

A FRESH START

GUIDE for telling an
employer about your
criminal record

**BUSINESS
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HOW DO I KNOW IF I HAVE A CRIMINAL RECORD?

If, at any point in your past, you've been in trouble with the police, it's possible that you have a criminal record. If you've been found guilty, or pleaded guilty in a court, you definitely have a criminal record.

CAN I GET A COPY OF MY CRIMINAL RECORD?

Yes. It's a really good idea to find out what's on your criminal record before you look for a job. Google 'criminal record subject access request' and follow the instructions to apply to receive your record. It's important that you tick both the local and national police database on your form so that you get information held by both services.

Doing this means that you'll receive a list of all of your convictions and any police intelligence held about you before a potential employer has them. If there's anything on your record that's incorrect you have the opportunity to challenge it before it affects any job applications. Subject access requests take approximately 40 working days to process and cost £10. It's a good idea to get this as soon as possible.

WHAT IS DISCLOSURE?

In this context disclosure is telling someone, often an employer, about your criminal record.

If you have criminal convictions and an employer asks you about these in writing or in an interview you must tell them about certain ones (the next question helps you to understand which). It's illegal not to declare these convictions if asked.

Remember: a criminal record refers to convictions, cautions, warnings and final reprimands. It doesn't include fixed penalty notices, penalty notices for disorder, or any other police or out-of-court disposal.

WHAT DOES THE LAW SAY?

Every conviction has a rehabilitation period attached. The Rehabilitation of Offenders Act 1974 decides the length of these periods.

During the rehabilitation period, your conviction is called 'unspent' and you always need to tell an employer about it when asked. When the period is over, your conviction is called 'spent' and you may not need to tell an employer about it anymore.

Don't make the mistake of thinking that once you've finished your time in prison or on probation, your offence is spent. This only happens when your rehabilitation period ends.

The rehabilitation period depends on the sentence, not the nature of the crime nor whether it was suspended or not. You'll have to disclose criminal convictions immediately after you've been found guilty. But in most cases your rehabilitation period begins when your sentence ends.

Check this table and remember that rehabilitation periods often change if you have more than one conviction.

Disposal (Sentence)	Rehabilitation period (convicted age 18 and over)	Rehabilitation period (convicted age 17 and under)
Compensation Order	Once the payment is made in full	
Referral Order	N/A	Upon completion of order
Absolute Discharge	None	
Conditional Discharge	Upon completion of order	
Fine	1 year from date of conviction	6 months from date of conviction
Community Order or Youth Rehabilitation Order	1 year from end of order	6 months from end of order
Prison 6 months or less	2 years from end of sentence	1½ years from end of sentence
Prison >6-30 months	4 years from end of sentence	2 years from end of sentence
Prison >30-48 months	7 years from end of sentence	3½ years from end of sentence
Prison >48 months	Never spent	Never spent

WHAT DO I TELL AN EMPLOYER?

Most jobs (e.g. office job, warehouse operative, most services roles) are called 'unregulated roles', which means you have to tell employers about your unspent convictions if you're asked. For some other jobs, called 'regulated roles' (e.g. carer, doctor, security person, taxi driver), you'll normally have to tell employers about all of your cautions and convictions, both unspent and spent.

It's the employer's responsibility to ask you about your convictions. You should always be prepared to have a conversation about your record whenever they ask.

HOW SHOULD I TELL AN EMPLOYER?

There are a number of ways – in writing, over the phone, or face-to-face. A written statement is important. Find out what the employers' process is and think about what you feel most comfortable with.

To be in with the best chance of getting a job, you need to be ready to tell an employer about: the seriousness of an offence, when it happened, what was happening in your life at the time, and what's happening in your life now.

Try to predict concerns an employer might have about your convictions – think about the things that might worry them and decide how to tell your story to address these concerns. Practise writing your disclosure statement and telling your disclosure story so you're ready if you're asked.

WHAT SORT OF CHECKS WILL THEY DO?

If an employer is recruiting for an unregulated role they may apply for a Basic Check. This will give the employer information only on your unspent convictions. It is possible and legal for an employer to decide not to give you the job because of your unspent convictions. Remember, for unregulated roles you only need to disclose unspent convictions and only if you're asked.

If an employer is recruiting for a regulated role they can carry out a Disclosure and Barring (DBS, formerly CRB) check. This will normally give the employer information on all your cautions and convictions.

WHAT HAPPENS IF I DON'T TELL AN EMPLOYER?

For unregulated roles, if your employer doesn't ask about your unspent convictions then you're not obliged to tell them. However, if asked you must answer honestly. If they decide to do a Basic Check they'll find out anyway.

For regulated roles, employers can do a DBS check. If you apply for jobs in this area and don't disclose your convictions, you'll often not be selected.

WHAT'S MY BEST CHANCE OF GETTING INTO EMPLOYMENT?

Your best chance of getting into employment is to stay positive. You may have a criminal conviction but if you can convince an employer that it's not related to the job and that it won't stop you from being a great employee then you're still in with a shot. There are people out there willing to give you a chance.

WHO CAN HELP?

It's very important you ask a reputable and dependable adviser to help you with your disclosure. As well as your key worker, other organisations that can help are:

- Nacro: 020 7840 1212 / helpline@nacro.org.uk
- Unlock: 01634 247350 / advice@unlock.org.uk

They can both also offer training for those working with people with convictions to support them to better prepare their clients for life with a criminal record. And they have lots of further information on their websites.

FOR ADVISERS USING THIS GUIDE

This guidance is for key workers and advisers who work with young people with criminal convictions who want to get back to work but are worried about disclosing a criminal record. It should be used in conversation with a young person alongside the Top Tips document.

AS AN ADVISER MAKE SURE YOU:

- **Encourage the young person to get their record**
- **Encourage the young person to practice telling their story – in writing and verbally**
- **Explore with the young person how they talk about their convictions to make sure they're answering any concerns the employer may have**
- **Find out whether any of the young person's minor cautions and convictions may be subject to filtering laws, so they won't appear on their DBS check.**
- **If you don't know the answers to their questions seek further advice from organisations like Unlock or Nacro – the wrong advice about disclosure is worse than no advice at all**

Business in the Community is a responsible business charity. We work with businesses to run programmes like Ready for Work that help people into employment. We also campaign for businesses to make their jobs accessible and sustainable for people who face barriers to work, such as the Ban the Box campaign calling on companies to remove the tick box on application forms that asks about criminal records. www.bitc.org.uk

This guide was funded as part of the work of the **Transition to Adulthood (T2A) Alliance**, a coalition of 13 leading criminal justice, health and youth charities, working to evidence and promote distinct and effective approaches for young adults through the criminal justice process. www.t2a.org.uk

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Make sure you use Unlock's Disclosure Calculator to help you to find out when your convictions are spent.
www.disclosurecalculator.org.uk