

Date: 13th August 2024

Dear Chief Constables

Update on NPCC PNC/LEDS Retention and Disposal Review

I wish to provide you with an update in respect of the review of retention and disposal policy for the Police National Computer (PNC) and Law Enforcement Data Service (LEDS), as I appreciate that some time has passed since my last communication.

I firstly wish to announce

[REDACTED UNDER SECTION 40]

[REDACTED UNDER SECTION 40] which, will culminate in us achieving our goal of implementing a new retention policy for the disposal records held on the PNC/LEDS.

As many of your staff will be aware the review has been very extensive, and over many years. It has involved consultation with all NPCC Forces, the NPCC portfolios for PNC/LEDS, Criminal Justice (CJ), Information Management Boards, including the Data Board, [REDACTED UNDER SECTION 23] Non-Home Office Police Forces, wider law enforcement agencies, His Majesty's Courts and Tribunal Service (HMCTS), the Ministry of Justice (MoJ), the Crown Prosecution Service (CPS), The Commissioners for Information (ICO), Biometrics and Surveillance Cameras, and Children, as well as [REDACTED UNDER SECTION 40]

Currently all records are held on PNC until a person is deemed to be 100 years of age, additionally there is NPCC guidance on the Deletion of Records from National Police Systems (PNC, National DNA Database (NDNAD) and National fingerprint system (Ident1)). The guidance allows data subjects with a PNC record to exercise their 'Right of Erasure' under 'Data Protection' legislation. All PNC records are eligible for review under this guidance, including arrest records and Police Cautions. Court Convictions are not eligible under the NPCC guidance in the absence of a formally agreed Controller position; however, it has been known that some Forces do dispose of Court Convictions on PNC. This has caused much consternation for the Judiciary and HMCTS, as there is no consistency or national standard that supports records retention and deletion on PNC data.

ACRO manage the application process on behalf of Forces, which allows Chief Constables (or their Designated Chief Officer) to use their discretion when deleting information from PNC. As a minimum this review seeks to maintain the status quo, which includes the disposal of Police Cautions.

During the review the principles of the Management of Police Information (MoPI) were applied to PNC and a proposed set of rules was circulated to Forces and other stakeholders that use PNC, asking them to complete consultation feedback questionnaires. The proposed rules were amended following that feedback. One of the key elements was the increase of the 100 years of age rule to 120 years of age, following operational feedback from both Forces and Partner Agencies.

There has been a significant delay since the original consultation, and the signing of any retention and disposal policy. This is due to the strong views presented by HMCTS and [REDACTED UNDER SECTION 40] that have required further consideration.

Whilst our Criminal Justice Partners are accepting of the Police having a Review, Retention and Disposal (RRD) policy for PNC and LEDS, they do not support the disposal of Court Convictions or Police Cautions. The police currently undertake Police Caution disposals under the NPCC guidance, which the HMCTS/MOJ accept is within our remit. This has resulted in ongoing discussions about who the Controllers are for Court Convictions.

HMCTS are of the view that PNC (and eventually LEDS) should be a Comprehensive Register of Convictions, and that Article 10 of the General Data Protection Regulations (GDPR) should be invoked, with the Police maintaining PNC and LEDS in their capacity as an Official Authority. This would likely require a change in legislation.

In the meantime, ongoing discussions between the NPCC, HMCTS and the ICO are focussing on who the Controllers are of Court Convictions. HMCTS reluctantly accept that the Police are the sole Controllers of Police Cautions, questioning why they cannot be retained to allow for appropriate sentencing.

We are now at the point that we have a proposed set of retention and disposal rules that meet the needs of the Police and their partners. The only outstanding issue is around Court Convictions, where there are two options.

- (i) All Court Convictions are retained until a person is deemed to be 120 years of age.
- (ii) There is no automated disposal of Court Convictions before 120 years of age, but Forces can dispose of them following a manual review.

We aim to have an agreed policy by the end of 2024 and are already working on the technical design for LEDS. Should PNC still be in existence when the solution is available two-way replication will ensure that records are disposed of from both systems.

In addition to a new retention and disposal policy the NPCC deletion guidance and Authorised Professional Practice (APP) on Information Management will also be updated, ensuring that Forces can apply a standard and consistent approach to carrying out reviews.

We will provide a further update in due course, however, should you have any queries then please contact: [REDACTED UNDER SECTION 40]

I thank you for your continued patience.

Kind regards,

[REDACTED UNDER SECTION 40]

Nav Malik
Deputy Chief Constable
NPCC Lead for Police National Computer and LEDS.