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10 things about criminal records

A guide for employability
professionals supporting people
into work

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In association with:



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About Unlock

Unlock is an independent award-winning charity for people with convictions. Unlock helps people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Unlock also supports employers to adopt fairer recruitment practices and works at a policy level with government, employers and others to achieve a fairer and more inclusive society.

About this guide

This guide is designed for practitioners that support people with criminal records into employment, including employability professionals, job centre advisors, careers advisors and probation officers.

It is available to download at www.unlock.org.uk/helpingpeople. It has also been published as part of the '10 things' guides hosted by the [Institute of Employability Professionals](http://www.unlock.org.uk/helpingpeople)¹ (IEP). The report includes hyperlinks to other information – if you are using a hard copy, a list of web addresses can be found at the end of the guide.

More information

Unlock works with employability professionals to help them to be better equipped with expert, accurate and up-to-date knowledge on criminal records and disclosure.

This is done by delivering training; Unlock's '[Advising with Conviction](#)'² criminal record disclosure course is **endorsed** by the **Institute of Employability Professionals** and the **Probation Institute**. It covers issues such as how individuals can find out about their criminal record; how to work out whether a conviction is spent or not; and if they need to disclose, how best to go about it.

Training courses are regularly run in London. Places can be booked online by visiting www.unlock.org.uk/training.

In-house training sessions for larger teams are also available; if you're interested in learning more, go to www.unlock.org.uk/inhousetraining or email admin@unlock.org.uk.

Summary

A criminal record can be a significant barrier when applying for jobs. Most companies ask about criminal records at some stage. [Research³](#) published by Unlock in 2018 found that more than 70% of the biggest employers in the UK ask about criminal records at application stage. Many employers react negatively when an applicant discloses a criminal record. How somebody goes about this disclosure is important, as it will normally affect their chances of being offered the job. A positive and effective disclosure will boost their chances.

More than 11 million people in the UK have a criminal record. As an employability professional there is a good chance that you will encounter clients with a criminal record. Understanding criminal records will help you tailor your advice and support. Most people don't shout from the rooftops about their past. They're often ashamed, embarrassed and worried about who else will find out and fear that support may be withdrawn if they disclose. Demonstrating an awareness of the relevant issues can help create an open dialogue, ensuring clients feel comfortable discussing their criminal record and asking for support.

Identifying whether someone needs to disclose their record when applying for jobs is vital. The Rehabilitation of Offenders Act 1974 sets out when convictions become 'spent'. Most convictions will become spent at some point, and once they are spent, they don't need to be disclosed for most jobs. Spent convictions will not be revealed on a basic DBS certificate. However, jobs in some sectors – childcare and health and social care, for example – are exempt from the Rehabilitation of Offenders Act and require applicants to disclose spent convictions and cautions. Standard and enhanced DBS certificates will reveal spent convictions and cautions (unless they are [filtered⁴](#)).

The majority of problems associated with criminal records relate to employment. However, issues can also arise in buying insurance, applying for housing, going to college and university, and travelling abroad. You can direct clients to our [advice, guidance and support⁵](#).

Facts about people with a criminal record

- There are over 11 million people in the UK with a criminal record
- Less than 10% of people that get a criminal record are sentenced to prison
- People with convictions are the least likely 'disadvantaged group' to be employed
- For many, it can be their main barrier to employment
- Nearly three-quarters (73%) of people are unemployed on release from prison
- 80% of people make at least one benefit claim within a year of release
- 33% of benefit claimants have received a criminal record in the last ten years
- In a recent government report, only 29% of prison leavers received advice on dealing with their criminal record from the Work Programme

10 things employability professionals should do:

1. Know if clients have a criminal record

- It might seem obvious, but it is not always as straightforward.
- An arrest does not automatically result in a criminal record.
- Most Fixed Penalty Notices do not constitute a criminal record.
- Many people (often wrongly) assume that their record will be deleted if they were under 18.
- Many criminal records are from many years ago and people may not remember the details.
- Depending on the type of work they're looking for, you might suggest they apply for a basic disclosure (which will show unspent convictions) or a copy of their police record (which is helpful for jobs involving standard or enhanced DBS checks). See if you can help with the costs of these.
- Understand any conditions or restrictions that may prevent someone from applying for certain jobs – these could include barring, disqualification or exclusion zones.
- If a client is on licence it may be beneficial to communicate with their supervising officer – but ensure the client is included in the discussion and that data protection responsibilities are upheld.
- Don't ask them to provide you with a DBS check as this might cause data protection issues.
- Try to give people the confidence to be open and honest with you so that you are in the best position to be able to help them.

2. Understand the types of checks employers can do

- Official criminal records checks in England and Wales are carried out by the Disclosure and Barring Service (DBS). DBS certificates disclose information depending on the level of check.
- There are three levels of criminal record check: basic, standard and enhanced.
- Basic checks can be carried out for any role and disclose [unspent convictions only](#)⁶.
- Standard checks are carried out for specified roles such as solicitors, accountants and the security industry. They disclose unspent as well as spent convictions. They can also disclose cautions.
- Enhanced checks are usually carried out for work with children and vulnerable adults. These disclose unspent and spent convictions and cautions and can include other information, e.g acquittals. The police assess the relevance of information before deciding whether to disclose it.
- Enhanced checks can also include checks of the children's and adult's barred lists, if applicable.
- Some single convictions, and many cautions, can be removed from standard and enhanced DBS checks after a specified period. This is known as [filtering](#)⁷.
- Some employers try to do a higher level of check than needed. This can cause problems for those with spent convictions. Understanding the levels of check will help you challenge bad practice.
- Some employers carry out informal checks using online sources. Media reports often contain inaccurate or misleading information, and remain online after a conviction is spent. Using this information may be a breach of data protection legislation and the Rehabilitation of Offenders Act.

3. Advise if/when a record is spent

- It's important you know how to help somebody work out if their record is spent, or when it might become spent in the future.
- Whether a criminal record is "spent" is determined by the Rehabilitation of Offenders Act 1974
- Once spent it needn't be disclosed when applying for most jobs and won't appear on a basic check.
- We have produced a guide on [spent periods](#)⁸.
- For multiple convictions it can be more complicated – our [disclosure calculator](#)⁹ can help.
- Unspent convictions should be disclosed if an employer asks.
- If the client is unsure of the details of their criminal record, they can apply for their own basic disclosure or a copy of their police record.

4. Advise whether a criminal record will appear on a standard or enhanced DBS disclosure

- Certain jobs are 'exempt' from the Rehabilitation of Offenders Act and so can involve a higher level of check – a standard or enhanced disclosure.
- Only certain jobs involve these checks (including working with children), but if they do, spent convictions will normally be disclosed, and many cautions will too.
- Some single convictions, and many cautions, will be filtered from standard and enhanced certificates. For example, a person with a single conviction for shoplifting at the age of 15 will have that filtered (i.e. removed) after 5.5 years.

5. Advise whether there is a legal need to disclose

- Under the GDPR, if an employer asks about criminal records during recruitment, they should explain why it is necessary to ask.
- Generally, an applicant only needs to disclose if asked.
- If a conviction is spent (for jobs involving basic checks), or filtered (for jobs involving standard or enhanced checks), clients don't need to disclose, even if asked specifically.
- If a conviction is unspent (for jobs involving basic checks), or not filtered (for jobs involving standard or enhanced checks), clients should disclose if they're asked.

6. Discuss when it is beneficial to disclose if not asked

- An applicant should normally wait until they're asked about their criminal record before they disclose.
- We advise employers to only ask about criminal records once they have identified their preferred candidate.
- Some applicants prefer to disclose at an earlier stage to make sure they're not wasting their time.
- Some people on licence, probation or subject to other restrictions may be required to disclose by the police or probation.
- If a client thinks the employer might find out some other way, for example through an internet search or from a member of the public, they may want to disclose instead of waiting for the employers to find out.

7. Recognise why someone may prefer not to disclose

- If an employer asks a misleading question, an applicant may not be legally required to disclose. For example, a job in a supermarket does not require disclosure of spent convictions, even if asked “have you ever been convicted?”
- Many people prefer to disclose face-to-face and may consider not disclosing at the earliest stage. There are downsides to withholding information until later on.
- Some people feel they’re more likely to get the job if they don’t disclose. Employers don’t all official checks and for short-term work the risk of being found it is probably quite low. However, if an employer finds out, they will likely see it as grounds for dismissal. The individual might get prosecuted for fraud – and if the person is still on licence, they could be recalled back to prison. If the employer doesn’t find out, the person might be anxious about forever looking over their shoulder.

8. Help clients work out when and how best to disclose

- Ideally an employer should ask about criminal records at the job offer stage, once they’ve decided on the best applicant. That way, the person only has to disclose to the employer that wants to employ them, and it makes it less likely they’ll revoke the offer as they’ll know that person is the best applicant.
- Ultimately, an applicant should disclose when asked; this could be on the application form, at interview, or after the job offer, depending on the specific employers’ approach.
- Overwhelmingly, the most effective way to disclose is face-to-face.
- Regardless of when an employer asks, the person should have a self-disclosure statement prepared – this will help them when talking face-to-face, or it can be used to provide details in writing if requested.
- A self-disclosure statement should be no more than one side of A4. It should be kept simple and be personalised to the person and the particular job – don’t copy templates!
- It should address any concerns the employer may have, but it’s important for it to come across positively and not concentrating on the negatives of the criminal record.

9. Know about friendly employers

- Many companies employ people with criminal records.
- Proactive employers often sign up to initiatives such as the Employers Forum for Reducing Reoffending (EFFRR) and the Ban the Box campaign.
- ‘Good’ employers will deal with criminal records on a case-by-case basis.
- We regularly hear from people working in a wide-range of careers; from construction, restaurants and hotels, to solicitors, accountants and the NHS, so people shouldn’t just apply to those that are publically ‘friendly’ towards people with criminal records.
- There are details of [friendly employers](#)¹⁰ on our information site.

10. Support and challenge employers

- Under the GDPR, employers who ask about criminal records must meet certain conditions. We have produced guidance for employers on complying with the [GDPR and data protection law](#)¹¹.
- Many employers react negatively when an applicant discloses a criminal record.
- You can support the applicant by offering to be a referee or a point of contact for the employer.
- Encourage employers to take a case-by-case approach towards applicants and understand the specific situation before they make a decision.
- Our website for employers, [Recruit!](#)¹² which has practical guidance for employers. Encourage employers to use this in their approach and to sign up to campaigns like Ban the Box.
- Challenge employers that ask misleading questions or have unfair policies using the guidance and resources on [Recruit!](#) Share examples of bad practice with Unlock.

Web addresses for hyperlinks featured in this guide

¹ <http://www.myiep.uk/>

² <http://www.unlock.org.uk/for-practitioners/training>

³ <http://www.unlock.org.uk/report-a-question-of-fairness/>

⁴ <http://hub.unlock.org.uk/knowledgebase/filtering-cautions-convictions/>

⁵ <http://www.unlock.org.uk/support-for-people-with-convictions/>

⁶ <http://hub.unlock.org.uk/information/rehabilitation-of-offenders-act-1974/>

⁷ <http://hub.unlock.org.uk/knowledgebase/filtering-cautions-convictions/>

⁸ <http://hub.unlock.org.uk/knowledgebase/spentposter/>

⁹ <http://www.disclosurecalculator.org.uk/>

¹⁰ <http://hub.unlock.org.uk/knowledgebase/looking-for-friendly-employers/>

¹¹ <http://recruit.unlock.org.uk/wp-content/uploads/Employer-GDPR-guidance.pdf>

¹² <http://recruit.unlock.org.uk/>