**Changes to the Rehabilitation of Offenders Act (England & Wales)**

From 28 October 2023 there have been changes to the ROA and the filtering rules. These changes only apply to England and Wales and will affect the rehabilitation periods of some custodial sentences and offences.

Scotland and Northern Ireland have their own Rehabilitation of Offenders Acts. So, something which may be deemed spent/unspent in Scotland for example may not be spent/unspent in England and Wales, providing a risk that a full and thorough check is not carried out for the individuals living in Scotland and Northern Ireland if only a DBS check is processed for them. Best practice for any applicants living in Scotland (BASIC Disclosure Scotland checks are not affected by this change on our system) or Northern Ireland, would be to ensure a check is processed through the relevant body (Disclosure Scotland or Access NI).

**Changes to ROA (affecting Basic, Standard and Enhanced checks)**

From 28 October 2023, custodial sentences of over 4 years that are not already excluded (such as life sentences or sentences of imprisonment for public protection), will be able to become spent for the first time. However, to ensure the protection of the public, the changes do not apply to persons sentenced to more than 4 years imprisonment following a conviction for any serious violent, sexual, or terrorist offences listed in Schedule 18 of the Sentencing Act 2020. These convictions will continue to never become spent and will therefore always be disclosed.

In addition, rehabilitation periods for some disposals/sentences will be reduced.  For example:

* Custodial sentences of more than 1 year and up to 4 years will now become spent 4 years after the end of the sentence,
* Custodial sentences of up to 1 year will now become spent 1 year after the end of the sentence.
* Community Orders and Youth Rehabilitation Orders will now become spent at the end of the order.

**Changes to Filtering Rules (affecting Standard and Enhanced checks)**

The Filtering rules that dictate the content of Standard and Enhanced checks will change with the impact of all unspent records always being disclosed.

This change will mean that in limited circumstances, some applicants will now see additional unspent records being disclosed.  The following scenarios demonstrate the most common circumstances in which additional records will now appear on Standard and Enhanced checks.

**Scenario 1: Unspent offence on Standard or Enhanced check**

Marvin is a support worker and has applied for a new Enhanced DBS check as part of his employer’s re-check policy. His last Enhanced DBS check did not have any information on it.

Marvin’s new Enhanced DBS check shows a Restraining Order handed down in 1998. The restraining order is ‘indefinite’ so it has not become spent.

It did not show up on Marvin’s previous Enhanced DBS certificates because it is more than 11 years old, not for a specified offence, and not a custodial sentence.

**Scenario 2: Youth Conditional Caution on Standard or Enhanced check**

Yasmin received a Youth Conditional Caution for shoplifting 2 weeks ago.

While Youth Conditional Cautions have previously not been disclosed on Enhanced DBS checks, Yasmin’s caution will not become spent for 3 months in total and will therefore appear on her new DBS certificate.

**Scenario 3: Relevant Orders and ‘drag on’**

Molly was convicted of Theft and Common Assault on 24 July 2001 and received a Community Order and an indefinite Restraining Order.

On 1 November 2023 Molly applies for a job at a care home and is eligible for an Enhanced DBS check with a check of the adults barred list.

Molly’s DBS check contains all the information from her 2001 conviction, where previously no information was disclosed. This is because the indefinite Restraining Order means that all disposals at that sentencing are also unspent.  This aspect of ROA rules is commonly referred to as ‘drag on’.

Molly could apply to the court to have the Restraining Order removed.  At this point all records would become spent and would not be disclosed.

**General FAQs**

The following FAQs represent the issues most commonly raised with DBS so far.

1. **Will my certificate be produced according to the old rules, or the new rules? / Does the date I submitted my application dictate which rules were used?**

*The date on your certificate will tell you which rules have been applied to your check.  If the certificate is dated 28th October 2023 or later, then the new rules have been applied.  Certificates with any date before the 28th of October will have been processed using the old rules.*

1. **Why is less information now being disclosed on Basic DBS checks? / Why is the Rehabilitation of Offenders Act changing again?**

*The changes to the ROA are designed to support ex-offenders to move on with their lives and enable them to contribute to society by having greater access to employment.*

1. **Why are the ROA rules now being applied to Standard and Enhanced DBS checks?**

*Previously, in some limited circumstances, there were records of unspent convictions and cautions that would be disclosed on Basic checks that wouldn’t appear on Standard and Enhanced checks.  Ensuring that all unspent records appear on all levels of DBS checks makes our products easier to understand and will ensure recruitment decisions can be made in light of all of the relevant information.*

1. **Will these changes have any impact in Scotland and Northern Ireland? / Will this impact checks done by Disclosure Scotland and Access NI?**

*No, these changes only apply to England and Wales.  Where changes are made in Scotland and Northern Ireland, they will be communicated by the relevant agency.*

**Further Guidance and Communication**

The links to the Rehabilitation of Offenders Act, new Filtering Rules, and DBS guidance on rehabilitation periods for when convictions become spent, can all be found in the Policies and Guides section on our homepage.