

# Criminal convictions

## How and when to tell others

You may have a conviction if you have admitted to or been found guilty of a crime. This factsheet looks at what is a criminal conviction, a criminal record and when and how to tell someone about this. This factsheet is for people with mental illness who may have been involved with the criminal justice system. And their carers, friends and relatives.



KEY POINTS

- You may have a conviction if you have pleaded guilty to or been found guilty of a crime.
- A criminal record has information about your contact with the police.
- Employers, insurance companies and visa applications for going abroad sometimes ask about previous convictions.
- You might not need to tell people about everything that is on your criminal record.
- If you have a conviction you may only have to tell someone about it for a certain amount of time. After this time, the conviction becomes known as 'spent'.
- If you don't tell an employer about convictions when you should do they might take action. They might later dismiss you or start legal proceedings.

### This factsheet covers:

1. [What is a criminal record?](#)
2. [What is a conviction and when does it become 'spent'?](#)
3. [What is disclosure and why is it important?](#)
4. [When do I have to disclose?](#)
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## 1. What is a criminal record?

A criminal record contains information about any contact you have had with the criminal justice system. This includes:

- the police,
- the courts, and
- prisons.

A criminal record can include:

- details of any offence you have admitted doing, and
- any offence you have been found guilty of.

The information is held on the Police National Computer (PNC).<sup>1</sup> Each local police force may keep records on their own system.

These records can contain non-conviction information. Including any contact you have had with the police.<sup>2</sup> This might involve your mental health.

This information is protected by the Data Protection Act 1998. The Act states how personal information is stored and used. For example, information should be factually correct and should only be used for the reason it was collected.

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## 2. What is a conviction and when does it become 'spent'?

You may have a conviction if you have pleaded guilty to a criminal offence. Or if you have been found guilty of an offence.

The following are not criminal convictions.<sup>3</sup>

- Fixed penalty notices like speed camera fines, littering, petty shoplifting
- Penalty notices for disorder

But they will be on your criminal record on police computers.

The Rehabilitation of Offenders Act 1974 says some criminal convictions become 'spent'.

'Spent' means they are ignored after a certain amount of time. This time period is known as the rehabilitation period.

The rehabilitation period will depend on:

- the sentence given, not the offence,
- how old you were when you committed the offence, and
- how many convictions you have.

After the rehabilitation period you no longer need to mention your convictions. Even if someone asks you. But there are some exceptions which are in section 5 below.

Prison sentences and community orders have 'buffer periods'. This means the time it takes for the sentence to be spent starts from when your sentence ends.

Other convictions and penalties do not have 'buffer periods'. This means the time it takes for the sentence to be spent starts from the date you are convicted.

The table below shows how long it takes for most sentences, orders or warnings to become 'spent'.<sup>4,5,6</sup> The information in the table only applies to people who are 18 years of age or over. The rules can be different if you are under 18.

<b>Sentence, order or warning</b>	<b>Becomes spent</b>
Absolute discharge	Instantly.
Attendance centre order	At the end of the order.
Bind over	At the end of the order.
Care order	When order ceases to have effect.
Caution (conditional or youth conditional)	After 3 months or when the order ends (whichever is earlier).
Caution (simple or youth) Note: Youth cautions replaced reprimands and final warnings	Instantly.
Community order or youth rehabilitation order	Total length of order plus 1 year. Note: If it has no specific end date it will be spent 2 years from the date of conviction or from the date of the order.
Compensation order	When paid in full.
Conditional discharge order	At the end of the order.
Confiscation order	When order ceases to have effect.
Criminal Behaviour Order (formerly ASBOs)	At the end of the order.
Disqualifications	When order ceases to have effect.
Endorsements (for a road traffic offence)	5 years.
Fine	1 year. Note: The time period is the same even if you are later sent to prison because you didn't pay the fine. Fines because of fixed penalty notices (FPNs) and penalty notices for disorder (PNDs) are not part of your criminal record. So they are spent immediately.
Forfeiture order	When order ceases to have effect.
Hospital order (section 37 or	The length of the order.

37/41 of the Mental Health Act)	
Prison sentence or detention in a young offender institution for 6 months or less	Total length of sentence (including licence period) plus 2 years.
Prison sentence or detention in a young offender institution more than 6 months and up to and including 30 months.	Total length of sentence (including licence period) plus 4 years.
Prison sentence or detention in a young offender institution more than 30 months (2 ½ years) and up to 48 months (4 years)	Total length of sentence (including licence period) plus 7 years.
Prison sentence or detention in a young offender institution of over 48 months (4 years) or a public protection sentence	Never spent.
Referral order	At the end of the order.
Relevant order (a restraining order or sexual offences prevention order (SOPO))	When order ceases to have effect Note: If it has no specified end date it is spent two years from the date of conviction or from the time the order is created.
Reparation order	Instantly
Suspended sentence	The rehabilitation period is based on the length of the prison sentence, not the length it was suspended for. <ul style="list-style-type: none"> <li>• Over 4 years or a public protection sentence - never spent.</li> <li>• More than 30 months and less than (or equal to) 4 years - sentence + 7 years.</li> <li>• More than 6 months and less than (or equal to) 30 months - sentence + 4 years.</li> <li>• Less than (or equal to) 6 months - sentence + 2 years.</li> </ul>

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### 3. What is disclosure and why is it important?

Disclosure means telling someone that you have a conviction.

There are some times when you may have to disclose, such as:

- applying for work,
- getting insurance, and
- when going abroad.

It can be difficult telling someone about your convictions. This can be harder if you have lots of convictions and have a mental illness.

Some employers:

- may not employ people with a criminal record, maybe because of the type of work they do,
- are happy to hire people with a criminal history and mental illness, or
- might treat you unfairly because of your criminal record.

### **What can I do if I have been treated unfairly?**

You might think you have been treated unfairly by an employer because of a criminal conviction. If this happens you can get advice from the organisation Unlock who are the National Association of Reformed Offenders. Their details are in the 'Useful contacts' section at the end of this factsheet.

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## **4. When do I have to disclose?**

You have to disclose if:<sup>7</sup>

- you are asked if you have any convictions, and
- you have 'unspent' convictions.

But you will not always have to disclose your convictions.

You don't have to disclose if you're not asked about previous convictions, or you have 'spent' convictions. But there are some exceptions which mean you have to disclose 'spent' convictions for some jobs. See below.

### **When do I have to disclose 'spent' convictions?**

You have to disclose 'spent' convictions if you are applying for one of the jobs below.<sup>8</sup>

- Working with children or vulnerable adults
- Healthcare
- National security
- Taxi driving
- Finances
- The law
- HM Courts and Tribunals Service and the Judicial Office
- Employment in law enforcement
- Offices responsible for the enforcement of warrants and writs
- Employment in the financial sector
- Employment in the financial sector
- Employment where a licence is required to work or operate

This is because these jobs are not covered by the Rehabilitation of Offenders Act 1974.

### **When do I disclose to an employer?**

You might be asked about your convictions:

- on an application form,
- in an interview, or
- after you have been offered a job.

When applying for work you will probably need to do an application form and have an interview.

### **Should I disclose on an application form?**

You might be asked about criminal convictions on an application form.

If the application asks about previous convictions, it might be best to say:

- 'yes – see covering letter', or
- 'yes – prepared to discuss at interview'.

By including a covering letter you can explain the situation. For example:

- your circumstances,
- type of offence,
- any experience, and
- skills and positive qualities you have to offer the employer.

You could decide to tell the employer about your mental health if you were unwell at the time of the offence. This could help to explain your situation.

It is important to understand there are rules on what an employer can ask about your health. An employer should not ask general health questions on application forms.

You can find more information about '**Work and mental illness**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

### **Do I disclose during an interview?**

You could talk about your conviction during an interview.

This could help as:

- your potential employer will meet you before hearing about the conviction,
- it might be easier to explain your situation, and
- your employer can ask you questions about it.

But you might find it difficult disclosing in person.

You could write a letter and either read this out or hand it to the interviewer(s).

### **Do I disclose when they offer me the job?**

You might think there is no point in telling an employer about previous convictions until they have offered you a job. They will probably ask you about any previous convictions before this point.

But the employer might ask you about your convictions for the first time when they are offering you a job. It is important to think about how to tell the employer without risking them withdrawing the offer.

### **What might happen if I don't disclose?**

If you don't disclose convictions to an employer when you should and they find out later the following things could happen.

- They could dismiss you for lying.
- You could face other disciplinary proceedings.
- They could take legal action against you.
- If you lose your job you won't get a good reference. This could make it harder to get a new job.
- If you lose your job it may affect your entitlement to benefits. The Department for Work and Pensions would look at whether you became 'voluntarily unemployed' and might not pay you benefits.

It is probably best to be honest about your history from the start. It's good to show an employer you are open about your history.

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## **5. How do I disclose?**

You can think about telling the employer that having a conviction doesn't mean that you are:

- risky,
- unreliable, or
- unsuitable for the job.

It is important to focus on the positives, such as your skills and abilities. And remind the employer that your crimes are in the past.

You might want to try the following.

- Point out if the offence was related to certain circumstances. You might have been ill at the time. And maybe you are now well and are receiving treatment.
- Focus on how things have changed. You might have been young when convicted. You have since grown up and now have responsibilities.

- Speak generally. Don't go into detail about the offence(s). If you have more than one conviction, you could group them together. For example, 'I have four offences that are all theft related.'
- Mention anything you have achieved since your conviction. Perhaps you have started a family, got some qualifications or got some help for your mental health.
- The conviction might not be relevant to the job. Ask the employer to consider you for your ability and not your past.
- If you have been on education or offending behaviour programmes tell the employer.

If you have spent time in prison, you could tell the employer the following.

- Tell the employer how you have made the most of your time.
- Tell them if you got some help for your mental health.
- Say you have decided to find employment rather than returning to crime.
- Get a character reference to show an employer that you are right for the job. You could get this from a professional such as probation officers or healthcare staff.

It is important to remember that if you are not offered a job, it might not be because of your convictions. So don't give up trying! Most employers will give you feedback if you were not successful at interview. You could ask the employer for feedback. And use the feedback to think about how to do better at your next interview.

Research shows that many organisations have positive experiences of employing ex-offenders and actively try to employ them.<sup>9</sup>

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## 6. What is a DBS check?

For some jobs, the employer will need you to have a criminal record check. The Disclosure and Barring Service (DBS) do these checks.

The DBS produce certificates. These might show your contact with the criminal justice system.

You will probably have to go through a DBS check if a job involves working with children or vulnerable adults. But not all jobs need criminal record checks.

There are guidelines for DBS checks. They say there are some convictions and cautions that the police need to consider. These include:

- some violent and sexual offences,
- offences related to supplying drugs, and
- offences relating to safeguarding children and vulnerable adults.

The police will take all convictions resulting in going to prison into account on a DBS check.<sup>10</sup> This includes suspended sentences.



If an employer does carry out DBS checks then:

- they have to have a policy about employing ex-offenders,
- they should tell you about this policy, and
- you can ask to see it, or it may be on the company's website.

You can find more information about '**Criminal record checks**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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## **7. Will criminal convictions affect my insurance?**

For insurance you might be asked about previous convictions. You have to disclose criminal convictions which are 'unspent'. It includes the convictions of everyone covered by the insurance. This might be your partner or children.

If you have 'unspent' convictions some insurers might:

- refuse to offer you insurance,
- charge you more, or
- set special terms.

If you don't disclose 'unspent' convictions to insurers there might be issues later, such as:

- you could be prosecuted,
- your insurance policy might be cancelled,
- your premiums could increase,
- you might not be protected by the insurance, and
- the insurance company might not pay out on a claim.

The insurance company might refuse to pay out. You may be able to challenge this. You can make a complaint to the insurer - perhaps you didn't know you had to tell them about your convictions. If you are unhappy with their response you could contact the Financial Ombudsman Service (FOS). Their contact details are in the 'Useful contacts' section at the end of this factsheet.

Unlock are the National Association of Reformed Offenders. They have a list of insurance brokers who specialise in insurance for people with 'unspent' convictions. Their contact details are in 'Useful contacts' section at the end of this factsheet.

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## 8. Will criminal convictions affect me going abroad?

The Rehabilitation of Offenders Act 1974 (updated 2014) only covers England and Wales. It does not apply in other countries. This means in other countries your convictions are not seen as 'spent'.

Some countries have entry restrictions. You may need to apply for a visa to go there. Countries have different entry requirements. So it is best to check with their Embassy.

For example, if you want to go to the United States, UK residents can apply under the Visa Waiver Program. If you have been arrested or convicted of certain offences, you may be unable to travel under this program.<sup>11</sup> The Visa Waiver Program form asks:

- if you have been arrested for certain offences,
- have previous convictions, and
- asks about your mental health

You would need to apply for a visa, which can be a long process.

The organisation Unlock has further information about travelling abroad. Their details are in the 'Useful contacts' section. It is at the end of this factsheet.

### **What if I currently have licence conditions or am serving a community order?**

You may have been released from prison and are currently on license, or serving a community order. You will need to speak to your Offender Manager at Probation to get permission to travel.<sup>12</sup>

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You can find more information about:

- Criminal record checks
- Prison – planning for release
- Work and mental illness

at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries Team on 0121 522 7007 and ask them to send you a copy of our factsheet.



### **Financial Ombudsman Service (FOS)**

They can look at complaints about most financial issues, such as insurance, banking and mortgages.

**Telephone:** 0800 023 4567 (free from mobiles and landlines) (Monday to Friday 8am-8pm and Saturday 9am-1pm)

**Address:** The Financial Ombudsman Service, Exchange Tower, London E14 9SR

**Email:** [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

**Website:** [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

### **Foreign and Commonwealth Office**

They have information on travel and living abroad.

**Telephone:** 020 7008 1500

**Address:** King Charles Street London SW1A 2AH

**Email:** [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk);

**Website:** [www.fco.gov.uk](http://www.fco.gov.uk)

### **Nacro**

This is a large ex-offender charity. They have a Resettlement Advice Service.

**Telephone:** 0300 123 1889 (general number) 0300 123 1999 (Resettlement advice)

**Address:** First Floor, 46 Loman Street, London SE1 0EH

**Email:** [helpline@nacro.org.uk](mailto:helpline@nacro.org.uk)

**Website:** [www.nacro.org.uk](http://www.nacro.org.uk)

### **Unlock**

This is an independent charity and membership organisation, led by reformed offenders. Their website has lots of information for ex-offenders.

**Telephone:** 01634 247350 (Monday to Friday, 10am to 4pm)

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

**Email:** [advice@unlock.org.uk](mailto:advice@unlock.org.uk)

**Text or WhatsApp:** 07824 113848

**Skype:** unlockhelpline

**Website:** [www.unlock.org.uk](http://www.unlock.org.uk)



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<sup>1</sup> Home Office. *Police National Computer (PNC)*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/488515/PNC\\_v5.0\\_EXT\\_clean.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488515/PNC_v5.0_EXT_clean.pdf) [Accessed 10<sup>th</sup> May, 2017].

<sup>2</sup> As note 1.

<sup>3</sup> Gov.uk. *Guidance on the Rehabilitation of Offenders Act*

1974. <https://www.gov.uk/government/uploads/system/uploads/attachment>

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[data/file/299916/rehabilitation-of-offenders-guidance.pdf](#) [Accessed 10.05.17].

<sup>4</sup> Nacro. *Disclosing criminal records to employers*. [www.nacro.org.uk/resettlement-advice-service/support-for-individuals/disclosing-criminal-records/disclosing-criminal-records-employers/](http://www.nacro.org.uk/resettlement-advice-service/support-for-individuals/disclosing-criminal-records/disclosing-criminal-records-employers/) [Accessed 12<sup>th</sup> May, 2017].

<sup>5</sup> Unlock. *Criminal Behaviour Order (CBO)*. <http://hub.unlock.org.uk/knowledgebase/criminal-behaviour-order-cbo/> [Accessed 10<sup>th</sup> May, 2017].

<sup>6</sup> Unlock. *Suspended prison sentence*. <http://hub.unlock.org.uk/knowledgebase/suspended-prison-sentence/> [Accessed 10<sup>th</sup> May 2017].

<sup>7</sup> As note 3. [Accessed 15.05.17].

<sup>8</sup> As note 3. [Accessed 15.05.17].

<sup>9</sup> Chartered Institute of Personnel and Development (CIPD). *Employing ex-offenders to capture talent*. [www.cipd.co.uk/NR/rdonlyres/CC2DF252-2364-4214-9A7A-4C4212CC4EFA/0/empexoffndcaptalpdf.pdf%20](http://www.cipd.co.uk/NR/rdonlyres/CC2DF252-2364-4214-9A7A-4C4212CC4EFA/0/empexoffndcaptalpdf.pdf%20) [Accessed 10<sup>th</sup> May 2017].

<sup>10</sup> Unlock. *Filtering of spent cautions/ convictions – a simple guide*. <http://hub.unlock.org.uk/knowledgebase/filtering-simple-guide/> [Accessed 10<sup>th</sup> May 2017].

<sup>11</sup> US Embassy & Consulates in the United Kingdom. *Visa Waiver Program – Criminal Records and Ineligibilities*. <https://uk.usembassy.gov/visas/visa-waiver-program/additional-requirements/> [Accessed 15.05.17].

<sup>12</sup> Reg 3, *The Criminal Justice (Sentencing) (Licence Conditions) Order 2015*. SI 2015/337. London: TSO; 2015.

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This factsheet is available  
in large print.

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## Rethink Mental Illness Advice Service

Phone 0300 5000 927

Monday to Friday, 9:30am to 4pm  
(excluding bank holidays)

Email [advice@rethink.org](mailto:advice@rethink.org)

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### Did this help?

We'd love to know if this information helped you.

Drop us a line at: [feedback@rethink.org](mailto:feedback@rethink.org)

or write to us at Rethink Mental Illness:

RAIS

PO Box 17106

Birmingham B9 9LL

or call us on 0300 5000 927.

We're open 9:30am to 4pm

Monday to Friday (excluding bank holidays)



Leading the way to a better  
quality of life for everyone  
affected by severe mental illness.

For further information  
on Rethink Mental Illness  
Phone 0121 522 7007  
Email [info@rethink.org](mailto:info@rethink.org)



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[www.rethink.org](http://www.rethink.org)

### Need more help?

Go to [www.rethink.org](http://www.rethink.org) for information on symptoms, treatments, money and benefits and your rights.

### Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

### Need to talk to an adviser?

If you need practical advice, call us on 0300 5000 927 between 9:30am to 4pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

### Can you help us to keep going?

We can only help people because of donations from people like you. If you can donate please go to [www.rethink.org/donate](http://www.rethink.org/donate) or call 0121 522 7007 to make a gift. We are very grateful for all our donors' generous support.