or **enhanced** Disclosure and Barring Service (DBS) check.

- 'Standard' DBS checks: generally apply to a number of professional careers, jobs that require a licence, and work with children or vulnerable adults.
- 'Enhanced' DBS checks: generally apply to jobs that involve regularly caring for, training, supervising or being solely in charge of children or vulnerable adults.

This fact sheet addresses only standard DBS checks. A separate fact sheet addresses enhanced DBS checks.

Standard DBS checks – which employers can request them?

Certain careers are exempted from the rule that spent convictions cannot be disclosed. These exceptions are set out in the Rehabilitation of Offenders Act (Exceptions) Order 1975. They fall within three broad categories:

Regulated activity relating to children or vulnerable adults

This includes:

- teaching, training and supervision;
- registered child-minders and foster carers;
- health care or therapy;
- driving a vehicle to provide lifts for children or vulnerable adults; and
- working in specified settings such as schools, childcare premises, care homes, hospitals and detention centres.

Employment in certain professions

Exemption covers a wide range of professions including:

- medical roles, e.g. doctor, nurse, dentist, osteopath, optician etc;
- employment in the law, e.g. solicitor, court official, probation officer, traffic warden etc;
- military services; and
- financial services.

Certain activities that require a licence

This includes:

- a taxi driver; and
- those who work in the private security industry.

Checking eligibility for a Standard DBS check

To qualify for a standard DBS, the position you applied for must be included in the 1975 Order as per the categories above. To ensure that your employer is entitled to request such a check, we would recommend that you check that the role you are applying for entitles your employer to request a standard or enhanced DBS check. You can find this out by using this online tool:

<https://www.gov.uk/find-out-dbs-check>

If your employer is asking you to complete a standard or enhanced DBS check and they are not legally allowed to request such a check, you can challenge it. To challenge an ineligible DBS check after it has been requested, you should contact DBS customer services, including information about yourself and the position you have applied for and the DBS form reference you have received as part of the application.

Once the DBS have received your query, they will place your application on hold, and contact the employer to gain more information. DBS may contact you to establish your details and confirm your consent to contact the employer, but they will not disclose that it is you that has queried the check. If DBS decide the check the employer has requested is ineligible, they will stop the application and inform the employer.

You can find more information about how to challenge an ineligible DBS check here:

<http://hub.unlock.org.uk/knowledgebase/challenging-an-ineligible-dbs-check-2/>

A standard DBS check cannot be carried out without your consent.

Standard DBS checks – what information can be disclosed?

Most spent convictions and cautions are disclosed on standard DBS certificates. However, some old and minor convictions and cautions are filtered so that they are not included. This means that the disclosure of certain convictions and cautions will not be required once a certain period has passed. These periods are as follows:

- Cautions: *will not be disclosed after 6 years from the date of the caution*
(If received when under the age of 18, this period is: 2 years)
- Convictions that did not result in a prison or suspended prison sentence: *will not be disclosed after 11 years from the date of the conviction*
(If received when under the age of 18, this period is: 5½ years)

Certain convictions and cautions will never be filtered and will always be disclosed on DBS checks. This applies to offences committed under the Sexual Offences Act 2003, for example. A full list is set out in Article 2A(5) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and is available on the DBS website: <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

All convictions will be disclosed if there is more than one on an individual's record. This rule does not apply to cautions.

Standard DBS checks cannot disclose any other information that the police hold about you, such as the fact that you have previously been arrested.

Liberty is currently challenging the DBS system, and in particular this rule that multiple convictions will always be disclosed, on the basis that it breaches Article 8 of the European Convention on Human Rights (ECHR). In May 2017, the Court of Appeal held that the current system is unlawful: <https://www.libertyhumanrights.org.uk/news/press-releases-and-statements/court-appeal-rules-criminal-records-disclosure-scheme-unlawful>

This case has now been appealed by the Government to the Supreme Court. If the Supreme Court upholds the findings of the Court of Appeal, a new system for filtering criminal records may be introduced.

Further details about enhanced DBS checks can be found on the “Enhanced DBS checks” factsheet.