

# Insurance providers & criminal records

Research into the questions asked

September 2017

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## About Unlock

Unlock is an independent award-winning national charity that provides a voice and support for people with convictions who are facing stigma and obstacles because of their criminal record, often long after they have served their sentence.

Firstly, we help people to move on positively with their lives by empowering them with information, advice and support to overcome the problems associated with their past convictions. Secondly, we seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives.

# Background

It is well known that when applying for jobs, people with unspent criminal convictions<sup>1</sup> have to disclose them to an employer if asked. It is less known that similar rules apply to buying insurance.

Insurance providers ask about criminal records when a person applies for cover across a range of insurance products, including buildings, contents, motor and public liability insurance. Convictions that are now 'spent' (as set out by the ROA) do not need to be disclosed for insurance purposes and they should not be taken into account by insurance providers when providing quotes. There are over [11 million people](#) in the UK that have a criminal record. There are approximately 735,000 people with unspent convictions.

Unlock's [information site](#) had over 1.3 million visitors between April 2016 and March 2017 and our helpline was contacted by over 6,500 over the same period. We regularly receive enquiries from people with convictions that are looking for insurance. **Common problems include:**

1. Individuals being unable to obtain quotes from mainstream insurance providers when they reveal that they've got a criminal record.
2. Those with spent convictions being confused by the questions they are being asked by insurers, with many wrongly believing that spent convictions need to be disclosed and may be taken into account.
3. Instances where insurers take into account spent convictions when they have a legal obligation to disregard them.
4. Policies being withdrawn because, instead of asking a question, the insurer includes some form of "no convictions" statement in the assumptions relating to the policy. When the individual discovers this and informs the insurer, they revoke the policy.

## What we did

In order to gather quantitative evidence of the scale of these problems, we conducted a review of mainstream insurance providers to establish the ways in which they dealt with people with convictions, particularly regarding the questions or assumptions they had around the disclosure of them.

This research forms part of our policy work on [fair access to insurance](#). Any enquiries about this research should be sent to [policy@unlock.org.uk](mailto:policy@unlock.org.uk).

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<sup>1</sup> As defined by the Rehabilitation of Offenders Act 1974 (ROA)

# Our aims and methodology

The aims of the research were to establish:

1. The questions asked by (or assumptions of) insurance providers in relation to criminal records.
2. How insurers responded when an applicant disclosed an unspent conviction.
3. Whether insurers made it clear that spent convictions did not need to be disclosed.
4. How insurers responded when an applicant disclosed a spent conviction.

Between May and July 2016<sup>2</sup>, we reviewed **42 high-street insurance providers**,<sup>3</sup> focusing on their **home contents insurance** application process.

As part of this review, we:

1. Looked at the questions/assumptions insurers ask on their online quotation forms.
2. Used a scenario involving an individual with unspent convictions. The individual had been convicted of theft from her employer 18 months ago and had received a 12-month community order. Under the Rehabilitation of Offenders Act 1974, it would become spent in 6 months' time. We looked at what happened if the applicant ticked "yes" to the question about convictions on the online form:
  - a. Were they able to quote online? If so, at what price?
  - b. If not, would they quote over the phone?
3. Used a scenario involving an individual with spent convictions. The individual had been convicted of theft from her employer 2.5 years (30 months ago) and had received a 12-month community order. Under the Rehabilitation of Offenders Act 1974, it had become spent 6 months' previously. We looked at what happened if the applicant ticked "no" to the question about convictions on the online form but then rang to tell them about a spent conviction:
  - a. Did the insurer rule it out because it was spent?
  - b. If they initially considered it, how did they respond when it was made clear that it was spent and so shouldn't be considered?

To ensure consistency in the research, we used the same scenarios for all insurance providers.

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<sup>2</sup> Although we are not aware of any changes to the approaches of providers reviewed in this research, we cannot guarantee that they have not since been altered or amended.

<sup>3</sup> The 42 insurance providers we reviewed were AA, Admiral, Allianz, ASDA, Aviva, AXA, Bank of Scotland, Barclays, Castle Cover, Churchill, Columbus Direct, Co-Op, Direct Line, esure, First Direct, Halifax, Hastings Direct, HSBC, John Lewis, Kwik-Fit, Legal and General, Littlewoods, Lloyds Bank, LV, Marks and Spencer, More than, NatWest, Post Office, Privilege, Prudential, RAC, RBS, Sainsbury's, Santander, Sheilas' Wheels, Swiftcover, Swinton, Tesco, UIA, Uswitch, Very and Zurich.

# Key findings

## 1. Questions asked about convictions

### All insurance providers asked about convictions

All 42 insurance providers either asked about convictions or had an assumption that had to be confirmed before the insurance could be purchased.<sup>4</sup>

There was significant variation in the clarity and format. For example:

1. On the one hand, Admiral asked a simple, clear question, with useful help text:
  - a. Question: *“Do you or anyone living in the property have any unspent criminal convictions or have any prosecutions pending”.*
  - b. The help text explained: *“Please tell us about unspent criminal convictions for all occupants. A conviction is unspent if its rehabilitation period has not yet ended. Please do not disclose convictions classified as 'spent' under the Rehabilitation of Offenders Act or any motoring offences.”*
2. On the other hand, the Post Office had the following question with no help text:
  - a. Question: *“Has anyone in the property ever been convicted of, or is awaiting trial for, any crime other than motoring offences?”*
3. There was helpful guidance provided by others:
  - a. For example, esure provided a link to Unlock’s [disclosure calculator](#) to help work out if convictions were spent.

### Insurance providers not referring to the Rehabilitation of Offenders Act 1974

1. Of the 42 insurance providers we looked at, 28 (67%) did not refer to the Rehabilitation of Offenders Act 1974 or the need to only disclose a conviction if it is unspent.<sup>5</sup>
  - a. For example, Aviva has the following statement:  
*“No person to be insured has ever had any criminal convictions, police cautions or have any prosecutions pending”*
2. Only 14 insurance providers<sup>6</sup> (33%) referred to the Rehabilitation of Offenders Act 1974 (or only asked for unspent convictions to be disclosed).

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<sup>4</sup> Appendix A has a full breakdown of the questions or assumptions of the providers we looked at.

<sup>5</sup> These were AA, Asda, Aviva, Castle Cover, Churchill, Columbus Direct, Co-Op, Direct Line, First Direct, Hastings Direct, HSBC, John Lewis, Legal and General, Littlewoods, More Than, NatWest, Post Office, Privilege, Prudential, RAC, RBS, Sainsbury's, Sheilas' Wheels, Swinton, UIA, Uswitch, Very and Zurich

<sup>6</sup> These were Admiral, Allianz, Bank of Scotland, Barclays, esure, Halifax, Hastings Direct, Kwik Fit, Lloyds, LV, Marks and Spencer, Santander, Swiftcover and Tesco.

## 2. When insurers ask about convictions

### A wide variation

The point at which convictions came up during the online process varied. The results are set out in the table below:

When they ask	Number	Percentage
At the beginning	10	24
Later in the application	9	21
After all the applicant's details taken	15	36
After quotation	8	19

### Those that leave it right until the end

Eight insurance providers (AA, Bank of Scotland, Co-op, Halifax, Hastings Direct, John Lewis, Lloyds Bank and Zurich) did **not** ask any questions about convictions prior to providing a quote. However, after providing quotes, they had some form of question or assumption which related to convictions.

### Making assumptions

A significant number of the providers we reviewed relied on assumptions that could easily be missed.

For example, esure has a lengthy section that states:

*"I, or any member of my family, civil partner, cohabitee or any joint named policy holder living permanently with me in the home, have not:...*

- *been convicted of any criminal offence (other than motoring convictions) or have any prosecutions or police enquiry's pending (any convictions spent under the Rehabilitation of Offenders Act 1974 do not need to be disclosed). (click here to confirm if you need to disclose)"*

Some providers asked applicants to confirm that they had **never** been convicted.

For example, both Churchill and Direct Line had the following assumption after all details had been taken:

*"You or any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending"*

## 3. Response to unspent convictions

### Blanket refusals online

100% of the insurance providers that asked about convictions (or had some form of assumption) refused to quote when an unspent conviction was disclosed. None of the providers sought additional information about the nature of the conviction.

### No individual consideration

Insurance providers were contacted by telephone to see whether the particular circumstances of the unspent conviction could be considered. Only one provider – Barclays - offered a quote over the telephone when an unspent conviction was disclosed. However they increased the annual premium by £22.60, from £81.06 to £103.66.

Some of the providers imposed arbitrary time limits, at which point they would only then consider the applicant. For example, LV would consider applicants 5 years after the conviction (regardless of whether it became spent sooner than that).

## 4. Response to spent convictions

### Taking convictions into account even when they're spent

1. After completing an online form and ticking “no” to convictions, we rang to tell them about a spent conviction. We made it clear that we thought the conviction was spent and so shouldn't be taken into account.
2. 19% of the providers we looked at took into account the conviction even though it was now spent.
3. One provider - Direct Line - quoted a higher premium when informed of a spent conviction. The premium went up from £58.04 to £129.31 – an increase of over 200%.
4. Seven providers (Aviva, Co-op, esure, LV, Littlewoods, Sheilas' Wheels and Very) refused to quote, even though the conviction was spent. For example, when we informed LV over the telephone of a conviction that, although less than five years ago, was now spent, they acknowledged that the conviction was spent, but re-stated their policy of not offering insurance to anyone convicted of any offence within the last five years. We had a similar experience with Aviva.

# Conclusion and recommendations

## 1. It is unclear to customers what they are being asked

There was great variation in both the ways the questions were asked and the guidance provided. This was confusing to customers and risked people either disclosing information they did not have to, or not disclosing information they did have to. Unlock produced a [briefing for insurers](#) in 2016 which included examples of clear questions and guidance, including links to help customers answer questions put to them. The [ABI has guidance](#) on insurers' approach to people with criminal records, but the guidance is not widely implemented and needs improvement.

**Recommendation 1: The insurance industry should update good practice and insurance providers should implement clear and consistent wording in relation to asking about unspent convictions.**

## 2. Insurance providers are misleading customers

Although some providers linked to [resources](#) to help determine if convictions are spent, the majority of insurance providers we reviewed (67%) did not make it clear that there is **no** requirement for individuals to disclose spent convictions under the Rehabilitation of Offenders Act 1974. As a result of the current questions being used, those with a spent conviction may disclose something which they have a legal right not to. This could lead to an insurance provider holding personal information they are not entitled to hold under the Data Protection Act 1998, refusing to provide a policy or charging a higher premium.

**Recommendation 2: Insurance providers should ensure that they make it clear to applicants that they only have to disclose unspent convictions (and/or do not have to disclose spent convictions).**

## 3. There is an over-reliance on assumptions

Although the point at which convictions came up during the online process varied, the majority of providers waited until near the end of the process. For example, 35% of those we reviewed did not ask until all other details about the customer had been taken, and 17% allowed individuals to obtain a quote before displaying the assumptions that then ruled out people with unspent convictions. Such an approach runs an increased risk that customers will mistakenly take out an insurance product that is unsuitable for.

**Recommendation 3: Insurance providers should not rely on assumptions about criminal records and instead should ask a clear question about unspent convictions.**

## 4. No mainstream insurer offers insurance to people with unspent convictions

All 42 insurance providers refused to offer a home insurance policy online to an applicant with unspent convictions. There was no individual consideration but simply the result of indicating the presence of a conviction. Only one provider subsequently offered a policy over the telephone.

**Recommendation 4: Mainstream insurers should develop systems that better enable customers to provide details of their unspent conviction so that individual considerations can be made.**

## 5. Insurers are breaking the law by taking into account spent convictions

We found examples where insurance providers took into account convictions that were spent under the Rehabilitation of Offenders Act 1974. The result was that they either increased the premium (Direct Line) or refused to quote (Aviva, Co-op, esure, LV, Littlewoods, Sheilas' Wheels and Very). We believe the reasons for this are two-fold:

1. *Insurers have policies that are in conflict with the ROA* – For example, a policy of “not offering a policy to someone with a conviction in the last 5 years” runs the risk of taking into account convictions that have become spent in that 5-year period.
2. *Insurers misunderstand the ROA* – When applying their policy, or when responding to queries, the information provided by insurance providers is inaccurate.

**Recommendation 5: Insurance providers should review their policies to ensure that they are consistent with the Rehabilitation of Offenders Act 1974.**

**Recommendation 6: Insurance providers should ensure that their customer services staff are trained on the Rehabilitation of Offenders Act 1974 and have access to internal guidance that enables them to respond to queries raised by customers.**

## Appendix – The providers and the questions

The table below sets out the questions/assumptions of the insurance providers that we looked at in 2016. It also identifies whether they make reference to the Rehabilitation of Offenders Act 1974 and/or the need to only disclose “spent” convictions.

Insurance provider	Question asked or assumption	Did they refer to the need to only disclose unspent convictions?	At what point in the application	Any additional guidance or help text
AA	You and your household have never been convicted or are not about to be criminally prosecuted (except motoring convictions)	No	After quote	No
Admiral	Do you or any other occupants of your home have any unspent or pending criminal convictions?	Yes	During quote	Yes. In "Help" it explains that convictions considered spent under the Rehabilitation of Offenders Act 1974 do not need to be disclosed.
Allianz	That you or any person co-habiting have no unspent convictions, other than motoring convictions, and do not have any prosecutions pending	Yes	During quote	No
ASDA	You and your family have not ever received any conviction except for driving.	No	During quote	No
Aviva	No person to be insured has ever had any criminal convictions, police cautions or have any prosecutions pending.	No	After all details taken	No

AXA	You and your family living at the property have not had any criminal convictions other than motoring offences, and do not have any prosecutions pending.	No	After all details taken	No
Bank of Scotland	You or anyone living with you: Do not have any criminal convictions (other than motoring offences). Convictions which are spent under the Rehabilitation of Offenders Act do not need to be disclosed. If you're not sure if any criminal convictions are spent you can find out more from organisations such as Unlock	Yes	After quote	No
Barclays	You or anyone to be insured has never had any criminal convictions, police cautions or prosecutions pending	Yes	At beginning	Please note: that in line with the Rehabilitation of Offenders Act (1974), you do not have to tell us about any criminal conviction or police caution that is spent. If you are uncertain whether your offence is spent or not contact us on 0800 068 8097
Castle Cover	You or anyone who lives with you has never been convicted or received a police caution or been charged with but not yet tried for any offence, other than a motoring offence.	No	At beginning	No
Churchill	You or any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending	No	After all details taken	No
Columbus Direct	That no person to be insured has ever had any criminal convictions, police cautions or prosecutions pending.	No	After all details taken	No

Co-Op	You or anyone living with you have never been convicted of any criminal offence (other than motoring offences) and do not have any prosecutions pending.	No	After quote	No
Direct Line	You or any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending	No	After all details taken	No
esure	I, or any member of my family, civil partner, cohabitee or any joint named policy holder living permanently with me in the home, have not: been convicted of any criminal offence (other than motoring convictions) or have any prosecutions or police enquiry's pending (any convictions spent under the Rehabilitation of Offenders Act 1974 do not need to be disclosed). (click here to confirm if you need to disclose)	Yes	During quote	Links to Unlock's disclosure calculator
First Direct	That you or any person to be insured has never had any criminal convictions, police cautions or prosecutions pending.	No	At beginning	No
Halifax	You or anyone living with you: Do not have any criminal convictions (other than motoring offences). Convictions which are spent under the Rehabilitation of Offenders Act do not need to be disclosed. If you're not sure if any criminal convictions are spent you can find out more from organisations such as Unlock	Yes	After quote	No
Hastings Direct	You and any person residing with you do not have any unspent criminal convictions or pending prosecutions for any offence other than motoring convictions.	Yes	After quote	No

HSBC	That you or anyone to be insured have never had any criminal convictions, police cautions or have any prosecutions pending.	No	At beginning	No
John Lewis	To be eligible for cover, please read and confirm that the statements are accurate. You and your family HAVE NOT: Received a conviction for any offence other than driving.	No	After quote	No
Kwik-Fit	Has any resident had any non-motoring convictions, or pending prosecutions, that are not spent by the Rehabilitation of Offenders Act 1974?	Yes	During quote	No
Legal and General	You or anyone living with you have not been convicted of, charged with but not yet tried for, any offence other than a driving offence	No	During quote	No
Littlewoods	That you or any joint policy holder has never had any criminal convictions except driving offences.	No	After all details taken	No
Lloyds Bank	Do you or anyone living with you: • Do not have any criminal convictions (other than motoring offences). Convictions which are spent under the Rehabilitation of Offenders Act do not need to be disclosed. If you're not sure if any criminal convictions are spent you can find out more from organisations such as Unlock.	Yes	After quote	No
LV	Have you or anyone living with you been convicted of any criminal offence in the last five years excluding motoring convictions?	Yes	During quote	Yes, it explains that you do not need to tell them about any conviction spent under the Rehabilitation of Offenders Act 1974

Marks and Spencer	That you and anyone living with you have not been cautioned or convicted of any offence other than a motoring offence, and do not have any prosecutions pending (any convictions spent under the Rehabilitation of Offenders Act 1974 do not need to be disclosed).	Yes	At beginning	No
More than	To make sure that you are eligible, please confirm that the following statements are true. That you or your family HAVE NOT : received any conviction except for driving offences	No	After all details taken	No
NatWest	You and any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending.	No	At beginning	No
Post Office	Has anyone in the property ever been convicted of, or is awaiting trial for, any crime other than motoring offences?	No	During quote	No
Privilege	You and any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending.	No	After all details taken	No
Prudential	You and any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending.	No	After all details taken	No
RAC	You and your family have not ever been convicted of a criminal offence other than motoring offences or have any prosecutions pending.	No	After all details taken	No

RBS	You and any adult living with you have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending.	No	After all details taken	No
Sainsbury's	You and any adult living with you: Have never been convicted of any criminal offence (other than motoring convictions) or have any prosecutions pending	No	After all details taken	No
Santander	That you or anyone in the household to be insured have never had any criminal convictions, police cautions or prosecutions pending.	No	At beginning	States that 'where a conviction is spent under the Rehabilitation of Offenders Act as amended by the Legal Aid, Sentencing and Punishment Act 2012 you need not advise us of this. If you are unsure whether or not a conviction is spent, refer to <a href="http://www.disclosurecalculator.org.uk">www.disclosurecalculator.org.uk</a> or Unlock's public helpline 01634 247350'
Sheilas' Wheels	I or any member of my family, civil partner, cohabitee or any joint named policy holder living permanently with me in the home, have not: been convicted of any criminal offence (other than motoring convictions) or have any police enquiry pending; received a police caution with an insurance policy claim	No	During quote	Yes. A link takes you to the online calculator on Unlock's website
Swiftcover	You and your family living at this home have not had any criminal convictions (other than motoring convictions) and do not have any prosecutions pending. Any convictions spent under the Rehabilitation of Offenders Act 1974 do not need to be disclosed.	Yes	After all details taken	No

Swinton	You or your family or anyone living with you has not had any criminal convictions (other than motoring convictions).	No	At beginning	No
Tesco	Can you answer 'yes' about you or all of the adults living with you? - None of us has any criminal convictions (non-motoring), or any pending convictions, excluding convictions spent under the Rehabilitation of Offenders Act 1974	Yes	At beginning	No
UIA	That you or any adult living with you have never been convicted of any offence (other than motoring convictions) or have any prosecutions pending.	No	At beginning	No
Uswitch	In order to reduce the number of questions we ask you, we can only quote for home insurance online if you meet the conditions listed below:- You or anybody living with you has never been convicted of any criminal offence	No	After all details taken	No
Very	That you or any joint policy holder has never had any criminal convictions except driving offences.	No	After all details taken	No
Zurich	Neither you or any of the people living in the property has convictions or have convictions pending other than motoring offences	No	After quote	No