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WEST MIDLANDS POLICE

Force Policy Document

POLICY TITLE:

COMMON LAW POLICE DISCLOSURE

POLICY REFERENCE NO:

INF/31

Executive Summary.

Common Law Police Disclosure (CLPD) ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger

CLPD replaces the Notifiable Occupations Scheme (NOS) and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on *at charge, arrest or investigation* rather than on *conviction*, which may be some time after.

The new scheme provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers. The scheme strikes the right balance between the interests of the individual and the importance of public protection.

***Any enquiries in relation to this policy should be made directly with the policy contact / department shown below.*

Intended Policy Audience.

All operational officers, PPU, Custody staff

Current Version And Effective Date.	V0.3	04/08/16
Business Area Owner	Intelligence	
Department Responsible	Information Management	
Policy Contact	Karen Satterthwaite	
Policy Author	Karen Satterthwaite	
Approved By	ACC Foulkes	
Policy Initial Implementation Date	1st September 2016	
Review Date	1st September 2017	
Protective Marking	CLASSIFIED	
Suitable For Publication – Freedom Of Information	Yes	

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Supporting Documents

- *Common Law Police Disclosure Home Office*
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/452650/CLPD_Guidance_0_4.pdf
- *Code of Ethics* (<http://www.college.police.uk/What-we-do/Ethics/Pages/Code-of-Ethics.aspx>)
- *MOPI* <https://www.app.college.police.uk/app-content/information-management/management-of-police-information/sharing/>
- *Appendix A Initial disclosure letter*
- *Amended WG571A*
- *Amended WG571Y*
- *Amended WA166*

Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

Please Note.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY OR DIRECTIVE CAN BE FOUND ON THE EQUIP DATABASE ON THE INTRANET.

Force Diversity Vision Statement and Values

“Maximise the potential of people from all backgrounds through a culture of fairness and inclusion to deliver the best service for our communities”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

Code of Ethics

West Midlands Police is committed to ensuring that the Code of Ethics is not simply another piece of paper, poster or laminate, but is at the heart of every policy, procedure, decision and action in policing.

The Code of Ethics is about self-awareness, ensuring that everyone in policing feels able to always do the right thing and is confident to challenge colleagues irrespective of their rank, role or position

Every single person working in West Midlands Police is expected to adopt and adhere to the principles and standards set out in the Code.

The main purpose of the Code of Ethics is to be a guide to "good" policing, not something to punish "poor" policing.

The Code describes nine principles and ten standards of behaviour that sets and defines the exemplary standards expected of everyone who works in policing.

Please see <http://www.college.police.uk/What-we-do/Ethics/Pages/Code-of-Ethics.aspx> for further details.

The policy contained in this document seeks to build upon the overarching principles within the Code to further support people in the organization to do the right thing.

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1. INTRODUCTION.

- 1.1. This guidance relates to the circumstances in which the police use Common Law powers to disclose police information regarding an individual in order to enable a third party to consider risk mitigation measures in respect of an employment or voluntary role believed to be undertaken by that individual. It supersedes the guidance contained in Home Office Circular 06/2006 which has been withdrawn (Notifiable Occupations).
- 1.2. Under the authority of the Police Act 1997 and the Safeguarding Vulnerable Groups Act 2006 the work of the Disclosure and Barring Service (DBS) is central to supporting a robust safeguarding environment in relation to sensitive employment and voluntary positions. The barring function seeks to prevent the most dangerous individuals from working with the vulnerable. Beyond those barred individuals the decision as to whether to recruit an individual is a matter for the employer.
- 1.3. A criminal record certificate allows an employer to make a risk based recruitment decision, taking into account the sector (primarily child and/or adult) in which the post holder operates. The DBS Update Service allows an employer to identify whether new information has arisen about a subscribing individual since the latest certificate was issued.
- 1.4. While these pre-employment checks can provide assurance to employers at the recruitment stage by ensuring that all relevant knowledge is available before employing the individual, there needs to be a mechanism to identify risk once they are in post. The police then have a common law power (see MoPI Guidance section 6) to share information with third parties (employers/regulators) when a policing purpose is established and a pressing social need (urgent requirement to protect the public) is identified. The police should endeavour to maintain the confidentiality of personal information, but legal opinion supports the disclosure of individuals' sensitive personal information in these circumstances.

2. PRESSING SOCIAL NEED

- 2.1. This guidance outlines the narrow scope for the police to use their professional judgement to make common law based disclosure in circumstances where they consider this to be necessary to support public protection. This complements but remains separate from the statutory DBS arrangements
- 2.2. A pressing social need is when an immediate risk of harm is identified usually to children or vulnerable adults but can include other members of the public, by the actions of the individual being investigated. Disclosure under Common Law allows for brief disclosure of the alleged offence and current state of the investigation to allow an employer or regulator to put safeguarding measures in place to protect the above groups.
- 2.3. Examples of this may include a taxi driver suspected of indecently assaulting a child passenger who is given bail conditions not to have unsupervised contact with a person under 18; a teacher who is alleged to have created/distributed child pornography where their role may give them the opportunity for further offending or for evidence to be tampered with or destroyed; a security officer alleged to have used excess force or assaulted a member of the public; a carer alleged to have stolen from a service user; a

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scout or other volunteer alleged to have assaulted a child; a nurse arrested on her way to work while over the drink drive limit who may be inebriated while dispensing medicine or in charge of the care of a patient. These examples all demonstrate where disclosure is needed to allow an employer to implement appropriate safeguarding to provide immediate protection for vulnerable members of the public especially children and vulnerable adults.

3. RELEVANT OCCUPATIONS AND VOLUNTARY ROLES

- 3.1. Consideration should not be limited to those in regulated professions (e.g. Doctors, Nurses, Teachers, Child Minders, Carers, Security Officers, and Social Workers etc.). If a pressing social need can be demonstrated, this will be considered for disclosure by the Chief Officer Delegate, who is authorised to approve disclosure on behalf of the Chief Constable.
- 3.2. Voluntary roles are also relevant and officers are required to be vigilant during their investigations seeking information of voluntary roles such as the Scouts, Church, swimming instructor, football referee, St John Ambulance etc. While these cannot be recorded as an occupation on the custody record they should be recorded in the 'Organisations' section of the 208 and a WA166 disclosure authorisation form should be completed.
- 3.3. Some suspects may give their occupation as retired, self-employed or unemployed however their vocation may be a teacher or doctor who can continue to practice even without an employer or post retirement. Officers are required to capture and record their relevant occupation/role rather than their current status.
- 3.4. All military roles are relevant for disclosure and a WA166 is required to be submitted on every occupations.
- 3.5. Examples of roles to be considered but not limited to the following:

Sector	Examples
Airport	Pilot/airline staff/Civil aviation employee
Armed services	All military
Civil Servants	Members of Parliament/Customs and Excise/Inland revenue
Education sector	Any school roles/childcare roles/tutors
Child care	Babysitter/child minder/nanny
Clergy	Any church roles or volunteer roles
Emergency services	Ambulance/all police employees including other forces
Licensed gambling	Casino employees
Legal sector	Court staff/solicitors/barristers/CPS/duty solicitors
Medical sector	Doctor/Nurse/therapist/any roles involving patient care
Postal worker	Postman/sorter/post office employee
Power worker	Atomic or nuclear industry
Prison sector	Prison officer/chaplain
Security industry	Security/doormen/cash in transit
Social care	Social worker/youth worker/Carers/home help
Transport	Driving instructor/ private hire/taxi driver/Haulier

4. DISCLOSURE CONSIDERATION

- 4.1. The Chief Officer Delegate, The Force Delivery Manager in Information Management, is requested to consider disclosing relevant information to a third party when, in the course of an investigation or other policing activity, a serious and urgent risk is identified which there is a pressing social need to address. The third party will usually be an employer or other body for which the individual works, including in a voluntary capacity. However, there may be circumstances where it is appropriate to contact a regulatory or licensing body. For example, where the employer cannot be contacted or where the individual's profession can be established, but not where they work (examples include taxi drivers and doctors). It will then be a matter for the recipient to act on the information in accordance with their own statutory or procedural obligations.
- 4.2. This guidance does not provide for the disclosure of convictions as:-
- It is unlikely that the urgent and pressing requirements will then be fulfilled due to the elapse of time, and
 - Employers and regulators can be made aware of convictions via the statutory disclosure route provided by Part V of the Police Act 1997 and use of the DBS Update Service
- 4.3. NPCC (formerly ACPO) will maintain a list of Regulators and Licensing Authorities (together with contact details) that are able to demonstrate that they can and do take immediate action on receipt of non-conviction police information. Consideration should be given to disclosure to these regulatory bodies at the same time as disclosure to employers
- 4.4. It is vital that common law based disclosure decisions are processed by the police without unnecessary delay in order that the recipient can respond effectively to the urgent risk identified. This may be while the subject is still in custody and by the latest within 24 hours of the charge/bail decision being made, especially where relevant bail conditions are given.
- 4.5. Any decision to disclose police information will need to balance the rights and interests of the individual who is the subject of the disclosure against those of the public in general or any specific member or members of the public. That will involve giving consideration to the impact of disclosure on the private life of the individual concerned. Decisions should also take account of any adverse impact disclosure might have on the prevention or detection of crime. The Chief Officer Delegate will ensure that Data Protection and Human Rights considerations are made prior to authorisation.
- 4.6. The "pressing social need" threshold for making a disclosure under common law powers is considered to be the same as that required for the disclosure of "approved information" in accordance with the provisions of Part V of the Police Act 1997 (as amended).

5. SUBJECT'S REPRESENTATIONS

- 5.1. Recent judicial decisions in the Police Act 1997 disclosure arena have highlighted the importance of seeking the subject's representations regarding any proposed disclosure prior to it being made. The use of common law powers of disclosure under this guidance is restricted to where there is an URGENT pressing social need only. As such the very purpose of making the disclosure could be thwarted by any delay. It is

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therefore recommended that representations should only be sought from the disclosure subject at the time they are in police detention in connection with the allegation(s) that is/are the basis of the proposed disclosure and any comments made should be recorded on the Electronic Detention Log (EDL) and referred to on the WA166. It should also be recorded on the EDL and WA166 that the subject has been made aware that a disclosure may be made to their employer even if no representations are made.

- 5.2. The seeking of such representations MUST NOT interfere with the proper investigation of the allegation(s). Representations should therefore only be sought after the initial investigative processes in accordance with the Police and Criminal Evidence Act 1984 have been concluded, and never as part of the evidential interview.
- 5.3. Representations will not prevent a disclosure being authorised but will be included in proportionality considerations made by the Chief Officer Delegate.
- 5.4. Officers should also make themselves aware of the contents of document 'Disclosure Issues for Police Disposals' which can be found on the 2nd and 3rd pages of standard forms WG571A &WG571Y

6. REQUESTING AUTHORISATION

- 6.1. Authorisation for disclosure will be requested from the Chief Officer Delegate following the receipt of a completed and countersigned WA166 (Appendix A) which can be found in Standard Forms. The countersigned form should be emailed to IS_nojobs by the Officer in Charge (OIC) at the earliest opportunity and no more than 24 hours after coming to attention. Local Police Unit Commanders will be notified of omissions.
- 6.2. The WA166 should contain sufficient information for the Chief Officer Delegate to evaluate the immediate risk identified through the suspect's employment/voluntary role and should include the outcome such as charged or bailed with bail dates and any bail conditions especially those indicating that the suspect is not to have unsupervised contact with children or other groups. Any admissions or mitigation provided at this stage will also assist the Chief Officer Delegate in evaluating the disclosure.
- 6.3. Out of hours authorisation can be sought from the duty ACC but only if it cannot wait until normal office hours. On rare occasions of extreme emergency, it may be necessary for a police officer, or a member of police staff, to disclose information on their own initiative and without referring the matter to the Chief Officer Delegate in the first instance. In such cases the disclosure and the justification for it should be completed on a WA166 and reported to the Chief Officer Delegate as soon as practicable.

7. FOLLOW UP ENQUIRIES

- 7.1. Employers or regulatory bodies often make secondary enquiries for information where they are considering disciplinary matters against the individual or revoking their fitness to practice. These enquires should be forwarded to the CLPD coordinator via email IS_nojobs who will apply appropriate legislation and fees before making disclosure. Officers should not enter into dialogue with regulatory bodies

8. EQUALITY IMPACT ASSESSMENT (EQIA).

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8.1. The policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:

- Eliminate discrimination, harassment, and victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this policy.

9. HUMAN RIGHTS.

9.1. This policy has been implemented and reviewed in accordance with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its implementation would impact on the core duties and values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm.

10. FREEDOM OF INFORMATION (FOI).

10.1. Public disclosure of this policy document is determined by the Force Policy Co-ordinator on agreement with its owner. Version 0 3 of this policy has been given an OFFICIAL Government Security Classification

10.2. Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole Document	Section number
No Exemptions		

11. TRAINING.

Training will be delivered by L&D in conjunction with current training schedules

12. PROMOTION / DISTRIBUTION & MARKETING.

12.1. The following methods will be adopted to ensure full knowledge of the Policy:

- Publication on Force Policy Portal
- Noticeboard message
- Newsbeat article to coincide with policy launch

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13. REVIEW.

- 13.1. The policy business owner Information Management, maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
- 13.2. The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/NPCC, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
- 13.3. A formal review of the policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
- 13.4. Any amendments to the policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
- 13.5. Feedback is always welcomed by the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.

CHIEF CONSTABLE



14. VERSION HISTORY.

Version	Date	Reason for Change	Amended/Agreed by.
0.1	May 2016	Policy first draft	Karen Satterthwaite
0.2	05/05/2016	Policy formatted	56408 Parkinson
0.3	04/08/16	Policy consultation and GSC classification added	Karen Satterthwaite



Disclosure Department
Information Management
West Midlands Police
Lloyd House
Colmore Circus Queensway
BIRMINGHAM
West Midlands
B4 6NQ

Switchboard: 101
Tel. Ext: 801 6277

Please ask for: Keith Williams
Email: is_nojobs@west-midlands.police.uk
Crimestoppers: 0800 555 111
Our Reference:
Your Reference
Date:

Dear

Name:
Date of Birth:
Address:

I am writing regarding the above named who we understand is either employed by you, performs a voluntary role with your organisation, or is employed/volunteers in activity for which you are a Regulatory Body or have oversight responsibilities.

The information disclosed to you below is provided under Common Law in order to address a "pressing social need" and it may indicate that the subject of the disclosure presents a potential risk to others due to the role that they currently perform. It is a matter for you to determine what action, if any, is necessary in order to mitigate any risks that are evident to you as a result of this disclosure. In making this disclosure West Midlands Police has considered both the relevancy and proportionality of so doing.

The information we are providing is that <NAME> is currently under investigation for an offence of <OFFENCE>

<NAME> informed the Police that <he/she> has an occupation of <INSERT OCCUPATION> and <he/she> is employed by: <INSERT EMPLOYER>

The circumstances of the incident(s) are as follows:

<BRIEF MO DETAILS>

<BAIL DATES/CONDITIONS >

The information above is considered to be sensitive personal data as defined by Section 2, Part 1 of the Data Protection Act 1998, and as such, you must treat it in strict confidence and in accordance with the provisions of that Act.

The information is provided for the specific purpose of informing you of a potential risk and your subsequent assessment of that risk. This letter should not be further disseminated without the

permission of West Midlands Police or a Court Order. In particular, it should not be copied, its contents should not be discussed or shown to other people unless they are directly involved in the risk assessment resulting from the disclosure. The letter should be kept in a safe place, only retained as long as necessary for the intended purpose and should be safely destroyed when no longer required or no longer warranted under the terms of the Act.

If the subject of the disclosure is performing a role that is considered to be Regulated Activity as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended) there may be a statutory requirement for you to refer the matter to the Disclosure and Barring Service. If no statutory requirement exists then you may consider it appropriate nonetheless to make a discretionary referral.

Should you require any further information you will need to evidence a statutory provision that will enable it to be provided and address your request to the above address. West Midlands Police reserves the right to charge a fee to cover the costs of any subsequent provision of information.

Yours sincerely,

Disclosure Department
Information Management



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WA166
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COMMON LAW POLICE DISCLOSURE	
Authorisation of Non Conviction information for disclosure to a Regulatory Body/Employer	
Full name of subject:	
Date of birth:	
Address:	
Occupation <i>(inc all voluntary roles):</i>	Employer/Voluntary organisation Name and address:
Custody Ref Number:	Crime Number:
Officer in case:	
Station:	
Name and Collar Number:	
Representations: <i>(Has the subject been informed that detail of the police information held may be disclosed to their employer and been given the opportunity to make representation? Record any representations made)</i>	
INFORMATION TO BE DISCLOSED	
Brief circumstances of offence	
<i>Disclosure text to include allegation and current position of investigation; Include offence, date of offence, victim details (not name), relationship of suspect to victim, was offence committed during course of employment/voluntary activity, does their employment/activity give the suspect opportunity to commit further crime, destroy evidence or interfere with witnesses? Does the subject make any admission of offence?</i>	
DISPOSAL	
<input type="checkbox"/> Charge Court	Date:
<input type="checkbox"/> Caution	Date:
<input type="checkbox"/> Bail Station:	Date: Relevant bail conditions:
NFA by Police <input type="checkbox"/> CPS <input type="checkbox"/>	Date:
Reason for NFA?	
Reasons for disclosure <i>(tick box as applicable)</i>	
Disclosure is relevant and proportionate, public interest outweighs confidentiality. Data Protection and Human Rights have been considered.	
<input type="checkbox"/> 1 Common Law, protection of children and vulnerable adults <input type="checkbox"/> 2 Position of Trust <input type="checkbox"/> 3 Administration of Justice <input type="checkbox"/> 4 Non-disclosure. For information of Notifiable Occupations Manager <input type="checkbox"/> 5 Military – ALL MILITARY PERSONNAL ARRESTS APPROVED FOR DISCLOSURE, WA166 REQUIRED FOR AUDIT PUEPOSES <input type="checkbox"/> 6 Notifiable Occupations' use only	
<i>Send electronic copy to Duty Inspector except at box 4</i>	



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WA166
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Inspector's risk assessments rationale (*include why disclosure is appropriate on this occasion*)

Date:

Signature:

Name:

Collar Number:

Disclosure required? Yes No

Send electronic copy to is_nojobs@west-midlands.pnn.police.uk

For urgent out of hours only, Inspector to contact Duty ACC for approval to disclose

Approval ACC Delegate

Yes No

Rationale Inc. Data Protection and Human Rights legislation

Verbal Disclosure Written Disclosure

Date:

Signature:

Payroll:

ORIGINAL FORM TO BE RETAINED ON CASE PAPERS

CLPD Coordinator 801 6277



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Notice to person receiving a Caution

**Please read the declaration and make sure you understand it before you sign.
You will retain this notice.**

I understand and accept

- That if new evidence comes to light suggesting that the offence I have committed is more serious, legal action may be taken against me
- If there are victims as a result of this offence, they may take civil action against me and you might give my name and address
- If I am charged with another offence, you might tell the court I have received this police disposal. If I apply for certain jobs, either paid or unpaid, and the organisation requires me to have a criminal records check via the Disclosure and Barring Service (DBS check), you will disclose this simple caution on a Standard or Enhanced Disclosure Certificate. (DBS checks may be requested by an employer for jobs or voluntary work where you work with vulnerable groups including children, as well as for other sensitive jobs involving a high level of trust). From the 29/5/13 some cautions are eligible for filtering from certificates as per the advice from DBS
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266493/Filtering_rules_for_criminal_record_check_certificates_v2.2.pdf
- If the offence I have admitted is included in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (as amended), accepting this simple/conditional caution means I may not be allowed to do certain activities which involve working with children or vulnerable adults. Certain disposals will automatically be available to the Disclosure and Baring Service, who may consider me for inclusion in the Children’s Barred List and / or the Adults Barred List which are lists kept by the Disclosure and Barring Service once reaching decisions about the suitability of persons to work with vulnerable groups.
- If I have admitted a sexual offence, my name will be added to the Sex Offender Register and I will have to agree to certain conditions. You have told me if this is the case and explained the conditions to me. I agree to those conditions.
- I understand that certain countries may not allow me to live there permanently, and some may not allow me to visit.
- The Rehabilitation of Offenders Act 1974 determine that Simple Cautions and Youth Cautions are considered ‘spent’ immediately and Conditional Cautions are spent after 3 months,
- A record of this disposal will be kept on the Police National Computer until I am 100 or deceased and will only be disclosed in accordance with legislation and will be available to all Police Forces throughout England and Wales. I have a right to request a copy of my personal information held either on the PNC or by West Midlands police. More information can be obtained from <http://www.west-midlands.police.uk/advice-centre/accessing-information/accessing-your-personal-information/index.aspx>

Signed Date.....

Appropriate Adult if required.....

Solicitor/Interpreter if required.....

Signed copy to be retained in file and copy of the notice to be given to the person signing



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Notice to person receiving a Caution

Disclosure Consequences for Police Disposals

All Cautions (Simple and Conditional: Adult and Youth)

Cautions will be recorded on the Police National Computer (PNC) for recordable offences and retained until the individual is 100 years old and will therefore be automatically included in Disclosure and Barring Service (DBS -formerly CRB) Enhanced and Standard certificates. The same information will also be available to the barring arm of the DBS and included in considerations for barring for working with children or vulnerable adults. Although they are not 'convictions' they do form part of a criminal record. The filtering of cautions will apply from the 29/05/13 as per the website:<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Penalty Notices for Disorder

While Penalty Notices for Disorder are recorded on the PNC, they are neither a conviction nor form a criminal record. No admission of guilt is required – the liability to be prosecuted is discharged if the penalty is paid. As of April 2013 all PNDs issued nationally are recorded onto a national recording database (PENTIP), allowing all relevant history to be collected together on any individual. Despite not being part of a criminal record, if the information suggests a relevant risk to vulnerable groups, the information may still be disclosed on DBS Enhanced certificates under 'Other relevant information'.

Community Resolutions

Community Resolutions are an informal disposal and are not recorded on the PNC, they are neither a conviction nor form a criminal record. However, if the information suggests a relevant risk to vulnerable groups, the information may still be disclosed on DBS Enhanced certificates under 'Other relevant information'. As an admission of guilt is required in each case this information can still be very useful, and used where appropriate. For example it can form part of 'bad character' evidence in a later trial. If it is relevant to a later prosecution CPS could also disclose it during the trial or to assist with sentencing by the court.

Voluntary Interviews

Many suspects will agree to a voluntary interview that may lead to no further action being taken and therefore only a brief custody record will exist. It is however imperative that the crime number and victim details are recorded on the custody record as this information may provide the basis for a disclosure on a DBS certificate if it identifies a pattern of suspected behaviour or associated risk: despite a decision to take no further action.

Common Law Police Disclosure (CLPD)

Certain occupations are also considered relevant for notification to employers where a pressing social need is identified in order to protect the public where the suspect returning to their job may place vulnerable individuals at risk or impede the course of an investigation. It is therefore imperative that officers capture the suspect's employment details (or voluntary roles such as caring for young people or vulnerable adults, Scouts leader, swimming coach etc) on the custody record and consider disclosure via a WA166 on Standard Forms which should then be suitably endorsed by an Inspector and emailed to the CLPD coordinator at IS_NOJOBS. Those occupations of particular relevance are in CAPITAL LETTERS on ICIS custody but this does not preclude other occupations if a risk is evident. If the suspect states retired or self-employed, their occupation should still be explored. The suspect should be informed of potential disclosure and any representations made must be recorded on the Electronic Detention Log (EDL).

Disclosure for legal proceedings

Disclosure of offender and incident details can be made under the provisions of section 35 of the Data Protection Act 1998 in connection with legal proceedings or in order to allow the victim to



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Notice to person receiving a Caution

instruct legal proceedings or obtain legal advice. A court order may also direct disclosure for non criminal or civil court purposes. There are also certain regulatory bodies such as the General Medical Council who will request disclosure in order to carry out their regulatory functions. Disclosure is limited to information required to fulfil that purpose.

Retention of information

'Spent' disposals

The Rehabilitation of Offenders Act 1974 determine that Simple/Youth Cautions are considered 'spent' immediately and Conditional Cautions are spent after 3 months, however Regulated Employment is exempt from the Rehabilitation of Offenders Act and so such information will still be included on Enhanced and Standard DBS certificates. PNDs and Community Resolutions do not form part of a criminal record and therefore this Act does not apply to them.

Other rehabilitation periods can be found at the following website:

<http://www.justice.gov.uk/downloads/offenders/rehabilitation/rehabilitation-offenders.pdf>.

Retention periods

Current national retention rules are that all disposals on the PNC are retained for 100 years or until the subject is confirmed as deceased. Officers must be clear on this and not inform suspects that the information will be deleted. The impact of this must be understood by the person accepting the disposal. This retention period may be overturned by legal challenges or changes to legislation in the future.



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Police Record of Youth Caution

COPIES FOR OFFENDER, APPROPRIATE ADULT AND FILE

Police Station :	Occupation/School:
Custody Number:	Title:
Persons Surname:	Ethnic App:
Forenames:	Date of Birth:
Place of Birth:	Date of Report:
Address:	

OFFENCES COMMITTED	Crime Number

Information sheet for offender to be read out **and** explained by the officer administering the Youth Caution before obtaining the signature below. "After considering all the circumstances and because you have admitted the offence(s), I now propose to give you a Youth Caution for the offence(s)".

Acknowledgement of Youth Caution (To be read by person being cautioned and the Appropriate Adult)

I acknowledge that I admit the above offence (s) and that I agree to be cautioned. I understand that the details of this offence(s) will be sent to the Youth Support Service for the area where I live. I have been provided with a copy of the **Youth Caution Information** and advised as to where I can contact the appropriate Youth Support Service for this police area. I am aware that details of this YOUTH CAUTION may be given to the court if I am found guilty of another offence.

Signature of person to be cautioned :
 Date:

Appropriate Adult : I consent to this caution being issued. I understand that this will be kept on record and it may influence the police decision about prosecution if a further offence is committed, and that details may be given, if in the future, he/she should be found guilty of another offence

Signature witnessed by:
 Date:
 Relationship:

Youth Caution Administered

On (date)
 At (time)
 At (location)

Signed:
 Rank:
 Print Name:
 Authorised by (if different) Name:

Officer in Case: Rank: No: Station:



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Notice to person receiving a Caution

**Please read the declaration and make sure you understand it before you sign.
You will retain this notice.**

I understand and accept

- That if new evidence comes to light suggesting that the offence I have committed is more serious, legal action may be taken against me
- If there are victims as a result of this offence, they may take civil action against me and you might give my name and address
- If I am charged with another offence, you might tell the court I have received this police disposal
- If I apply for certain jobs, either paid or unpaid, and the organisation requires me to have a criminal records check via the Disclosure and Barring Service (DBS check), you will disclose this simple caution on a Standard or Enhanced Disclosure Certificate. (DBS checks may be requested by an employer for jobs or voluntary work where you work with vulnerable groups including children, as well as for other sensitive jobs involving a high level of trust). From the 29/5/13 some cautions are eligible for filtering from certificates as per the advice from DBS www.gov.uk/government/organisations/disclosure-and-barring-service
- If the offence I have admitted is included in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (as amended), accepting this simple caution means I may not be allowed to do certain activities which involve working with children or adults. You have told me if this is the case. I will be committing an offence if I carry out (or try to carry out) any of those activities. Certain disposals will automatically be available to the Disclosure and Baring Service, who may consider me for inclusion in the Children’s Barred List and / or the Adults Barred List which are lists kept by the Disclosure and Barring Service in reaching decisions about the suitability of persons to work with vulnerable groups.
- If I have admitted a sexual offence, my name will be added to the Sex Offender Register and I will have to agree to certain conditions. You have told me if this is the case and explained the conditions to me. I agree to those conditions.
- I understand that certain countries may not allow me to live there permanently, and some may not allow me to visit.
- The Rehabilitation of Offenders Act 1974 determine that Simple Cautions and Youth Cautions are considered ‘spent’ immediately and Conditional Cautions are spent after 3 months,
- A record of this disposal will be kept on the Police National Computer until I am 100 or deceased and will only be disclosed in accordance with legislation and will be available to all Police Forces throughout England and Wales I have a right to request a copy of my personal information held either on the PNC or by West Midlands police. More information can be obtained from <http://www.west-midlands.police.uk/foi/data-protection/data-faq.asp>

Signed Date.....

Appropriate Adult if required.....

Solicitor/Interpreter if required.....

Signed copy to be retained in file and copy of the notice to be given to the person signing



Police Record of Youth Caution

Disclosure Consequences for Police Disposals

All Cautions (Simple and Conditional: Adult and Youth)

Cautions will be recorded on the Police National Computer (PNC) for recordable offences and retained until the individual is 100 years old and will therefore be automatically included in Disclosure and Barring Service (DBS -formerly CRB) Enhanced and Standard certificates. The same information will also be available to the barring arm of the DBS and included in considerations for barring for working with children or vulnerable adults. Although they are not 'convictions' they do form part of a criminal record. The filtering of cautions will apply from the 29/05/13 as per the website:<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Penalty Notices for Disorder

While Penalty Notices for Disorder are recorded on the PNC, they are neither a conviction nor form a criminal record. No admission of guilt is required – the liability to be prosecuted is discharged if the penalty is paid. As of April 2013 all PNDs issued nationally are recorded onto a national recording database (PENTIP), allowing all relevant history to be collected together on any individual. Despite not being part of a criminal record, if the information suggests a relevant risk to vulnerable groups, the information may still be disclosed on DBS Enhanced certificates under 'Other relevant information'.

Community Resolutions

Community Resolutions are an informal disposal and are not recorded on the PNC, they are neither a conviction nor form a criminal record. However, if the information suggests a relevant risk to vulnerable groups, the information may still be disclosed on DBS Enhanced certificates under 'Other relevant information'. As an admission of guilt is required in each case this information can still be very useful, and used where appropriate. For example it can form part of 'bad character' evidence in a later trial. If it is relevant to a later prosecution CPS could also disclose it during the trial or to assist with sentencing by the court.

Voluntary Interviews

Many suspects will agree to a voluntary interview that may lead to no further action being taken and therefore only a brief custody record will exist. It is however imperative that the crime number and victim details are recorded on the custody record as this information may provide the basis for a disclosure on a DBS certificate if it identifies a pattern of suspected behaviour or associated risk: despite a decision to take no further action.

Common Law Police Disclosure (CLPD)

Certain occupations are also considered relevant for notification to employers where a pressing social need is identified in order to protect the public where the suspect returning to their job may place vulnerable individuals at risk or impede the course of an investigation. It is therefore imperative that officers capture the suspect's employment details (or voluntary roles such as caring for young people or vulnerable adults, Scouts leader, swimming coach etc) on the custody record and consider disclosure via a WA166 on Standard Forms which should then be suitably endorsed by an Inspector and emailed to the CLPD coordinator at IS_NOJOBS. Those occupations of particular relevance are in CAPITAL LETTERS on ICIS custody but this does not preclude other occupations if a risk is evident. If the suspect states retired or self-employed, their occupation should still be explored. The suspect should be informed of potential disclosure and any representations made must be recorded on the Electronic Detention Log (EDL).

Disclosure for legal proceedings

Disclosure of offender and incident details can be made under the provisions of section 35 of the Data Protection Act 1998 in connection with legal proceedings or in order to allow the victim to



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instruct legal proceedings or obtain legal advice. A court order may also direct disclosure for non criminal or civil court purposes. There are also certain regulatory bodies such as the General Medical Council who will request disclosure in order to carry out their regulatory functions. Disclosure is limited to information required to fulfil that purpose.

Retention of information

'Spent' disposals

The Rehabilitation of Offenders Act 1974 determine that Simple/Youth Cautions are considered 'spent' immediately and Conditional Cautions are spent after 3 months, however Regulated Employment is exempt from the Rehabilitation of Offenders Act and so such information will still be included on Enhanced and Standard DBS certificates. PNDs and Community Resolutions do not form part of a criminal record and therefore this Act does not apply to them.

Other rehabilitation periods can be found at the following website:

<http://www.justice.gov.uk/downloads/offenders/rehabilitation/rehabilitation-offenders.pdf>.

Retention periods

Current national retention rules are that all disposals on the PNC are retained for 100 years or until the subject is confirmed as deceased. Officers must be clear on this and not inform suspects that the information will be deleted. The impact of this must be understood by the person accepting the disposal. This retention period may be overturned by legal challenges or changes to legislation in the future.