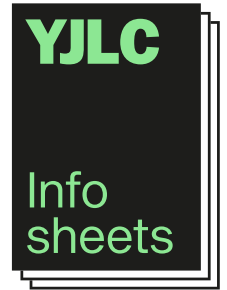


# Criminal Records Cautions



## Cautioned by the police

This document provides advice about what that means and what the consequences are in terms of your record.

### What is a caution?

You will have received a caution from the police if you have admitted committing a criminal offence and the police have decided to caution you.

Your caution and the offence you admitted will be recorded on a database called the Police National Computer (PNC).

If you are 18 or over when you get a caution, then you have to consent to receiving a caution.

You may have been given a caution or a conditional caution. If you are under 18, this will

be called a youth caution<sup>1</sup> or a youth conditional caution.<sup>2</sup>

If you have previously been given a reprimand or a final warning when you were under 18, this is now treated the same as a youth caution.<sup>3</sup>

Your caution will only be a youth caution if you were under 18 when you received the caution. If you were 18 or older, it will be an adult caution even if you were a child (under 18) when you committed the offence.

### Do I have to tell my employer, college or insurance company if I have a caution?

Generally, the answer depends on whether the caution is spent or unspent. Any employer, college or insurance company can ask you about unspent convictions and cautions. There may be a box on an application form asking if you have unspent convictions or cautions.

In most cases, cautions, youth cautions, reprimands and final warnings are all spent immediately, so in most cases you can tick 'no'.<sup>4</sup> A conditional caution is spent three months after you received it.<sup>5</sup> If you had an unspent conviction on your record when you received your caution, then your caution will not be spent until that conviction is also spent.<sup>6</sup>

Some employers can ask you about convictions or cautions even if they are spent. They can only ask you if are applying for certain jobs. Also, they can only ask you about unfiltered convictions and cautions. Whether a conviction or caution is filtered is different to whether it is spent.

Employers can check your criminal record no matter what role you apply for – this is called a Disclosure and Barring Service (DBS) check or

criminal record check. If an employer is asking you about spent convictions or cautions, they may carry out a standard criminal check or an enhanced criminal record check.

This will usually happen for a job working with children or vulnerable adults, such as a teacher or a childminder. However, it may also be required for a job where you might come into contact with children, such as a plumber who may need to go into schools or people's houses.

Youth cautions, youth conditional cautions, reprimands and final warnings are all filtered immediately<sup>7</sup> and they should not be disclosed in a criminal record check. There may be exceptional circumstances where the police consider that they should disclose it in an enhanced check – if this happens, you should seek legal advice.

An adult caution will be filtered six years after it is received,<sup>8</sup> unless it is for a violent or sexual offence, or other specific offences – then it will never be filtered.<sup>9</sup> There is a list of offences that will never be filtered on [gov.uk](https://www.gov.uk).<sup>10</sup>

- 1 s66ZA Crime and Disorder Act 1998
- 2 s66A Crime and Disorder Act 1998
- 3 s66ZB(5) Crime and Disorder Act 1998
- 4 s5 Rehabilitation of Offenders Act 1974
- 5 s5 Rehabilitation of Offenders Act 1974
- 6 s6(2) Rehabilitation of Offenders Act 1974
- 7 s113A(6E)(d) Police Act 1997
- 8 s113A(6E)(d) Police Act 1997
- 9 s113A(6)(c) Police Act 1997
- 10 'List of offences that will never be filtered from a DBS certificate', DBS and Home Office, [www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check](https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check)

## Multiple convictions or cautions

If you get convicted or cautioned for another offence before this caution is spent, or if you had an unspent conviction or caution when you received this caution, then none of those cautions or

convictions are spent until they all are. You should therefore check if each conviction or caution has been spent separately.

## Enhanced criminal record checks

If your employer carries out an enhanced criminal record check, then the police have a wide discretion about what to disclose.<sup>11</sup> Normally they will not disclose a caution that has been filtered,

but there may be exceptional circumstances when they think it is necessary to do so. If this happens, you should seek legal advice, especially if you received a caution when you were under 18.

## Other effects of a caution

The caution will stay on the Police National Computer for the rest of your life. It may affect a number of things other than applying for jobs, colleges or insurance. For example:

- If you apply for certain jobs which require a very high level of security checks (such as to become a police officer or a judge) or want to join the security services (such as MI5), cautions will be disclosed to your employer, as the nature of certain jobs will require employers to see everything on your record, even things that are filtered. These are very rare – most jobs will only ask for a standard or an enhanced criminal record check.
- If you are prosecuted for another offence, your record will be produced to a criminal court, and that will include your caution.
- A caution may affect any immigration applications you make – for example, for leave to remain or for citizenship.
- A caution may be disclosed in other legal proceedings, such as family law proceedings; or to other professionals, such as social services, for safeguarding reasons.
- A caution may affect travel to other countries. Each country has its own rules about criminal records, and so you would need to seek legal advice about the country you wish to travel to.
- Certain offences will lead to notification requirement (also known as the ‘sex offenders register’), or could lead you to being barred from working with children or vulnerable adults.

## Further information and support

If you would like further information about any of these or other questions, please seek legal advice or visit the websites of the Youth Justice Legal Centre<sup>12</sup> or Unlock<sup>13</sup> (a charity for people with criminal records).

Written by Jennifer Twite (Garden Court Chambers) in collaboration with Katya Moran and Laura Cooper at the Youth Justice Legal Centre.

11 s113B(4) Police Act 1997

12 [www.yjlc.uk](http://www.yjlc.uk)

13 [www.unlock.org.uk](http://www.unlock.org.uk)