



An Garda Síochána
Ag Coinneáil Daoine Sábháilte - Keeping People Safe

Vetting Conviction

Pursuant to section 258 of the Children Act 2001, a person who has been convicted of a criminal offence when under the age of 18 years, and which is not an offence which is required to be tried by the Central Criminal Court, is not obliged to disclose that conviction if they do not commit any further offences within a period of three years, and have complied with all conditions pertaining to their sentence. In those circumstances, the record of that conviction may be considered expunged.

Caution

The admission of a young person to the Diversion Programme and a caution administered under the Diversion Programme affords the recipient the opportunity to avoid a criminal conviction. A caution is not a criminal conviction and is not recorded as such. The recipient of the caution can therefore be viewed as having no record of convictions. There is no obligation on the recipient to disclose the fact that they have been the subject of a caution.

Please note that An Garda Síochána may keep a record of the fact that a caution was administered. This is in keeping

with their obligations under section 55, and Part 5 of the Data Protection Act 2018, and under the National Archives Act 1986.

The fact that an individual has been the subject of a caution will only be disclosed to a third party where a duty arises under the Children First Act 2015 or the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016.

These pieces of legislation impose a duty on An Garda Síochána to make certain disclosures where there is a risk of harm to a child or vulnerable person.

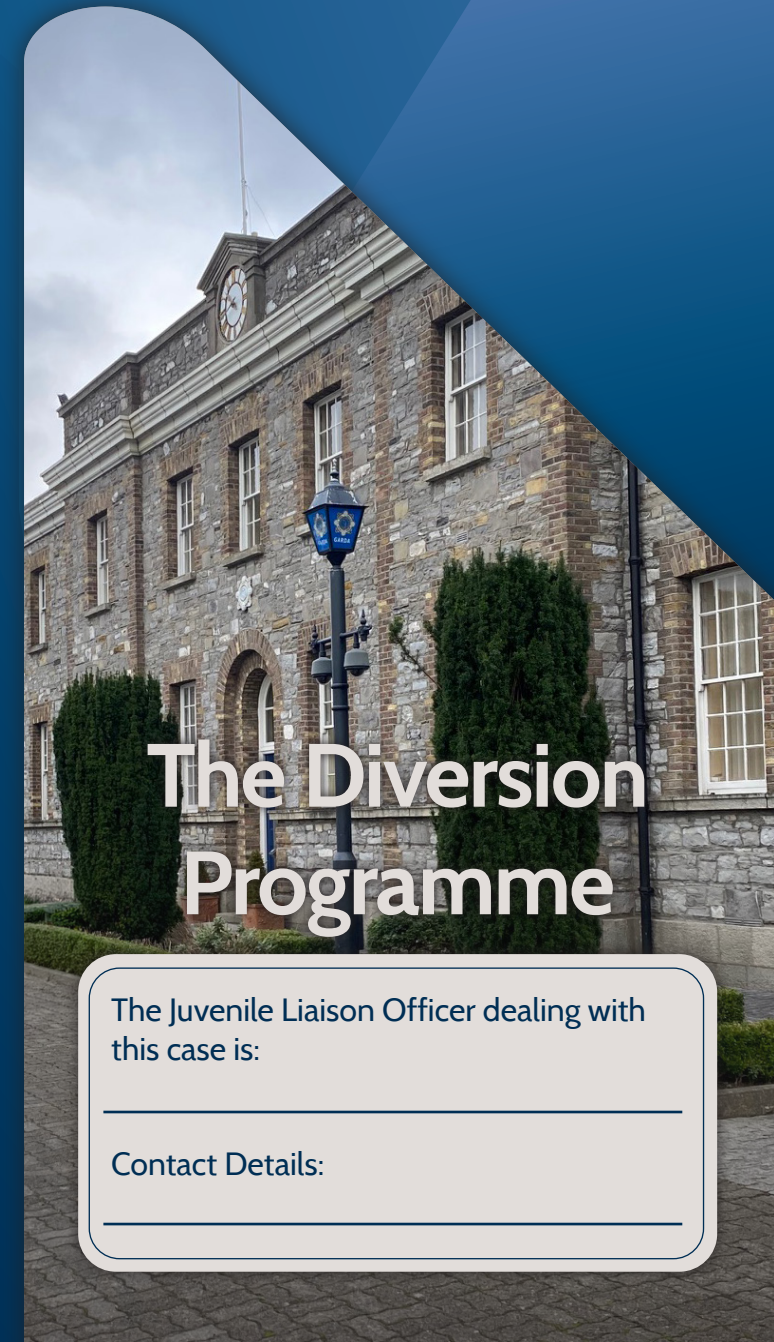
If it is decided that the offence which led to the caution places the recipient of the caution in a position where they might pose a risk to child or vulnerable person, then there are safeguards in place as to what disclosures, if any, will be made.

The recipient of the caution is entitled to a right of reply and to fair procedures in respect of disclosures to third parties.

Further Information:

The details of the Diversion Programme can be found on:

- Irishstatutebook.ie Part 4, Children Act 2001
- www.citizensinformation.ie
- www.garda.ie



The Diversion Programme

The Juvenile Liaison Officer dealing with this case is:

Contact Details:

The logo for the Garda National Youth Diversion Programme, featuring the word "GARDA" in large, bold, black capital letters on a light-colored rectangular background.

Garda National Youth Diversion Programme

When a person under 18 years of age is responsible for a criminal offence, the matter can be dealt with in one of two ways. The young person can be:

- 1 Cautioned
- 2 Prosecuted before the courts

Before any young person is prosecuted before the courts, they must first be considered for a caution under the Diversion Programme as an alternative to the court process. A caution is a warning from a Garda Juvenile Liaison Officer (JLO) and includes a discussion about the offence.

The Diversion Programme operates under legislation as set out in the Children Act 2001. The decision to caution or to prosecute is made by a Garda Superintendent at the Garda National Youth Diversion Bureau (known as the Director of the Diversion Programme).

Admission to the Diversion Programme

Before a young person can be considered suitable for admission to the Diversion Programme, there are certain criteria that must be fulfilled.

The young person must:

- Take responsibility for the offending behaviour
- Agree to be cautioned
- Where appropriate, agree to terms of supervision as set out by the JLO

How does the process work?

A local JLO will make contact with and meet the young person to discuss the offending behaviour. This meeting may take place in the young person's home or in the Garda Station.

The young person and the young person's parent(s)/guardian(s) must be present.

The purpose of a caution is to give the young person an opportunity to account for their offending behaviour and provide them with the opportunity to engage with the JLO to create a plan to enable them to avoid committing further offences.

The caution will be given by a JLO, a Garda Inspector or Garda Superintendent.

Decision on whether a young person is suitable for the programme

In making their decision, the Director will consider:

- 1 The nature of the offence
- 2 The views of the victim (views are taken into consideration but victim consent is not required for the young person to be admitted to the Programme)
- 3 Whether an apology has been made
- 4 Whether something can be done to repair any harm caused
- 5 The interests of society
- 6 The views of the investigating Garda
- 7 The views of the JLO
- 8 The attitude of the young person to the offence and the Diversion Programme
- 9 The young person's previous involvement in the Programme

What is supervision?

If a young person is given a caution, they may be placed under the supervision of the JLO for a period of 12 months.

The nature of the supervision will be decided upon by the JLO and will vary from case to case. It may involve the young person agreeing to attend a local youth diversion project, engage in certain pro-social activities or engage with any agency which may contribute positively to the young person's behaviour.

Restorative Justice

In some cases, where the young person has accepted responsibility, the victim of a crime may be given the opportunity to be present or have their views represented during a caution. This gives the victim an opportunity to be heard and explain the full impact of the offence. It also provides the young person with the opportunity to apologise directly to the victim and, where appropriate, undertake a positive action to repair the harm caused.

Frequently Asked Questions

Q. What is a Juvenile Liaison Officer?

A. A Juvenile Liaison Officer (JLO) is a specially trained member of An Garda Síochána who works with young people (under 18) who have come into contact with the criminal justice system for their offending behaviour.

Q. How do I find out who my local JLO is?

A. You may contact your local Garda Station who will inform you of the local JLO.

Q. If I do not agree to be included in the Diversion Programme what will happen?

A. The case will be referred to the Garda Superintendent overseeing the investigation of the alleged offence who will then consider commencing a prosecution against you in the courts.

Q. Can I be charged and brought to court on my first offence?

A. Yes, if the Director of the Diversion Programme decides that you are unsuitable to receive a caution.

Q. Can I get more than one caution?

A. Yes, if the Director considers it appropriate.