



Ministry
of Justice

Guidance on the Rehabilitation of Offenders Act 1974 and The Exceptions Order 1975

This guidance applies from the 28th of October 2023

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Introduction

This document should be considered a guide to the position in **England and Wales only**. You will find links to more detailed guidance on specific issues throughout, including references to guidance produced by the Disclosure and Barring Service (DBS) about eligibility for standard and enhanced criminal records certificates.

Support with disclosure

Disclosure Checker

The government has developed an online tool that tells the user whether a caution or conviction should be disclosed based on the information they enter. You can check if a conviction or caution is spent or unspent here:

[Caution or conviction - Check when to disclose cautions or convictions - GOV.UK \(check-when-to-disclose-caution-conviction.service.gov.uk\)](https://www.gov.uk/check-when-to-disclose-caution-conviction.service.gov.uk)

Advice about disclosure

For advice about disclosure please contact the charities outlined below who provide support and advice on employment for those with convictions.

Nacro

[Nacro](#) is a national social justice charity. Nacro's [Criminal Record Support Service \(CRSS\)](#) seeks to remove the barriers that prevent people with criminal records (and those who have been subject to allegations) from moving forward with their lives in positive and constructive ways.

Within CRSS sits Nacro's dedicated [Employer Advice Service](#), which seeks to promote best practice among employers, education providers and other organisations by giving them the confidence to assess and manage risk in relation to criminal record matters and allegations.

Unlock

[Unlock](#) is a national independent advocacy charity for people facing stigma, prejudice, and discrimination because of their criminal record. They support people

with criminal records to navigate their way through challenging times and provide support and training for employers.

What is the Rehabilitation of Offenders Act 1974?

[The Rehabilitation of Offenders Act 1974](#) (“1974 Act”) primarily exists to support the rehabilitation into employment of those with convictions who have ceased offending and wish to turn their lives around.

Under the 1974 Act, following a specified period of time which varies according to the judgment of the court or sentence passed, **all** cautions and **most** convictions may become ‘spent’.

Where a conviction has become spent, the individual is treated as rehabilitated in respect of that offence and is not obliged to declare it for most purposes, for example, when applying for most jobs or insurance, some educational courses and housing applications. Someone with a spent conviction shall be treated for all purposes in law as a person who has not been convicted of the offence which was the subject of that conviction.

Amendments were made to the 1974 Act via the [Police, Crime, Sentencing and Courts Act 2022](#). The changes significantly reduce the length of time that someone needs to disclose their criminal record for custodial sentences of under 4 years and community sentences.

Under the changes, custodial sentences of over 4 years of a type which are not already excluded (such as life sentences or sentences of imprisonment for public protection), will be able to become spent for the first time. However, to ensure the protection of the public, the changes do not apply to persons sentenced to more than 4 years imprisonment following a conviction for any serious violent, sexual or terrorist offences listed in [Schedule 18 of the Sentencing Code](#). This means that such convictions will continue to never become spent.

Who benefits from the 1974 Act and how?

As previously mentioned, once a caution or conviction has become spent under the 1974 Act, a person does not have to reveal it or admit its existence in most circumstances. Unless an exception applies (see below), spent cautions and convictions need not be disclosed when filling in an application form, or at a job interview. Where an exception does not apply, an employer cannot refuse to employ someone (or dismiss someone) because they have a spent caution or conviction.

The exceptions where you may have to declare spent cautions and convictions are listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see page 20 of this

guidance). An employer should be able to say if an exception applies and, if so, where it can be found in the Exceptions Order.

Which parts of the UK does the 1974 Act apply to?

The 1974 Act applies in England, Wales, and Scotland. However, there are some differences in the way in which it, and related legislation, operates in Scotland. This document should therefore be considered a guide to England and Wales only.

For information on the 1974 Act in Scotland, please visit: [Disclosure periods applicable to sentences - Self-disclosure of previous convictions and alternatives to prosecution: guidance - gov.scot \(www.gov.scot\)](#)

The relevant Northern Irish legislation, the Rehabilitation of Offenders (Northern Ireland) Order 1978 and the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 can be found here: [AccessNI legislation | Department of Justice \(justice-ni.gov.uk\)](#)

Does the Act apply to Service personnel?

The Act applies to everyone convicted of a criminal offence in a civilian court. It also applies to members of the Armed Forces who have a charge proven against them in a summary hearing and to members of the Armed Forces and civilians who are convicted of a criminal offence or a Service offence under the Armed Forces Act 2006 by a Court Martial or a Service Civilian Court. Collectively the system used by the Armed Forces is the 'Service Justice System' (SJS). Rehabilitation periods for punishments awarded by the SJS are very similar to those awarded in the civilian justice system. For example, a fine imposed by a Magistrates' Court or the Crown Court on an adult offender has a one-year rehabilitation period and this is the same for adults awarded a fine in the SJS.

Additionally, there are punishments which can be imposed by the SJS which do not have an equivalent in the civilian justice system. These have their own rehabilitation periods, specified in the Act:

- Removal from His Majesty's service has a rehabilitation period of 1 year beginning with the date of conviction (this covers the sentences of dismissal or dismissal with disgrace from His Majesty's service,); and
- A sentence of service detention has a rehabilitation period of 1 year from the day on which the sentence is completed.
- A severe reprimand or reprimand has a rehabilitation period of 1 year beginning with the date of conviction.

These rehabilitation periods are halved if the offender was under 18 at the time of conviction.

Where a punishment imposed in the SJS does not have a rehabilitation period under the Act it is spent immediately; this includes a service supervision and punishment orders, reduction in rank, loss of seniority and other minor punishments only available in the SJS.

What constitutes a “criminal record” and how does it relate to rehabilitation periods?

A “criminal record” is created on the Police National Computer (PNC) and can include a person’s criminal convictions, cautions and other relevant information.

Details of all recordable offences are kept on the PNC until the individual is 100 years old and can be accessed by the police. This does not mean that they will be disclosed as part of a criminal record check or require an individual to disclose if the conviction is regarded as spent.

It is a criminal offence for anyone who has official access to criminal records to disclose spent convictions, other than in the course of their official duties.

Non-conviction information

Non-conviction information recorded on local police systems can be supplied by local police forces (separate to the PNC) and disclosed on an Enhanced Disclosure and Barring Service certificate if deemed by a chief officer of police to be relevant to the party requesting the check and that it ought to be disclosed. Non-conviction information may include additional information relating to a conviction, allegations, fixed penalty notices and penalty notices for disorder (see below).

Does the 1974 Act cover cautions, penalty notices for disorder or fixed penalty notices?

The 1974 Act covers simple cautions (which become spent immediately) and conditional cautions (which become spent after three months).

Reprimands and warnings were abolished in April 2013 and a reprimand or warning given before that date is now to be treated as a youth caution which, as with adult cautions, is spent immediately.

Fixed Penalty Notices and Penalty Notices for Disorder do not constitute a conviction or caution (and are therefore not covered by the 1974 Act. They may, however, be recorded on local police systems should the relevant police force consider it necessary to do so. Please refer to the section on driving endorsements (pages 15-16) in relation to a FPN issued for certain road traffic offences and where an endorsement is imposed.

Rehabilitation Periods

This section provides an overview of rehabilitation periods. For more information on rehabilitation periods please visit:

<https://www.gov.uk/guidance/rehabilitation-periods>

How long does it take before a caution or conviction becomes spent?

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered i.e., the judgment of the court or the length of the sentence imposed. Rehabilitation periods for custodial sentences run beyond the end of a sentence and are made up of the total sentence length plus an additional period that runs from the end of the sentence, which we have called the 'buffer period'. Other rehabilitation periods start from the date of conviction or the date the penalty was imposed.

The 'buffer periods' are halved for those who are under 18 at date of conviction.

The rehabilitation periods for sentences with additional “buffer periods” which run from the end date of the sentence are shown in the table below:

New rehabilitation periods introduced by the Police, Crime, Sentencing and Courts (PCSC) Act 2022		
Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the <u>end</u> date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the <u>end</u> date of the sentence (including the licence period).
Custodial sentence* of under 1 year	12 months	6 months
Custodial sentence of between 1 year and 4 years	4 years	2 years
Custodial sentence of more than 4 years**	7 years	3.5 years

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a sentence of detention under section 250 of the Sentencing Act 2020, a Detention and Training order, a sentence of corrective training and a sentence of Borstal training.

**Excluding serious violent, sexual, or terrorist offences

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Community order / Youth Rehabilitation Order	Period of the order	Period of the order
Fine	1 year	6 months
Conditional discharge	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months or when the caution ceases to have effect if earlier
Simple caution and youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e., when it is paid in full)	On the discharge of the order (i.e., when it is paid in full)

Community orders

The rehabilitation period for community orders was amended in the PCSC Act 2022. In relation to any community order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

Compensation Orders

It is important that individuals obtain proof of payment from the court and keep this document to prove that the compensation order has been paid in full. The onus is on the individual to provide proof of payment to the Disclosure and Barring Service if a DBS check is applied for or needed.

In relation to offenders aged under 18, where a compensation order is made on conviction against someone who is under 16, the court *must*, and if the offender is aged 16 or over, the court *may*, order that the amount is to be paid by the parent or guardian. If the compensation order remains unpaid, it would impact the rehabilitation period as the rehabilitation period is the date on which payment is made in full.

It would be open to the individual against whom the order is made, i.e., the parent/guardian, to appeal to the Crown Court against the order, or if it had been made against the parent or guardian by the Crown Court, to appeal to the Court of Appeal as if they had been convicted on indictment of the offence themselves. The end of the rehabilitation period is the date on which payment is made in full.

Rehabilitation periods for relevant orders

A relevant order can be handed down upon conviction imposing a disqualification, disability, prohibition or other penalty, or a requirement. Examples include conditional discharge orders, restraining orders, hospital orders, bind overs, referral orders and care orders. For instance, a criminal behaviour order may *prohibit* an offender from doing anything described in the order and/or *require* an offender to do anything described in the order.

Under Section 5(8) of the ROA

“relevant order” means—

- (za) a community or youth rehabilitation order,
- (a) an order discharging a person conditionally for an offence,
- (b) an order binding a person over to keep the peace or be of good behaviour,
- (c) an order under section 1(2A) of the Street Offences Act 1959,
- (d) a hospital order under Part 3 of the Mental Health Act 1983 (with or without a restriction order),
- (e) a referral order under Chapter 1 of Part 6 of the Sentencing Code,
- (f) an earlier statutory order, or
- (g) any order which—
 - (i) imposes a disqualification, disability, prohibition, penalty, requirement or restriction, or
 - (ii) is otherwise intended to regulate the behaviour of the person convicted, and is not otherwise dealt with in the Table,

but does not include a reparation order under section 73 of the Powers of Criminal Courts (Sentencing) Act 2000 or Chapter 2 of Part 6 of the Sentencing Code.

The rehabilitation period for a relevant order begins on the date of conviction and ends on the day provided for, by or under the order as the last day on which the order is to have effect.

Where a relevant order does not specify the last day on which the order is to have effect, the rehabilitation period for the order is 24 months beginning with the date of conviction.

If an order defines the period as 'Indefinite' it means a person's conviction will never be spent until such a time as they have gone back to court to have it amended. If the order states 'until further notice', again the individual will need to go back to court to have an end date placed on the order.

Relevant orders and the drag on effect

When considering the impact of an offence on the rehabilitation periods of other offences, relevant orders **will not** be taken into account. They can however still be extended with reference to any other sentence that may have been passed at the same time the order was imposed.

Are there any sentences which are excluded from rehabilitation in the 1974 Act?

The following sentences are exempt from the 1974 Act **and can never become spent**:

- a. Sentence of imprisonment for life.
- b. Sentence of imprisonment, sentence of detention for youth detention in a young offender institution or corrective training of over 4 years for serious violent, sexual, or terrorist offences.
- c. Sentence of preventive detention.
- d. Sentence of detention during His Majesty's pleasure or for life.
- e. Sentence of custody for life.
- f. Public protection sentences (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders).

What are the rehabilitation periods for motoring offences?

An endorsement for a road traffic offence listed in Schedule 2 to the Road Traffic Offenders Act 1988, imposed either by the court or by means of a fixed penalty notice (FPN) is a sentence for the purposes of the 1974 Act and may become spent after 5 years (or two and half years where the offender is under 18). Road traffic legislation specifically provides for a FPN in these circumstances to be treated as a conviction and dealt with as such under the 1974 Act. Penalty points and a driving disqualification imposed by the court on conviction may become spent when they cease to have effect (penalty points have effect for three years as part of the system of "totting up" as set out in road traffic legislation). Where the court imposes more than one sentence or penalty for the offence then the longest rehabilitation period determines when the conviction may become spent.

Where a driving disqualification has been imposed by a court 'until further test passed' the disqualification will not become spent until the required driving test has been passed. The onus is on the individual to provide evidence, in the form of a current UK driving licence or

confirmation on letter headed paper from the test centre to the Disclosure and Barring Service if a basic DBS check is applied for or needed.

A fixed penalty notice (FPN) can be used to deal with minor road traffic offences, however except for where it imposes a road traffic endorsement, it is not a criminal conviction or a caution and the 1974 Act does not apply.

It is the case for all convictions (not only road traffic convictions) that where more than one sentence or penalty is imposed then the conviction may only become spent once the longest rehabilitation period which applies has ended.

For more information on the rehabilitation periods for particular driving offences, please consult:

www.direct.gov.uk/en/motoring/driverlicensing/endorsementsanddisqualifications/dg_10022425

What happens if someone receives another caution or conviction before their first conviction becomes spent?

If someone has an unspent conviction and they get a further caution or conviction before the earlier conviction has become spent, one of the following will apply:

- a. If the later outcome is a caution (either a simple caution or conditional caution for adults, or youth caution or youth conditional caution for children), neither rehabilitation period will be affected. The conviction for the earlier offence will become spent at the time originally fixed, and the caution for the later offence will become spent after the normal period (immediately for a simple caution or youth caution, or three months for a conditional caution or youth conditional caution).
- b. If the later outcome is a conviction, then *neither* conviction will become spent until the rehabilitation periods for *both* offences are over. The earlier unspent conviction will be affected and in effect dragged forward so that neither offence will become spent until they both are. This is known as the 'drag on' effect. This applies to summary offences (offences that can only be tried in a magistrates' court) as well as either way offences (triable in either the magistrates' court or the Crown Court) and indictable only offences (offences that can only be tried in the Crown Court). Please note that there are very limited exceptions to this under section 6(5) of the 1974 Act.
- c. If the later outcome is a conviction that is [excluded from rehabilitation](#), then neither the second nor the first conviction will ever become spent.

If someone has a conviction that is excluded from rehabilitation and will never become spent, previous convictions that were unspent at the time would also never be spent. Any further convictions that are received after the conviction that will never become spent can become spent independently.

Once a conviction becomes spent, it remains spent, even if a person is convicted of other offences later.

What happens if someone receives another conditional caution or youth conditional caution or conviction before their first conditional caution / youth conditional caution becomes spent?

If the later conditional caution / youth conditional caution or conviction is separate to the earlier conditional caution / youth conditional caution (i.e., not for the offence in respect of which they were cautioned), then neither rehabilitation period will be affected. The conditional caution / youth conditional caution for the earlier offence will become spent at the end of 3 months from when it is given (or until conditions are met), and the caution or conviction for the later offence will become spent after the normal period.

However, if an individual fails to comply with a conditional caution / youth conditional caution, and they are subsequently prosecuted the conditional caution/ youth caution will cease to have effect. Any subsequent conviction will then attract the relevant rehabilitation period for the sentence imposed by the court.

If a sentence is given for more than one offence at the same time will the rehabilitation periods run concurrently or consecutively?

If someone receives 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 concurrent sentences are imposed, where a person was convicted in the same proceedings, they will be treated as a single term and the longest applicable rehabilitation period will apply to all the sentences.

If consecutive sentences are imposed, they will also be treated as a single term and the sentences will be added together to calculate the rehabilitation period.

The calculations regarding consecutive and concurrent sentences will not be applied when determining whether a sentence is excluded from rehabilitation. They should only be used to determine the rehabilitation period. A sentence for a serious violent, sexual, or terrorist offence is only to be excluded from rehabilitation if the term for that sentence, taken individually, exceeds four years. However, if the sentence is not excluded from rehabilitation, any concurrent or consecutive sentence given for any other offending, will still be able to become spent.

Changes to Out of Court Disposals OOCs - new cautions (Diversionary and Community)

The Police, Crime, Sentencing and Courts (PCSC) Act 2022 brought forward a revised national framework to build on the good work already done by police forces to reform use of adult Out of Court Disposals (OOC) and to ensure a simplified, consistent approach across England and Wales. The revised OOC framework will consist of a Diversionary Caution (upper tier) and a Community Caution (lower tier), as well as retaining Community Resolutions. This simplified set-up will improve consistency and produce better outcomes for low-level offenders and the victims of their crime. Implementation of the changes to adult OOCs is expected to take place in 2024.

What is the rehabilitation period for Unpaid Work requirements?

An Unpaid Work requirement is one of thirteen requirements that can be added to a Community Sentence. Courts can impose sentences of 40-300 hours of Unpaid Work, depending on the seriousness of the offending.

All Unpaid Work requirements are 12-months in length. However, if the hours are not completed within this time, the probation practitioner will return the order to Court for the requirement to be extended and the hours to be worked.

Unpaid Work requirements as part of a **Suspended Sentence Order** end either when the hours are completed, or at the end of the operational period of the Suspended Sentence, whichever is first. This does not affect when the conviction is spent.

Unpaid Work requirements as part of a **Community Order** can be extended beyond the original end date of the Community Order. This is outlined in the [Sentencing Act 2020 \(Section 220\)](#) where it states that a Community Order ceases to be in force either:

(1a) at the end of the end date, or

(1b) if later when the offender has completed any Unpaid Work requirement.

It also states that:

(3) the Unpaid Work requirement is only complete when all the hours are worked.

This means that unless the Unpaid Work requirement is revoked by the Court, it can be continually extended until the offender completes the specified number of hours.

The rehabilitation period for Community Orders (see table on page 11) were amended by the Police Crime, Sentencing and Courts Act 2022. The rehabilitation period for Community Orders now ends "*the day provided for by or under the order as the last day on which the order is to have effect*". This means that the rehabilitation period has been reduced from 12 months after the end date of the Community Order, to the end date of the Community Order.

For Community Orders with Unpaid Work requirements this means that the rehabilitation period ends at the **original end date** of the order specified at the point of sentencing **regardless of an extension** to the Unpaid Work requirement.

In practice, this means that if an Unpaid Work requirement is extended beyond the original end date of a Community Order, an offender can declare their conviction as spent at the original end date, even if they have not completed or are still in the process of completing their Unpaid Work hours.

Exceptions Order

Are there any jobs or other activities for which both spent and unspent cautions and convictions will have to be disclosed?

Yes. There are certain exceptions where someone may be asked to disclose their caution or conviction even if it is considered spent under the 1974 Act. The provision for this is set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, (the “Exceptions Order”). This is in recognition that there are certain activities for which fuller disclosure of a person’s criminal record history is relevant, for example, working with children and other vulnerable groups, in vulnerable circumstances or some other particularly sensitive area of work.

Where the Exceptions Order applies this will usually be indicated in the job advert for the role by stating that a ‘standard’ or ‘enhanced’ DBS criminal record check may be required (see further below for explanation of these terms). In these circumstances an applicant will be required to list all cautions and convictions, including those that are spent, unless for the purposes of the job or activity they are considered ‘protected’ (discussed further below).

As well as being able to ask applicants to disclose their cautions and convictions, in these circumstances the employer, organisation or licensing body will be able to request the same information from the Disclosure and Barring Service .

What jobs and activities are listed in the Exceptions Order?

The jobs and activities listed in the Exceptions Order mainly relate to particularly sensitive areas such as work with children or health and social care, work in law enforcement and the legal system, and high-level financial positions. Exceptions also apply to certain certificates and licences (such as a firearms certificate) and to certain proceedings (such as those connected with admission to certain regulated professions).

Annex A provides a summary of the main jobs and activities that are included in the Exceptions Order. It is important to be aware that the Exceptions Order is kept under review and amendments are made periodically to ensure that the criminal disclosure regime meets the changing requirements of public protection.

When assessing requests for additions to the Order an assessment is made of what the wider effect of the addition will be including whether it is in line with the existing roles and activities reflected or absent from the Exceptions Order. There is also consideration of whether the inclusion of the roles and activities or categories is proportionate.

Which cautions and convictions need to be disclosed under the Exceptions Order?

All **unspent** convictions and cautions must be disclosed just like any job or activity not covered by the Exceptions Order.

In addition, **spent** cautions and convictions must be disclosed if they meet the circumstances described in the table below:

Disposal	Age when given/sentenced	How long since given/sentenced?
Cautions for specified offence	18 or over	Any time
Cautions for non-specified offence	18 or over	Less than 6 years
Conviction for specified offence	Any age	Any time
Conviction resulting in custodial sentence	Any age	Any time
Conviction for non-specified offence	18 or over	Less than 11 years
	Under 18	Less than 5 and a half years

Any other caution or conviction which does not meet the details set out in the table, such as spent youth reprimands, warnings, and cautions, is considered **protected**.

Protected cautions and convictions do not need to be disclosed unless the job or activity is one which is of the **utmost integrity**. These jobs and activities require **full disclosure** and are discussed below.

What is a ‘specified offence’?

A specified offence is one which is serious, and which relates to sexual offending, violent offending and/or is relevant to safeguarding children and vulnerable adults. The full list of these specified offences can be found here:

[List of offences that will never be filtered from a DBS certificate - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

What can an employer, organisation or licensing body ask an individual to disclose?

The table below sets out the caution and conviction information an employer, organisation or licensing body can ask an applicant about and which they are required to disclose.

If an employer takes into account a conviction or caution which they are not entitled to ask about, they are acting unlawfully under the 1974 Act.

Where the job or activity is...	Someone can be asked and is required to disclosure		
	Unspent cautions and convictions	Unprotected Spent cautions and convictions	Protected spent cautions and convictions
Not listed in the Exceptions Order	Yes	No	No
Listed in the Exceptions Order but not one of the utmost integrity	Yes	Yes	No
Listed in the Exceptions Order and of utmost integrity	Yes	Yes	Yes

Are there any jobs or activities where full disclosure is required?

There are a small number of jobs or activities for which the **utmost integrity** is required. In order to maintain public trust and confidence, **full disclosure** of all convictions and cautions, including protected cautions and convictions, must be made. These are generally jobs or activities relating to national security, police constables, judicial appointments, and firearms certificates. An applicant will be informed by the employer, organisation, or licensing body if full disclosure is required when applying for these jobs or activities.

Please be aware, disclosure of criminal records in these instances is not provided by the Disclosure and Barring Service.

Changes to the rules around self-disclosure for sensitive roles

On 28 November 2020 the Government implemented legislation to change the rules governing disclosure for sensitive roles. Sensitive roles are those that involve positions of public trust and work with children and other vulnerable groups. The amendment removed the requirement for self-disclosure and automatic disclosure of cautions, reprimands and warnings issued to people below the age of 18; and convictions where a person has more than one conviction (known as the 'multiple conviction' rule), except where disclosed under the other rules.

Convictions and adult cautions for offences which are specified on the list of serious offences, which resulted in a custodial sentence, or which are recent continue to be disclosed under other rules.

Jurisdiction

Application of different rehabilitation periods in England & Wales and Scotland

Rehabilitation periods should be determined with reference to the law of the jurisdiction to which the inquiry relates, for example, where the position or job is located.

What legislation will apply when the Disclosure and Barring Service and Disclosure Scotland issue criminal record certificates?

DBS will apply the relevant legislation as it applies in England and Wales and Disclosure Scotland will apply the relevant legislation as it applies in Scotland.

Additional Information for Those with Convictions

Education, Training and Apprenticeships

Do I have to disclose my convictions when applying to college, university, apprenticeships, or other training?

If you have unspent cautions or convictions, yes. Spent convictions do not have to be disclosed unless the training is related to a role in the Exceptions Order. Read any questions and supplementary guidance carefully. If unsure about questions regarding spent convictions seek further advice from [Nacro](#) or [Unlock](#).

Housing

Do I have to disclose my cautions or convictions when applying for housing, mortgage applications, or rental agreements?

If you are asked to disclose any convictions, if you choose to continue with the application then legally you must disclose those unspent convictions; however, you are not required to disclose any spent convictions. If you are a tenant and receive a conviction you do not always have to tell the landlord, unless stated in the tenancy agreement. When applying for housing the landlord, or agency, may carry out credit checks. These will not disclose any convictions, unless they are for a financial crime (e.g., fraud).

Under some tenancy agreements housing providers may verify information that is obtained. You have rights over your information. A housing provider must tell you what they will do with any information they collect. You can ask how they will verify the information; if it is not checked through a criminal record check it runs the risk of being inaccurate.

A housing provider or landlord cannot apply for a DBS check on you, however they may request that you get a basic DBS check (sometimes at your cost) and share this with the housing provider or landlord. A housing provider may request this as some insurance providers insist that a housing provider informs them if someone with unspent convictions is living at the property they insure.

Insurance

Do I have to disclose any cautions or convictions when applying for insurance?

Most insurance companies will ask about convictions as it can be relevant to risk in some contexts, and they are entitled to ask. If they do not ask, you do not need to disclose. If your conviction is spent, you do not have to disclose it to insurers.

Immigration and Nationality decisions

Does the 1974 Act apply to Immigration and Nationality decisions?

Immigration and nationality decisions are exempt from the 1974 Act. This means that both spent and unspent convictions can be considered by the Home Office when making these assessments.

Visa Applications

Do I have to disclose all my convictions for a visa application?

The eligibility requirements for a visa to travel to another country are a matter for the country concerned. You should contact the embassy of the relevant country if you require further advice.

Criminal Injuries Compensation Scheme 2012 (CICS)

I have an unspent conviction. Does this affect my eligibility for claiming compensation from the Criminal Injuries Compensation Scheme (CICS)?

A payment of criminal injuries compensation may be refused or reduced if you have an unspent criminal conviction at the date of your application or if you are convicted of a crime before a final decision is made. The CICS uses the same definition of 'conviction' and the same determination of whether a conviction is spent, or a sentence is excluded from rehabilitation, as the 1974 Act.

A payment will not be made if you have an unspent conviction at the date of application, or are convicted before a final decision is made, for an offence which resulted in:

- a. a sentence excluded from rehabilitation;
- b. a custodial sentence;
- c. a sentence of service detention
- d. removal from His Majesty's Service
- e. a community order;
- f. a youth rehabilitation order; or
- g. a sentence equivalent to a sentence under sub-paragraphs (a) to (f) imposed under the law of Northern Ireland or a member state of the European Union, or such a sentence properly imposed in a country outside the European Union.

If you have an unspent conviction which resulted in a sentence not included in the list above, an award under the CICS will be withheld or reduced unless there are exceptional reasons not to do so.

This does not apply to a conviction for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988. Nor does it apply to a sentence imposed outside the UK for conduct which did not constitute a criminal offence in the UK on the date of the conviction.

Under the CICS, the rehabilitation periods which apply, will depend on where your injury was sustained. If you were injured in England and Wales, your rehabilitation period will be determined based on the law of England and Wales, regardless of where and when the offence which gave rise to the conviction was committed and where the sentence was imposed.

For more information about the CICS 2012, or previous Criminal Injuries Compensation Schemes, please visit: www.gov.uk

Notification and Disclosure Schemes

The 1974 Act is predominantly concerned with the disclosure of cautions and convictions and managing risk in the workplace. It is not the way in which the wider risks posed by those with convictions are managed in the community.

For example, those convicted, cautioned, or found not guilty by reason of insanity of sexual offences in Schedule 3 of the Sexual Offences Act 2003, as well as those found to be under a disability and to have done the act charged against them are made subject to notification requirements on release under Part 2 of the Sexual Offences Act 2003. Those subject to notification requirements are required to notify the police of their personal details annually or whenever their details change. The duration of the notification requirements varies depending on the sentence received, and courts have no discretion over this. The duration of notification requirements is set out in section 82 of the Sexual Offences Act 2003.

The Child Sex Offender Disclosure Scheme introduced in 2011 allows parents, carers, and guardians to formally ask the police to tell them if someone has a record for child sexual offences. Additionally, the Domestic Violence Disclosure Scheme (DVDS), also known as “Clare’s Law” enables the police to disclose information to a victim or potential victim of domestic abuse about their partner’s or ex-partner’s previous abusive or violent offending.

For more information on these schemes, please consult:

[Home Office - Child Sex Offender Disclosure](#)

[Domestic Violence Disclosure Scheme - GOV.UK \(www.gov.uk\)](#)

Additional Information for Employers

How do I know if I am eligible to request a standard or enhanced criminal records check from prospective and/or current employees?

You are only eligible to request a standard or enhanced disclosure check, containing information on both unprotected spent and unspent convictions, for an employee or prospective employee if that individual is engaged in an activity listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see pages 20-21). If this applies, the applicant will be required to disclose any unprotected spent cautions and convictions that they have. In the case of enhanced DBS checks, the activity or position is also included in the Regulations made under the Police Act 1997. If you are unsure whether such a check can be requested, you can contact the Disclosure and Barring Service at:

www.gov.uk/government/organisations/disclosure-and-barring-service

What should I consider when employing someone with a conviction?

Each employer is best placed to consider whether a person's convictions (either before they have become spent, or, in the case of activities listed on the Exceptions Order, when they are spent) make him or her unsuitable for a particular job. But it is important that you should reach a balanced judgement, having regard to such factors as:

- a. the person's age at the time of the offence;
- b. how long ago the offence took place;
- c. whether it was an isolated offence or part of a pattern of offending;
- d. the nature of the offence;
- e. its relevance to the post or position in question; and
- f. what else is known about the person's conduct before and since the offence.

Government guidance on employing those with convictions

The government has published guidance for employers which outlines what good practice looks like; provides examples of how to make the recruitment process a positive experience; challenges common misconceptions with positive solutions and uses case studies highlighting the benefits of employing people with convictions. The guidance can be accessed at: [NFN Future Skills Network booklet \(newfuturesnetwork.gov.uk\)](https://newfuturesnetwork.gov.uk).

Annex A

Examples of the types of occupations, posts, and activities in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Please be aware that this is **not** a comprehensive list and merely gives an indication of the general types of employment that are included in the Exceptions Order.

1. Regulated activity with children and other activities which involve working closely with children such as caring for, training, supervising or being solely in charge of children under 18 (including adoption, fostering, day care and childminding)
2. Regulated activity and other activities which involve caring for, training, supervising or being solely in charge of other people in vulnerable circumstances (including social work and advocacy services)
3. Employment in healthcare professions (including medical practitioners, dentists, nurses, midwives, optometrists, registered pharmacists, and osteopaths)
4. Employment concerned with national security (including the provision of air traffic services and employment by the UK Atomic Energy Authority)
5. Employment in the legal profession (including barristers, solicitors legal executives, the Crown Prosecution Service and judicial appointments)
6. Offices and positions in HM Courts and Tribunals Service and the Judicial Office (including Justices' and sheriff's, court and tribunal security officers and contractors with unsupervised access to court-houses, tribunal buildings, offices and other accommodation used in relation to the court or tribunal)
7. Employment in law enforcement (including police constables and cadets, the naval, military and air force police, traffic wardens and employment in the Serious Fraud Office (SFO) and the Serious Organised Crime Agency (SOCA))

8. Offices responsible for the enforcement of warrants and writs (including Court officers who execute county court warrants, High Court enforcement officers, sheriffs and Civilian enforcement officers)

9. Employment in the Prison and Probation Services (including prison and probation officers, members of boards of visitors etc.

10. Employment in the financial sector (including chartered and certified accountants, actuaries and all positions for which the Financial Conduct Authority or the competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial Services and Markets Act 2000)



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