



**POLICE
SCOTLAND**
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Recording, Weeding and Retention of Information on Criminal History System (CHS)

Criminal Justice Division / August 2013 / v2.00

1. INTRODUCTION AND DEFINITIONS

- 1.1 Cases created on Criminal History System (CHS) will be recorded as “pending” until resulted by a decision from the Police, Crown and Procurator Fiscal Service (COPFS), Scottish Children’s Reporter Administration (SCRA) or the Scottish Court Service (SCS). The resulting of such a case is termed a disposal.
- 1.2 Disposals which are convictions (findings of guilt in court) or non-convictions (alternatives to prosecution) result in the case being deemed “antecedent”. For clarity these include Warnings, Absolute Discharge and Admonishments.
- 1.3 Where cases have a disposal which does not result in an “antecedent” i.e. non finding of guilt, (such as, No Proceedings, No Further Proceedings, Grounds Not Established) these are marked as “temporary retention”.
- 1.4 With the exception of Warnings to Prostitutes each antecedent will be weeded on its individual merits based on the appropriate retention rule i.e. any previous or subsequent “antecedent” will not be affected by the retention rule applicable to another “antecedent”.

2. THE 40 / 20 RULE

- 2.1 The 40/20 rule means that the subject to whom the data applies has to be 40 years old (or over) and the information been on record for at least 20 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 2.2 Cases recorded and subsequently disposed as an antecedent on CHS will generally be retained under the 40/20 rule unless criteria are met for application of another rule.

3. THE 70 / 30 RULE

- 3.1 The 70/30 rule means that the subject to whom the conviction applies has to be 70 years old (or over) and the information been on record for at least 30 years (i.e. both conditions must be met) before the CHS will perform an automated weed on the antecedent data.
- 3.2 In instances of higher level offending, the general 40/20 rule will be replaced by the 70/30 rule where any of the following apply:
 - Conviction is on indictment – Solemn Procedure;
 - The antecedent is a ruling under Mental Health Acts; or
 - Conviction is custodial (imprisonment).

4. 100 YEARS / LIFE OF SUBJECT

4.1 Convictions will be retained until 100th Birthday where:

- penalty of Life Imprisonment is imposed;
- subject is detained during Her Majesty's Pleasure;
- subject is detained without limit of time; or
- the antecedent is a sexual or sexually aggravated offence.

5. OTHER OFFENDING AND NON-CONVICTION DISPOSALS

5.1 The following disposals weed at two years from the date of insertion:

- Police and Senior Police Officer's Warnings;
- Warnings to prostitutes – except when a second warning for soliciting is recorded in this period. The warnings are then to be retained in accordance with the 40/20 rule;
- Police Fixed Penalty Notices;
- Fiscal Warnings;
- Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for non sexual or non serious violent offences*; and
- Children's Hearing Disposals (Grounds accepted and grounds established) for non sexual and non serious violent offences**.

5.2 The following disposals weed at three years from the date of insertion:

- Fiscal Disposals (Fines, compensation orders, combined orders and work orders) for sexual and serious violent offences*; and
- Non findings of guilt, cases Not Called at court, cases Deserted and Fiscal decisions of No Further Proceedings for sexual and serious violent offences*.

5.3 Children's Hearing Disposals (Grounds accepted and grounds established) for sexual and serious violent offences.** will be reviewed at three years from date of insertion (as these are subjected to review for fingerprint and DNA retention). Continued retention will be based on the guidance contained in "Weeding and Retention Guidance for Accepted and Established Findings from Children's Hearings." (currently under draft).

Application to a sheriff for retention of Forensic Samples can result in the disposals retention period covered in 5.2 and 5.3 being extended by up to two years. Further applications can be made at the end of each extension period.

*Denotes - Offences prescribed by legislation in Criminal Justice and Licensing (Scotland) Act 2010 Sections 77 to 82 which amends sections 18 and 19 of the Criminal Justice and Licensing Act 1995 (as amended 2007).

NOT PROTECTIVELY MARKED

**Applying the principles laid out in forthcoming legislation in “Children’s Hearings (Scotland) Act 2011 and amendments to Rehabilitation of Offenders Act 1974.

6. BAIL

- 6.1 Historical records of bail granted and bail conditions are retained for six Months from end of bail order.

7. TEMPORARY RETENTIONS

- 7.1 Data regarding cases dealt with by a disposal resulting in a temporary retention is weeded after six months unless it is data generated in section 5.2.

8. CASES NOT PROGRESSED

- 8.1 Cases which are recorded but not dealt with within three years are deleted. This deletion is subject to rigorous reporting and checking schedules to ensure cases are properly managed rather than automatically deleted in error.