



unlock.org.uk

'How long do I have to disclose my criminal record for?'

*A brief guide (updated in 2014)
to the Rehabilitation of Offenders Act 1974.*

In 2014, changes were made to the Rehabilitation of Offenders Act 1974. These changes mean that, for many people, the length of time you need to disclose your convictions has been reduced. This leaflet is designed to be a brief guide to the law as a result of these changes.



Supported by



Esmée
Fairbairn
FOUNDATION

the
Tudortrust

What is the Rehabilitation of Offenders Act?

The Rehabilitation of Offenders Act 1974 gives people with spent convictions and cautions the right not to disclose them when applying for most jobs, and for other products/services like when buying insurance.

Apart from those given prison sentences of more than 4 years, most people with convictions will benefit from it at some point in their lives.

Changes were made which came into force on the 10th March 2014. This guide provides a brief summary of our understanding of these reforms.

What are the benefits of it?

The main benefits of the Act relate to applying for work, insurance and housing. Generally, once spent, you can legally 'lie' about your past convictions by answering 'no' to a question about convictions.

Applying for work

Once your convictions are spent, the Act gives you the right not to disclose them when applying for jobs, unless the role is exempt from the Act (see below). Most employers with jobs covered by the Act will only ask for 'unspent' convictions. If they ask about all convictions, you should check what level of disclosure they're entitled to, and if it's only a basic disclosure, you can legally withhold any spent convictions.

Applying for insurance

Once your convictions are spent, the Act gives you the right not to disclose them when applying for insurance. For example, spent motoring convictions do not need to be disclosed when applying for car insurance. This applies no matter what question an insurance company asks. Most will only ask for unspent convictions, although some might ask for 'any convictions in the last 5 years'. If it's spent, you do not need to disclose it under any circumstances when applying for insurance. We have more detailed information on insurance available at hub.unlock.org.uk.

What doesn't it cover?

- It only applies in England and Wales

If you're applying for work in another country you'll need to check the disclosure laws that apply in that country.

- You have to disclose spent convictions when applying for jobs that are exempt from the Act.

These will normally involve a standard or enhanced criminal record check.

- There are other situations where spent convictions can be taken into account. See later in this guide.

Rehabilitation periods for specific sentences

The tables below and overleaf set out the time it takes for the main sentences to become spent (as of March 2014). There are more details about specific sentences in our detailed guide.

Sentences with a buffer period

Sentence		Time it takes to become spent	
		Adult (18+) at conviction/disposal	Young person (U18) at conviction/disposal
Prison (including suspended prison sentences)	Over 4 years or a public protection sentence	Never spent	Never spent
	More than 30 months and less than (or equal to) 4 years	Sentence + 7 years*	Sentence + 3 ½ years*
	More than 6 months and less than (or equal to) 30 months	Sentence + 4 years*	Sentence + 2 years*
	Less than (or equal to) 6 months	Sentence + 2 years*	Sentence + 18 months*
Community order / youth rehabilitation order		Length of the order + 1 year	Length of the order + 6 months

*Sentence length includes time spent on licence

Sentences with no buffer period

Sentence/Disposal	Time it takes to become spent	
	Adult (18+) at conviction/disposal	Young person (U18) at conviction/disposal
Fine	1 year	6 months
Conditional discharge	Length of the order	Length of the order
Absolute discharge	None – spent immediately	
Conditional caution / conditional youth caution	3 months (or when it ends, if earlier)	3 months
Simple caution / youth caution	None - spent immediately	
Compensation order	Once it is paid in full	
Supervision order	Length of the order	
Binding over order		
Attendance centre order		
Hospital order		
Referral order		
Reparation order		
Motoring endorsement imposed by a court	5 years	2 ½ years
Motoring penalty points imposed by a court	3 years	
Motoring disqualification imposed by a court	At the end of the disqualification	

What about further convictions?

If you already have an unspent conviction and you get a further conviction before the earlier one becomes spent, then neither conviction will become spent until the longest of them does.

If the further conviction results in a prison sentence of more than 4 years, then neither the second nor the first conviction will ever become spent.

More information about further convictions and how these affect the rehabilitation period are covered in our detailed guide.

Important points

- The **rehabilitation period** depends on the sentence you were given, not the offence that was committed.

If you committed theft in August 2002 but were not convicted until September 2010, the rehabilitation period would run from September 2010.

- For **prison sentences**, the period is decided by using the sentence imposed at court, rather than the time served in custody.

If you're convicted as an adult in October 2013 and receive a 2 year prison sentence, the conviction will become spent 4 years after the end of the sentence. The sentence ends in October 2015, so the conviction will be spent in October 2019.

- For **community orders**, the period is decided by the length of the order as set by the court.

If you're convicted as an adult in December 2013 and given a 1 year community order, the conviction will become spent 1 year after the end of the order, so in December 2015.

- For **multiple offences**, if you receive more than one sentence at the same time, the total rehabilitation period will depend on whether the sentences run concurrently (at the same time) or consecutively (one after the other).

If, as an adult you received two 4 month prison sentences in September 2012, to run concurrently, they would be treated as two 4 month sentences and so become spent in January 2015. If you receive two 4 month prison sentences in September 2012 to run consecutively, they would be treated as an 8 month prison sentence and so become spent in May 2017.

- For convictions that involve **multiple sentences**, the sentence with the longest rehabilitation period will apply.

If you get a fine and a 2 year community order as an adult, it will become spent 1 year after the community order ends.

If you get a motoring conviction as an adult which results in a 6 month driving disqualification and an endorsement on your licence, it will become spent after 5 years.

How do I work out if my convictions are spent?

If you only have one conviction, it should be relatively straight-forward to establish whether your conviction is spent by using the tables in this guide.

If you have got a number of convictions, it might be more difficult. You can use our online disclosure calculator which will help you to work it out – visit www.disclosurecalculator.org.uk.

If you're on Probation, you may be able to get help from them. If you're unemployed, you may be able to access help through the Job Centre. You can also contact our helpline for advice (see contact details below).

Can I get a copy of my unspent convictions?

Yes. You can obtain a list of your unspent convictions by applying for a basic disclosure from Disclosure Scotland. The current cost is £25. An employer may also carry out a basic disclosure as part of their recruitment process (but they'd need your permission to do this).

When can spent convictions be taken into account?

There are many jobs or roles where you might need to disclose your spent convictions particularly when applying for certain jobs or volunteer work. Examples include:

- ▶ Working with children and other vulnerable groups (such as teachers, social workers, doctors, dentists, chemists and nurses)
- ▶ Working in professions associated with the justice system (such as solicitor, police, court clerk, probation officer, prison officer and traffic warden)

We have more detailed guidance on eligibility for standard and enhanced checks on hub.unlock.org.uk. These jobs will usually involve a standard or enhanced criminal record check. It is important to realise that these types of checks will show both unspent and spent convictions and cautions. The only exception to this is where your cautions or conviction is eligible to be filtered – see hub.unlock.org.uk for more information on filtering.

At the moment, you can't apply for a standard or enhanced disclosure unless it's linked to a particular vacancy. However, it's really important that you find out exactly what your criminal record is so that you know what you do and don't have to disclose. One option is to get a copy of your police records. Under the Data Protection Act, you can apply for a Subject Access Request from your local police force. This costs £10, and provides information that is held on the Police National Computer (PNC) about you (not just your unspent convictions). This is only for your own records, and shouldn't be given to an employer.

There are other times when spent convictions might be taken into account, including:

1. When applying to stay in the UK (i.e. immigration and nationality decisions)
2. When travelling abroad to another country

These areas are covered in more detail in our detailed guide, and we have specific sections for each of them on hub.unlock.org.uk.

What does it mean if I have...?

Convictions that are unspent

- ▶ If asked by an employer, you have to disclose them, and they can legally refuse you or discriminate against you.
- ▶ They will be disclosed on all types of criminal record disclosure (basic, standard and enhanced).
- ▶ If asked, you will have to disclose them when applying for products and services, such as insurance, a mortgage or renting a house.
- ▶ You could be prosecuted if you fail to disclose them when asked.

Convictions that are spent

- ▶ For most jobs, you do not need to disclose them to an employer, even if they ask about convictions
- ▶ They will not be disclosed on a basic criminal record check.
- ▶ For some jobs (those exempt from the ROA), you will need to disclose them if asked – these jobs will usually involve a standard or enhanced criminal record check, so even if they don't ask, if they are doing one of these, you should disclose.
- ▶ They will still be disclosed on standard and enhanced criminal record checks (unless filtered), and for positions that are eligible for standard or enhanced checks, employers can legally refuse you or discriminate against you.
- ▶ You do not need to disclose them to insurers when purchasing insurance.
- ▶ You might need to disclose them when travelling or working outside of England and Wales.
- ▶ They will remain on your record for life – they will not be deleted.

Further information

This leaflet has been produced by Unlock's Helpline, which provides confidential peer advice on overcoming the effects of criminal convictions.

It is intended as general guidance and is subject to our disclaimer. Visit hub.unlock.org.uk/disclaimer for more information.

We have also produced a poster which covers the main rehabilitation periods, and also a detailed electronic guide. Further copies of all these materials can be downloaded free of charge from the *downloads* section of hub.unlock.org.uk. Single hard-copies are available for people with convictions by contacting us directly.

Unlock Helpline – confidential peer advice on overcoming the effects of criminal convictions

Call: 01634 247350

Email: advice@unlock.org.uk

Write: Helpline, Unlock, Maidstone Community Support Centre, 39-48 Marsham Street, Maidstone, Kent, ME14 1HH

For online self-help information, visit hub.unlock.org.uk.

PRESIDENT: The Lord David Ramsbotham GCB CBE

VICE-PRESIDENT: Judge John Samuels QC