

Criminal Convictions & Insurance

Briefing for Insurers

Introduction

1. In March 2014, there were changes to legislation that determines when convictions become 'spent'.
2. In March 2015, there were changes to how third-parties can access criminal record details.
3. This briefing covers both of these developments, supplementing guidance published by the ABI.

Aims of this briefing

1. To help insurers' understanding of disclosure periods for offences under the Rehabilitation of Offenders Act 1974
2. To promote good practice when asking for criminal records
3. To provide guidance to insurers on the proper channels for accessing unspent conviction histories

1. Rehabilitation of Offenders Act

1. The Rehabilitation of Offenders Act 1974 (ROA) sets out when convictions become spent.
2. Once convictions become spent:
 - a. They do not have to be disclosed when taking out insurance.
 - b. It is unlawful for an insurance company to take them into account when offering a policy or refusing a claim on the basis of non-disclosure.
3. The time it takes for convictions to become spent depends on the sentence, and whether there are any further convictions.
4. The time it takes for motoring offences to become spent can be confusing.
5. More information:
 - a. Unlock guidance for individuals – ROA - hub.unlock.org.uk/roa
 - b. Unlock guidance for individuals – Motoring offences – hub.unlock.org.uk/roamotoring
 - c. Tool – www.disclosurecalculator.org.uk

2. Asking for criminal records

1. For personal insurance, if insurance companies want customers to disclose unspent offences, they should ask a specific question.
2. Questions we see can often be misleading. Here's an example of an 'assumption' we recently came across:

*'You or anyone living with you have **never** been convicted of **any** criminal offence (other than motoring).'*

3. There are over 10.5 million people in the UK that have a criminal record.
4. Failing to make the question clear can have an impact on insurers;
 - a. Potential customers can end up 'over-disclosing' (as it's unclear to them what they do and don't need to disclose) resulting in higher quoted premiums and them going elsewhere.
 - b. Breaching data protection legislation.
5. Examples of clear questions:
 - a. *"Do you have any unspent non-motoring convictions"*
 - b. *"Do you have any unspent motoring offences, including endorsements for road traffic offences"*
6. Example of clear guidance:
 - a. *"You do not need to disclose offences that are spent under the Rehabilitation of Offenders Act 1974. If you have a criminal record and you're not sure whether you need to disclose it, you can use an online tool at www.disclosurecalculator.org.uk or seek advice from Unlock, an independent charity. Visit hub.unlock.org.uk/roa."*
7. Motor insurance
 - a. A number of insurers only ask for motoring convictions for motor insurance.
 - b. Could more motor insurers follow this approach?
 - c. For home insurance, could insurers ask more relevant questions than generic 'unspent' questions?
8. Top tips:
 - a. Ask a clear question which makes reference to 'unspent' or 'spent' (depending on how the question is framed).
 - b. Any questions about criminal records should be clear that 'spent' criminal records do not need to be disclosed.
 - c. Encourage people to work out if their record is spent: Refer to sources of help including www.disclosurecalculator.org.uk and hub.unlock.org.uk/roa.
 - d. Don't rely on the assumptions section.

. Accessing unspent conviction histories

1. On 10th March 2015, section 56 of the Data Protection Act 1998 (DPA) came into force. This covers 'enforced subject access'.
2. This makes it a criminal offence to obtain police records through an individuals' 'subject access' rights under the DPA.
3. Insurers should no longer have policies or processes in place that request or require customers to provide a copy of their police record.
4. Insurers may ask customers to provide proof of unspent offences. This is known as a 'basic disclosure'.
5. Individuals can apply for their own basic disclosure through Disclosure Scotland. The cost is £25.
6. For proof of motoring convictions, insurers should note the formal process of sharing DVLA records through MyLicence or DVLA's Shared Driving Licence Service, and not through asking individuals to print their online record.
7. More information:
 - a. ABI Guidance Note – Enforced Subject Access
 - b. Unlock guidance on enforced subject access - recruit.unlock.org.uk/enforced
 - c. Unlock guidance for individuals on basic disclosures – hub.unlock.org.uk/basicdisclosure
 - d. Basic disclosures through Disclosure Scotland – www.disclosurescotland.co.uk
 - e. Unlock guidance for individuals – DVLA records – hub.unlock.org.uk/dvlarecords

Useful links

1. Guidance for insurers – hub.unlock.org.uk/insurers
2. ABI Good Practice Guide
3. Guidance for individuals – hub.unlock.org.uk/insurance
4. Disclosure Calculator – www.disclosurecalculator.org.uk

About Unlock

Unlock is an independent, award-winning charity for people with convictions which exists for two simple reasons. Firstly, we assist people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Secondly, we seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives.

More information

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