



# ARMY

## ARMY GENERAL AND ADMINISTRATIVE INSTRUCTIONS

### VOLUME 2

### CHAPTER 41

## POLICY FOR THE RECRUITMENT AND ENLISTMENT / COMMISSIONING OF PERSONNEL WITH CRIMINAL CONVICTIONS

The chapter contains the policy to enable the prompt and realistic assessment of a candidate's eligibility for commissioning or enlistment following a civilian charge or conviction, determined on the merits of each case, so that an individual's progress through the selection and training system is not needlessly interrupted, deferred or curtailed. At the same time, those candidates who become ineligible for entry or training will be identified and notified accordingly.

Intentionally blank

**VOLUME 2**  
**CHAPTER 41**  
**POLICY FOR THE RECRUITMENT AND ENLISTMENT / COMMISSIONING OF PERSONNEL**  
**WITH CRIMINAL CONVICTIONS**

**INDEX**

<b>Contents</b>	<b>Page</b>	<b>Paras</b>
The Rehabilitation of Offenders Act (ROA 74)	41-1	<a href="#">41.002 – 41.004</a>
Traffic Offences	41-2	<a href="#">41.005</a>
Spent and Unspent Convictions and Rehabilitation Periods	41-2	<a href="#">41.006</a>
Variations and Waivers	41-3	<a href="#">41.007 – 41.017</a>
Exceptions to the Waiver	41-5	<a href="#">41.018 – 41.022</a>
Appeals	41-5	<a href="#">41.023</a>
Baseline Personal Security Standard	41-6	<a href="#">41.024</a>
Additional Policy for Commissioning	41-6	<a href="#">41.025</a>
Reserves	41-6	<a href="#">41.026</a>
Points of Contact	41-6	<a href="#">41.027</a>
<a href="#">Annex A</a> : Rehabilitation Periods <a href="#">Appendix 1</a> : Rehabilitation Periods	41A-1	
<a href="#">Annex B</a> : Additional Details for Considering Offences During Selection for Commissioning	41B-1	

Intentionally blank

## CHAPTER 41

POLICY FOR THE RECRUITMENT AND ENLISTMENT / COMMISSIONING OF PERSONNEL WITH CRIMINAL CONVICTIONS<sup>1</sup>

[D/DM(A)/451]

**Reference A.** Disclosure and Barring Service (DBS) [Guide for Eligibility for Criminal Records Checks dated May 2014](#)

**41.001.** The purpose of this policy is to enable the prompt and realistic assessment of a candidate's eligibility for commissioning or enlistment<sup>2</sup> following a civilian charge or conviction, determined on the merits of each case, so that an individual's progress through the selection and training system is not needlessly interrupted, deferred or curtailed. At the same time, those candidates who become ineligible for entry or training will be identified and notified accordingly. Security considerations will continue to be an overriding factor and it is not intended that there should be any lowering of the standards of integrity or behaviour currently expected of Army personnel.

**The Rehabilitation of Offenders Act (ROA 74)**

**41.002.** The **ROA 74** applies throughout the UK, although there are some differences to the way in which it operates in Scotland and Northern Ireland, ROA 74 sets a date, depending on the punishment awarded and the age of the offender, at which a conviction becomes spent. When a conviction is spent it means the individual must for all purposes be treated as if they had neither committed nor been charged with, prosecuted, convicted or sentenced for the offence. It also means that it: *'shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him/her in any way in any occupation or employment.'*<sup>3</sup> This means that no employment action (which would include during enlistment, commissioning or re-engagement) may be taken in respect of the conviction or any circumstances ancillary to it once it has become spent. The rehabilitation periods for service and civilian sentences from 10 March 2014 are set out in Annex A to [2014DIN01-054](#), which is duplicated at Annex A to this AGAI. Further information on ROA 74 is contained in **MOD Form 493**, which all candidates for commissioning and enlistment must read and understand before any discussions about convictions take place, in order that they are aware of their legal rights.

**41.003.** The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 amended the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 to include the following exemption for national security:

Article 3ZA(b): "any question asked by or on behalf of any person, in the course of his / her duties as a person employed in the service of the Crown, the United Kingdom Atomic Energy Authority or the Financial Conduct Authority or the Prudential Regulation Authority in order to assess, for the purpose of safeguarding national security, the suitability of the person to whom the question relates or of any other person for any office or employment where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed for the purpose of safeguarding national security."

All candidates requiring Security Checks<sup>4</sup> (SC), Counter Terrorist Check (CTC) or Developed Vetting (DV) (which are higher level checks than a Baseline Personnel Security Standard check) may therefore be required to disclose their full record of convictions, whether 'spent' or 'unspent',

<sup>1</sup> This AGAI was initially promulgated under cover of **D/DM(A)/451 dated 30 Nov 2010**.

<sup>2</sup> Or re-enlistment (throughout this policy).

<sup>3</sup> S.4(3)(b) ROA 74.

<sup>4</sup> All vetting is now applied for by RG prior to commencement of Ph 1 training, with the exception of int Corps (Regular) who are cleared to BPSS level to commence Ph 1 and DV is applied for in training.

before they may be commissioned, enlisted or re-engaged. All such candidates must be informed at the time they are asked to disclose their convictions that spent convictions are to be disclosed, by virtue of the **ROA 74 (Exceptions Order 1975) (as amended 2013)**, for the purpose of safeguarding national security.

**41.004.** Irrespective of the national security exception, certain roles in the Army fall within the exceptions set out in the ROA 74 (Exceptions) Order 1975<sup>5</sup>. A list of the most common positions and duties is set out in the Annex to **Reference A**. DBS has replaced the Criminal Records Bureau (CRB) as the organisation which carries out criminal record checks for such roles. There are three levels of criminal record check available:

- a. **Standard checks** – To be eligible for a standard level DBS certificate, the position **must** be included in the ROA Exceptions Order.
- b. **Enhanced checks** – To be eligible for an enhanced level DBS certificate, the position **must** be included in both the ROA Exceptions Order **and** in the Police Act 1997 (Criminal Records) regulations.
- c. **Enhanced checks with children's and/or adults' barred list check(s)** – To be eligible to request a check of the children's or adults' barred lists, the position **must** be eligible for an enhanced level DBS certificate as above **and** be specifically listed in the Police Act 1997 (Criminal Records) regulations as able to check the appropriate barred list(s).

### Traffic offences

**41.005.** For the purpose of determining an individual's eligibility to be considered for commissioning, enlistment or re-engagement, unspent convictions for minor offences under the Road Traffic Act (such as parking offences, having no lights, licence offences (except for driving whilst disqualified) or failing to observe traffic signs or lights) may be disregarded. Unspent convictions for speeding or careless driving offences *may* be disregarded unless they have led to a disqualification.

### Spent and Unspent Convictions and Rehabilitation Periods

**41.006.** In relation to an unspent conviction, the Army may apply a discretionary **waiting period** before a candidate may commence initial training<sup>6</sup>. Any waiting period imposed must come to an end before the rehabilitation period has ceased and the conviction becomes spent. It should also be noted that:

- a. Where a candidate has been charged with an offence and is waiting to appear before a court for trial (less those attending as a witness), the application will not normally be accepted for processing until the trial has concluded and the applicant has been acquitted or convicted.
- b. If the candidate has been charged with an offence following the acceptance of their application for processing and is yet to appear before a court for trial, the candidate is not to start initial training until the trial has concluded and the applicant has been acquitted or convicted.
- c. For commissioning, a candidate with one or two 'unspent' non-custodial convictions may be authorised to commence training. A waiting period may also be applied as per **Annex B**.

<sup>5</sup> Under the ROA (Exceptions) Order anyone who wishes to serve in a dental, legal, medical, nursing or police trade or branch within the Army must disclose all convictions, 'spent' as well as 'unspent'.

<sup>6</sup> The periods are detailed at **Annex B** for commissioning.

- d. For enlistment, those with no more than three 'unspent' non-custodial<sup>7</sup> convictions may be authorised to commence training.

## Variations and Waivers

**41.007.** In all cases when considering a candidate for commissioning or enlistment, clear evidence is required to show that there is no doubt about the applicant's understanding and commitment to the Army's Values and Standards and that the applicant will not require special guidance, supervision or discipline whilst in the Army.

**41.008. Young Offenders.** Cases involving Young Offenders (aged under 18 at the time of the conviction) have a shorter rehabilitation period. These are detailed at Annex A.

**41.009.** As a matter of policy, the criteria for commissioning and enlistment in relation to custodial sentences differ:

- a. **Commissioning.** Individuals who have received a custodial sentence will only be considered for commissioning if such a custodial sentence is spent. However, a spent conviction may be considered as part of the Security Checking process<sup>8</sup> for commissioning on the grounds of safeguarding national security.
- b. **Enlistment.** For enlistment, custodial sentences are considered under the two categories below.

(1) **Young Offenders (Under 18 at the time of the conviction).** A person who has been given a custodial sentence (i.e. imprisonment, detention in a young offender institution, borstal training, youth custody, corrective training, detention, or a detention and training order) of four years or less may be regarded as eligible for enlistment once the conviction has become spent. Custodial sentences in excess of four years (or public protection sentences) can never be 'spent' and therefore candidates with such sentences will be considered permanently ineligible for enlistment<sup>9</sup>. All applicants for enlistment who have been convicted of an offence resulting in a custodial sentence of less than four years may be considered for enlistment once the conviction has become spent except for convictions of twelve months or less whose unspent conviction may be included as one of their three 'unspent' non-custodial convictions. An individual who has been given more than one custodial sentence may be considered for eligibility only once all convictions are spent as long as the custodial sentences awarded were all less than four years. However, where more than one sentence is imposed in respect of a conviction, if the rehabilitation periods relating to those sentences differ or overlap, the period applicable (for enlistment purposes) will be that relating to the longest of those sentences.

(2) **Adult Offenders.** An adult who has been given a custodial sentence for a period of four years or less may only be considered for enlistment once the sentence is 'spent' except for convictions of twelve months or less whose unspent conviction may be included as one of their three 'unspent' non-custodial convictions. Custodial sentences in excess of four years can never be 'spent', therefore any sentence over four years is a permanent bar to enlistment. A person, who has been sentenced to more than one term of a custodial sentence each totalling four years or less is to be regarded as ineligible until all the custodial convictions become 'spent' unless the final unspent custodial conviction is 12 months or less

<sup>7</sup> A conviction of twelve months or less may be included as one of their three 'unspent' non-custodial convictions.

<sup>8</sup> All candidates for commissioning, irrespective of Arm or Service, must be SC before beginning initial officer training.

<sup>9</sup> It should be noted that it is the length of the sentence and not the period spent imprisoned that must be taken into consideration. An applicant may be sentenced to 49 months, for example, but only serve 25 months and is therefore ineligible.

when it may be considered alongside upto a maximum of two further non custodial sentences.

**41.010. Suspended Sentences.** Those with suspended sentences are bared from enlistment for the life of the suspended sentence. Once the life of the suspended sentence is complete then the conviction is to be considered under the same rules as a custodial sentence covered in para 41.009.b

**41.011. Community Sentences/Orders and Youth Rehabilitation Orders.** Community Sentences/Orders and Youth Rehabilitation Orders combine punishment with changing an offender's behaviour and making amends. The sentence represents an often substantial and regular commitment of time and only on the completion of or the discharge of the order may the candidate commence training.

**41.012. Referral Orders.** A court may impose a Referral Order on youth offenders (under 18 years of age) which last between 3 and 12 months. The disposal involves referring the young offender to a youth offender panel who agree a 'contract' with the young offender to address their behaviour. A Referral Order becomes spent on the last day the order has effect and, only on the discharge of the order may the candidate commence training.

**41.013. Conditional Discharge.** A conditional discharge is one in which the court discharges an offender by way of an order on condition that he does not reoffend during a specified period. The rehabilitation period will end on the last day the order has effect. Where the order has no specific end date, the end of the rehabilitation period will be 24 months beginning with the date of the conviction<sup>10</sup>.

**41.014. Admonishment.** An admonishment in a Scottish court is a guilty verdict, which is similar to an absolute discharge before an English court and therefore offences which have been dealt with by way of an admonishment are not to be considered as relevant to a candidate's eligibility for the purposes of these instructions.

**41.015. Police Cautions, Warnings and Fixed Penalties.**

a. **Police Cautions and Warnings.** Formal/Simple police cautions and warnings become spent immediately, whereas conditional cautions become spent after three months<sup>11</sup>. Cautions and warnings can only be imposed if a person agrees and accepts that the offence has been committed. Candidates are not obliged to declare spent cautions or warnings unless required to do so for employment as in **paras 41.003 and 41.004** above.

b. **Fixed Penalties (Scotland).** In Scotland there is a similar system of fixed penalties imposed in respect of offences without criminal court proceedings. The vital difference in Scotland is that the person subject to the fixed penalty is not required to admit to the guilt of the offence, as that person would have to in respect of a formal police caution outside Scotland. It would therefore be quite wrong to require applicants to answer questions about fixed penalties imposed in Scotland, since such formal penalties are not necessarily an indication of guilt or acceptance of guilt.

c. **Fixed Penalty Notices (FPN) and Fixed Penalty Notices for Disorder (PND).** FPNs and PNDs do not form part of a person's criminal record as they involve no admission of guilt. There is therefore no requirement for an applicant for enlistment/commissioning to disclose them and they will not be a bar to the commissioning/enlistment process.

<sup>10</sup> By virtue of s. 139(4) Legal Aid, Sentencing and Punishment of Offenders Act 2012.

<sup>11</sup> Or earlier, if the caution ceases to have effect as a result of a condition not being met.



**41.016. Schedule 1 Offender.** A Schedule 1 offender is a designation given to anyone, regardless of age who has been convicted of an offence against someone under 18 that is listed in **Schedule 1** of the **Children and Young Persons Act 1933** (and subsequent legislation). Such an offender is placed on a special register for life however this can not be asked about during the recruiting process. If there is deemed to be an issue for the employer then the police will inform the employer.

**41.017. Unpaid Public Debt.** Unpaid debts and fines cannot be considered unless they have resulted in a conviction that has an associated rehabilitation period.

### **Exceptions to the Waiver**

**41.018. Racial/Sexual Offences.** An individual who has been convicted and sentenced in a civilian court for any racial or sexual offence or for a racially aggravated offence is not to be considered for commissioning or enlistment until such time as the offence is 'spent' under the terms of the ROA. While the sex offenders register cannot be taken into consideration, the sentence imposed at the time of conviction for a sexual offence can.

**41.019. Drug Offences.** A person who has been convicted for an offence under the Misuse of Drugs Act may be considered for enlistment. Convictions for **any** Class A offence (including possession of) will be a bar to enlistment until the offence is spent. Additionally a conviction for trafficking, supply or production (cultivating) of **any** class of drug is **not** acceptable and will be a bar to enlistment until the offence is spent.

**41.020. Football banning orders.** In all cases, where a football banning order has been imposed, Recruiting Staff are to advise the Candidate to contact the relevant Football Banning Orders Authority indicating their intention to join the Army and requesting, as a result of their application, for an exemption to the order imposed should he or she be accepted by the Army. If a positive response is given then the candidate may continue with their application, if it is not, then application may not continue until the Football Banning Order is complete.

**41.021. Cruelty to animals.** If an individual has been convicted of an offence and placed on a register banning him from owning or working with animals then they are not to be considered for any job, for example the Veterinary Corps, where they will have direct contact with animals until that conviction is spent.

**41.022. Firearms offences.** If an individual is convicted of a Firearms offence and is subject to an order that prevents him from having a firearm or ammunition in his presence he may not be considered for enlistment until that order is spent. Any custodial sentence (no matter what the offence or the length of sentence imposed) will bar a person from holding or possessing a weapon or ammunition. However, those applicants who have not specifically been convicted of an actual firearms offence are, once enlisted, defined as Crown Servants. They are therefore exempt if they are in possession of a service firearm in, or for the purpose of, the performance of their duty. This exemption does not allow them to possess firearms or ammunition for other purposes (for example if they possess a rifle or shot gun for their own private use).

### **Appeals**

**41.023.** When an application for commissioning/enlistment is rejected on the grounds of convictions, an applicant may appeal. Recruiting Group staff must refer the case in writing to HQ ARTD (HQ ARTD RG PST (C2 Operations)) who will consider all the relevant factors and

mitigating circumstances. For complex and more serious convictions<sup>12</sup>, HQ ARTD PST will refer cases to DM(A) (SO2 Soldier Policy for enlistment or SO2 Discharges for re-joins) for consideration.

### **Baseline Personal Security Standard**

**41.024. JSP 440<sup>13</sup>** mandates satisfactory completion of the security checks on all applicants (Regular and Reserves) prior to commissioning/enlistment. For commissioning this consists of completion of a Basic Security Check by Recruiting Group. For enlistment the Baseline Personal Security Standard (BPSS) is to be conducted by recruiting staff as a part of a candidate's initial eligibility checks. Post ADSC and six weeks prior to starting initial training, a Basic Disclosure check is carried out. This should disclose any unspent convictions. If, at this stage, the candidate is found to have not disclosed a conviction that is a bar to enlistment, they are to be withdrawn or discharged (if they have started training). If they are found to have not disclosed a conviction, which is not a bar to enlistment, a retrospective waiver request is raised. If a soldier has already entered training then they must be interviewed by the Commanding Officer to determine if the recruit has intentionally failed to disclose a conviction for purposes of deception. If this is the case then consideration must be given to discharging the recruit.

### **Additional Policy for Commissioning**

**41.025.** The standards required for selection for commissioning are considerably higher than for those for enlistment as a soldier. Additional details for commissioning are contained at **Annex B**.

### **Reserves**

**41.026.** As a principle, applicants for Volunteer Reserves, FTRS, UOTCs or Cadet Officers<sup>14</sup> will be treated no differently to their Regular counterparts and must comply with the direction in this policy. Sponsored Reserves provide a contracted service and are called out for permanent service. The responsibility for application of this policy rests with the employer.

### **Points of Contact**

**41.027.** The points of contact for this policy are:

- a. **Case review and waivers:** ARTD-RG-PST C2 Operations, Mil 94344 5475.
- b. **Policy Issues:** DM(A) SO2 Employment Plans, Mil 94391 3551.

Annexes:

- A. Rehabilitation of Offenders Act 1974 – Changes to rehabilitation periods from 10 March 2014 and the impact on the Armed Forces.
- B. Additional Details for Considering Offences during Selection for Commissioning.

---

<sup>12</sup> For example for serious offences committed whilst under 18 years old, or candidates for commissioning or convictions with a custodial sentence of over 48 months for enlistment.

<sup>13</sup> JSP 440, the Defence Manual of Security, Part 6, Section 2, Chapter 1.

<sup>14</sup> Under the terms of the Exceptions Orders Recruiting staff may ask about spent convictions for any employment within a cadet force concerned with military training for persons under the age of 18.

**ANNEX A TO CHAPTER 41  
REHABILITATION PERIODS  
(PARAS 41.002 AND 41.006 REFER)**

## **Aim**

1. The aim of this Annex is to explain the consequences of changes to the Rehabilitation of Offenders Act 1974 (henceforth referred to as the Act) that came into force on **10 March 2014**. The effect of these changes was to amend “rehabilitation periods” i.e. the time that must elapse before a conviction or caution becomes “spent”. This information was originally conveyed in 2014DIN01-054

## **Introduction**

2. Under the Act, following a specified period of time which varies according to how the original offence was dealt with, cautions and convictions may become ‘spent’ - as a result of which the offender is regarded as rehabilitated; the time it takes for an offence to become ‘spent’ depends on the sentence given not the offence committed.

3. For most purposes the Act treats a rehabilitated offender as if he or she had never committed an offence and, as such, they are not required to declare their spent caution(s) or conviction(s) when applying for most jobs or insurance. An employer cannot refuse to employ someone (or dismiss someone) because he or she has a spent caution or conviction unless an exception<sup>1</sup> applies. However, a Criminal Court, be it a Civilian or Service one, or the Commanding Officer at a Summary Hearing, when sentencing an individual for a new offence can have regard to his or her previous convictions, whether they are spent or unspent<sup>2</sup>.

## **Change to the Law**

4. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 amends the Rehabilitation of Offenders Act; in particular it changes the periods of time that must elapse before a caution or conviction becomes ‘spent’ (the “rehabilitation period”). The new rehabilitation periods depend on the sentence and the age of the offender when convicted and are set out in the Appendix. These new rehabilitation periods took effect on 10 March 2014 and, importantly, apply retrospectively to all existing convictions.

## **Convictions or Cautions during the Rehabilitation Period**

5. There are additional considerations when a person is convicted or cautioned for a new offence during the rehabilitation period of the old offence; these situations are outlined below and apply to all offences no matter whether they were dealt with by way of a caution or conviction or by what authority, e.g. the civilian police or a civilian or a Service court or at a summary hearing:

**a. What happens if a person is given another caution or conviction before their first conviction becomes spent?**

(1) If the later outcome is a caution (either a simple caution or a conditional caution), reprimand or warning, neither rehabilitation period will be affected. The caution or 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

---

<sup>1</sup> Examples of these exceptions that are relevant to the Armed Forces are positions that require a Criminal Records check e.g. medical professionals and personnel working with under 18s – see JSP 893 for more details.

<sup>2</sup> JSP 830 – The Manual of Service Law – Volume 1 – Chapter 13 – Paragraph 8-9 and section 7 of the Act.

a simple caution or, for a conditional caution, three months; or earlier, when the caution ceases to have effect.)

(2) Subject to limited exceptions<sup>3</sup>, if the later outcome is a conviction, then neither conviction will become spent until the rehabilitation periods for both offences are over.

(3) If the later outcome is a conviction that results in a custodial sentence of more than four years, or a public protection sentence of any length, then neither the second nor the first conviction will ever become spent.

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

**b. What happens if a person gets another conditional caution<sup>4</sup> or conviction before their first conditional caution becomes spent?**

(1) If the later conditional caution or conviction is separate to the earlier conditional caution (i.e. not for the offence in respect of which the individual was cautioned), then neither rehabilitation period will be affected. The conditional caution for the earlier offence will become spent at the time originally fixed, and the caution or conviction for the later offence will become spent after the normal period.

(2) However, if a person fails to comply with a conditional caution, and they are subsequently prosecuted and convicted of the offence for which the conditional caution was given, the caution will become spent when the conviction for the offence has also become spent.

**Example 1:** *A person receives a conditional caution for shoplifting. A month later he/she is prosecuted for dangerous driving and receives a fine. The shoplifting caution will become spent in the normal way (ie. as awarded, but up to a maximum of three months) and the dangerous driving conviction will become spent 1 year from the date of the fine in accordance with Annex A.*

**Example 2:** *A person receives a conditional caution for shoplifting. One month later he/she fails to comply with the conditions of the caution and is prosecuted for, and convicted of, another shoplifting offence for which he/she receives a fine. Neither the original caution nor the fine imposed will be spent until the end of the longer rehabilitation period – in this case 1 year from the date of the fine for the second offence.*

### **Impact on the Armed Forces**

6. The following elements of the service community have been identified as users of criminal and discipline records information and should follow the guidance in this DIN.

7. **Service discipline practitioners and deciding officers in administrative and disciplinary cases.** This includes personnel who enter conviction/caution data into JPA either as a result of a civilian conviction or caution, conviction in a Service court or at a Summary Hearing and those who consider this information as part of a disciplinary or administrative processes:

---

<sup>3</sup> As set out in Section 6 of the Act as amended

<sup>4</sup> A Conditional Caution is available, at the discretion of the civilian police and Crown Prosecution Service (CPS), as an alternative to prosecution in suitable cases. The offender, on admitting the offence, accepts a caution with certain conditions e.g. attending information awareness sessions about the effects of using drugs or paying for any damage the offender may have caused, and the civilian police/CPS agree not to press charges. If an offender does not fulfil their side of this agreement, then the Police/CPS may decide to prosecute.

a. **Recording conviction data in JPA:**

(1) **JPA records existing prior to 10 Mar 14.** Details of convictions and cautions are currently recorded in JPA together with the rehabilitation dates for those cautions or convictions. The new rehabilitation periods apply retrospectively from 10 Mar 14 but, due to the complexity of the new rehabilitation periods, there is no way to alter existing rehabilitation dates currently listed in JPA. In order to reduce the risk of decisions being made that are based on incorrect data held in JPA, a decision has been taken to blank the 'rehabilitation date' field in JPA for all convictions prior to 10 Mar 14. As a result, whenever a service person's JPA conduct record is printed/consulted the rehabilitation periods detailed in Annex A are to be manually applied to all convictions and cautions recorded prior to 10 March 2014.

(2) **JPA Records from 10 Mar 14.** From 10 March 2014 the rehabilitation periods entered into JPA are to be in accordance with Appendix 1. The JPA business process guides will be amended to refer administrators to this DIN and in due course single service publications in order to calculate the correct rehabilitation period.

b. **Use of JPA conduct record in disciplinary proceedings.** The guidance on use and consideration of conviction information at summary hearings<sup>5</sup> and the Court Martial<sup>6</sup> remains unchanged.

c. **Use of JPA conduct record in administrative action decisions.** Spent convictions are not to be considered, or presented for consideration, in respect of administrative action.

d. **Offences committed during the rehabilitation period of a previous offence.** Where Service personnel commit offences during the rehabilitation period of a previous offence (see paragraph 5), the rehabilitation period of the earlier offence may change. It is not possible for unit staff to retrospectively alter the rehabilitation period of an offence on JPA and where this is necessary, the unit is to approach those listed below for this action to be carried out:

(1) Army PersSvcs-PS2-OSC-SO1 - 94391 7260

(2) Army PersSvcs-PS2-OSC-SH-SO2 - 94391 2103

(3) Army PersSvcs-PS2-OSC-BIM-SO3 - 94391 2108

8. **Recruiting organisations.** Recruiting organisations currently ask potential recruits to provide details of all unspent convictions. AFCO Mod Form 493 will be amended to provide guidance to potential recruits to only record unspent offences. Any rehabilitated convictions/cautions that are inadvertently declared are to be disregarded by recruiting organisations.

9. **Promotion and transfer boards.** Where details of 'unspent' convictions are considered at promotion and transfer boards, board administrators are to ensure that the rehabilitation periods outlined in Appendix 1 are applied to all convictions recorded in JPA before they are presented to the board. Information about spent convictions/cautions is **not** to be presented to promotion/transfer boards. Where 'unspent' convictions are presented, they are only to be presented in such a way that does not indicate in any way that 'spent' convictions have been removed.

<sup>5</sup> JSP 830 – The Manual of Service Law – Volume 1 – Chapter 13 – Paragraph 8-9.

<sup>6</sup> JSP 830 – The Manual of Service Law – Volume 2 – Chapter 29 – Paragraph 121(d), Section 7 of the Act and Criminal Practice Directions 2013 [2013] EWCA Crim 1631 Part 35 (evidence of bad character).

Intentionally blank

**APPENDIX 1 TO ANNEX A TO CHAPTER 41  
REHABILITATION PERIODS  
(PARAS 41.002 AND 41.006 REFER)**

Sentence		Adult (18+) when convicted	Under 18 when convicted	Notes
		New rehabilitation period from 10 March 2014 (from end of sentence where indicated or from date of conviction where not)	New rehabilitation period from 10 March 2014 (from end of sentence where indicated or from date of conviction where not)	
Custodial sentence (1)	Over 4 years	Never	Never	
	More than 30 months and less than or equal to 4 years	Sentence + 7 years	Sentence + 3.5 years	(2)
	More than 6 months and less than or equal to 30 months	Sentence + 4 years	Sentence + 2 years	(2)
	Less than or equal to 6 months	Sentence + 2 years	Sentence + 18 months	(2)
Service Detention including where the sentence is suspended		Sentence + 1 year	Sentence + 6 months	(3)
A Community Order including a Service Community Order or Overseas Community Order (4)		Last day order has effect + 12 months	Last day of order + 6 months	(5)
Cashiering, Discharge with ignominy or Dismissal with disgrace from Her Majesty's Service		1 year	6 months	
Dismissal from Her Majesty's Service		1 year	6 months	
Fine		1 year	6 months	(6)
Compensation Order including a Service Compensation Order		The date on which the payment is made in full	The date on which the payment is made in full	
Reparation Order		Spent Immediately	Spent immediately	
Absolute Discharge (Scotland only), Admonishment (Scotland only), Discharge by Children's Hearing in Scotland following acceptance or judicial establishment of the commission of a criminal offence by the child		6 months from the date of the order/discharge	6 months from the date of the order/discharge	
Conditional Discharge, Bound over to keep the peace, Bound over to be of good behaviour, a Hospital Order, a Street Offences Act Order, a Referral Order under section 16 of the Powers of Criminal Courts (Sentencing) Act 2000		Last day order has effect	Last day order has effect	(7)
A relevant order (not listed elsewhere) which imposes a disqualification, disability, prohibition or other penalty		Last day order has effect	Last day order has effect	(7)
Conditional Caution		3 months; or earlier, when the caution ceases to have effect	3 months; or earlier, when the caution ceases to have effect	
Formal/Simple Caution,		Spent Immediately	Spent Immediately	

Sentence	Adult (18+) when convicted	Under 18 when convicted	Notes
	New rehabilitation period from 10 March 2014 (from end of sentence where indicated or from date of conviction where not)	New rehabilitation period from 10 March 2014 (from end of sentence where indicated or from date of conviction where not)	
Alternatives to Prosecution – Category 1 – warnings given by a constable or a procurator fiscal, fixed penalty notices under section 129 of the Antisocial Behaviour (Scotland) Act 2004.	Spent Immediately	Spent Immediately	
Alternatives to Prosecution – Category 2 – fiscal fines, fiscal compensation orders, fiscal work orders, fiscal activity/treatment orders and a notice to comply with a restoration order.	3 months from the date made	3 months from the date made	
Forfeit of Seniority	Spent Immediately	Spent Immediately	
Reduction in Rank	Spent Immediately	Spent Immediately	
Severe Reprimand	Spent Immediately	Spent Immediately	
Reprimand	Spent Immediately	Spent Immediately	
Service Supervision and Punishment Order	For the period specified in the order	For the period specified in the order	(8)
Stoppage of Leave	Last day order has effect	Last day order has effect	(9)
Restriction of Privileges	Last day order has effect	Last day order has effect	(9)
Admonition	Spent Immediately	Spent Immediately	

## Notes:

- (1) Includes Imprisonment (including suspended sentences), Detention in a young offender's institution, Bostal training, Youth Custody, Corrective Training, Detention, and Detention and Training orders. Does **not** include sentences of Service detention either in MCTC or other service custody facilities– see Service Detention.
- (2) Starting from the day on which the sentence (including any licence period) is completed.
- (3) Starting from the day on which the sentence is completed i.e. the date on which the individual is actually released from Detention –
- (4) Includes a Community Order, Community Rehabilitation Order, Community Punishment Order, Community Punishment and Rehabilitation Order, Drug Treatment and Testing Order, Drug Abstinence Order, Probation Order, Community Service Order, Combination Order, a Youth Rehabilitation Order, a Curfew Order, Exclusion Order, Attendance Centre Order, Supervision Order, or Action Plan Order.
- (5) From the end of the order. This period starts from the last day of when the order given by the court has effect. When no such date is provided, the rehabilitation period for the order is 2 years starting from the date of conviction.
- (6) Includes fines imposed by a Service court or a CO at a Summary Hearing, and fines upon children or young persons but ordered to be paid by their parents.



(7) The day provided by or under the order as the last day on which the order is to have effect. Where there is no provision for such a day, rehabilitation is 24 months beginning with the date of conviction.

(8) For example, where an individual is awarded a SSPO for 60 days the sentence will be rehabilitated after 60 days even if the individual's CO reviews the punishment and decides to conclude the punishment earlier.

(9) Where the CO decides that the punishment should not begin immediately, the sentence will be rehabilitated on the last day the order has effect.

Intentionally blank

**ANNEX B TO CHAPTER 41**  
**ADDITIONAL DETAILS FOR CONSIDERING OFFENCES DURING SELECTION FOR**  
**COMMISSIONING**

(PARAS **41.005** AND **41.020** REFER)

1. **General.** The standards required for selection for commissioning are considerably higher than for those for enlistment as a soldier and the Army's Values and Standards must be considered as an important element during the application of this policy. Any individual with an unspent custodial sentence, or three or more unspent convictions, or one unspent conviction listed at **para 5** below, will **not** be considered for Officer entry. Other convictions may have a waiting period applied before an applicant may commence officer training. The appropriate waiting period for such offences is stipulated at **para 6** below however in all cases if the conviction is spent then it may not be considered (less for MOD Form 1109).
2. **Entry Guidelines Relating to Commission Applicants with Previous Civil or Military Convictions or a Current Charge.** When applying for a Commission, an applicant is required to complete a declaration on the Security Questionnaire (**MOD Form 1109**) stating whether he/she has any spent or unspent convictions or is waiting to appear before a court charged with an offence. All convictions, including offences for which he/she may have been absolutely discharged, given a community based sentence or probation order, or bound-over must be declared. ROA permits questions to be asked to assess, for the purpose of safeguarding national security (or in Northern Ireland of protecting public safety or order), the eligibility of a person. Spent convictions are assessed by DVA. An applicant will not be permitted to commence training at RMAS until the Security Check process and **MOD Form 1109** process are completed.
3. **Pending Action.** If after making the declaration, whether before or after attending AOSB, but in any case before joining RMAS, an applicant is convicted, required to appear before a court to answer a charge, or it appears likely that he/she will be charged, the Officer Candidate Applicant Administration Cell, RMAS must be informed immediately, preferably through the applicant's sponsor. Normally progress through the selection system will be suspended until it is possible to reassess his/her eligibility after the court's decision, in accordance with the entry guidelines.
4. **Late Entry Officers.** In principle, in order to be considered for selection for a Late Entry Commission, an individual must fulfil the requirements for commissioning described above. An individual may still be selected for commissioning if at the time of enlistment, an individual held convictions which would have precluded commissioning, but by the time of consideration for a LE commission, these offences may be spent with the appropriate waiting period completed (as per DE counterparts) and therefore may not preclude a LE commission. An individual may not be considered for a LE Commission if he/she has a case pending, in accordance **with para 3** above, or the individual has committed an offence (which is unspent) during service as an enlisted soldier, which is contrary to the 'Values and Standards' of the Army, in which he/she will have been trained during service. Where there is doubt, the case should be passed to the Army Commissions Board for consideration. Selection for commissioning may also depend on convictions which impact on potential employment in roles requiring CRB clearance.
5. **Offences.** Any individual will **not** be considered for Officer entry who has:

  - a. an unspent custodial sentence
  - b. or three or more unspent convictions
  - c. or unspent convictions of one of the following offences.

Ser	Offence	Remarks
1	<p><b>Offences against the Person and Other Serious Offences</b></p> <p><b>Group A</b>            ABH            Common assault            Contempt of court            Using an offensive weapon</p> <p><b>Group B</b>            Malicious wounding            GBH            Affray</p> <p><b>Group C</b>            Murder            Manslaughter            Kidnapping            Wounding with intent            Firearms/other weapons/explosives offences            Terrorist offences            Managing quasi-military organization            Perjury</p>	<p>Two or more, when dealt with by fine, conditional discharge, bind over, remand home or children's home. One conviction may be considered.</p> <p>One or more, when dealt with by a custodial sentence, including a suspended prison sentence, probation or community order. Save exceptional circumstances.</p>
2	<p><b>Offences against Property (Two)</b>            Robbery            Burglary            Forgery            Fraudulent trading            Obtain property, services or pecuniary advantage by deception            Handling stolen goods            Other offences of dishonesty            Serious cases of criminal damage            Arson</p>	
3	<p><b>Drug Offences</b>            Possession of Class A drugs            Supplying any controlled drugs            Other drug offences</p>	
4	<p><b>Sexual Offences and Offences of Indecency</b></p>	

6. **Waiting Periods.** Some unspent convictions, listed at the table below, may attract a waiting period before a candidate may commence initial training. A decision is made by the MOD (Recruiting

Group SO1 Offrs if prior to AOSB and RMAS if post-AOSB), as to whether or not an individual may be considered for Officer entry, based on his/her full record.

Ser	Offence	Unspent Convictions	Waiting Period
1	<b>Serious Traffic Offences.</b> Death by dangerous driving. Dangerous driving. Causing death by careless driving under the influence of drink / drugs. Aggravated vehicle taking. Careless driving. Driving without a licence. Driving without insurance. Driving whilst unfit. Driving with excess alcohol or drugs and therefore classified as 'driving under the influence'. Drunk in charge of a vehicle. Failure to provide a specimen.	All	When a driver is <b>disqualified from driving</b> , the rehabilitation period will be the same length as the period of disqualification. It is important to note, however, that if more than one penalty is imposed at once, the rehabilitation period takes the length of the longer sentencing. Because an endorsement does not fall under the relevant part of the Act, not being a 'disability, prohibition or other penalty', it does not have any effect on rehabilitation periods for road traffic convictions. If a driver were to be fined for an offence and also have their licence endorsed, the rehabilitation period would be defined by the rehabilitation period for a fine, and the endorsement would not factor in at all.
2	<b>Public Order Offences.</b> Disorderly behaviour. Breach of peace. Criminal damage.	One offence	No waiting when a minor penalty is imposed. Conviction resulting in a heavy penalty will be considered separately.
		Two offences	Expiry of later court order.
3	<b>Offences against the Person and Other Serious Offences.</b> <b>Group A</b> ABH. Common assault. Contempt of court. Using an offensive weapon.	One only	Each case will be judged on its merits by ARTD but those with convictions committed at a young age and dealt with by a light penalty will be considered for entry before the conviction is spent; those with a heavier penalty will not.
4	<b>Offences against Property (One).</b> Theft. Making off without payment. Taking and driving away.		As per serial 3 (Group A) above.

