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10 things about criminal records

A guide for employability
professionals supporting people
into work

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/inhouseprofessional) (IEP).

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](#)' 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, details are available at www.unlock.org.uk/inhousetraining or you can email admin@unlock.org.uk.

Summary

Most people associate someone with a criminal record as being someone that's been to prison. However, the vast majority of people that have a criminal record (over 90%) will never have stepped foot in a prison.

A criminal record is often a significant barrier when applying for jobs. Many companies ask about criminal records; some of the biggest employers in the UK have tick-boxes on their application forms about criminal records which many people will need to tick if they have received a criminal conviction.

Knowing the details will help you tailor your advice and support. However, most people don't shout from the rooftops about their past. They're often ashamed, embarrassed and worried about who else will find out. So even though you might be trying to help someone, they might not want to tell you about their convictions, fearing you'll judge them if they do. This can be an obstacle in understanding who, out of those you're helping, has a criminal record and, if they do, what the details are.

Whether someone legally needs to disclose their record when applying for jobs is an important question. 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 (and won't be revealed on a basic disclosure). However, many jobs involve higher levels of criminal record check (standard and enhanced checks) and these disclose spent convictions (unless 'filtered').

The majority of problems associated with criminal records relate to employment. 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. However, issues can also arise in buying insurance, applying for housing, going to college and university, and travelling abroad.

Some facts and statistics

- There are over 10.5 million people in the UK that have a criminal record.
- Less than 10% of people that get a criminal record end up going to prison.
- 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.
- People with convictions make up a sizeable proportion of the unemployed population – 33% of Job Seekers Allowance claimants have received a criminal record in the last ten years. For many, it can be their main barrier to employment.
- In a recent government report, only 29% of prison leavers received advice on dealing with their criminal record from the Work Programme.
- People with convictions are the least likely 'disadvantaged group' to be employed.

10 things that employability professionals should do:

1. Know if they have a criminal record

- It might seem obvious, but who has a criminal record (and what the details are) is not always as straight-forward as it might seem.
- The vast majority of people with a criminal record have not been to prison. It will often be from many years ago.
- Many people (often wrongly) assume that their record will no longer be relevant so they think they don't need to disclose the details to those that are helping them find work.
- While for some people that might be true, you should try and 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.
- Many people will be unsure about whether they do or don't have a criminal record because it was from many years ago.
- Depending on the type of work they're looking to apply for, you might suggest they apply for a basic disclosure (which will show unspent convictions) or get a copy of their police record (which is helpful for jobs involving standard or enhanced DBS checks). See if you can help to cover the costs of these.
- Remember – you should only be suggesting these options so that it better helps them tell you about their record. You shouldn't make your support conditional upon them sharing these details with you, and don't get them to give you their official criminal record disclosure (such as a DBS check) as this might cause you data protection issues.

2. Understand what types of checks employers can (and can't) do

- There are three main types of criminal record check that employers can do; basic, standard and enhanced.
- Basic checks can be carried out during the recruitment process of any employment or volunteering position and only disclose unspent convictions.
- Standard checks are carried out for professional 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 mostly carried out for roles involving working with children and vulnerable adults. They disclose unspent as well as spent convictions and can also disclose cautions.

- Enhanced checks might also disclose other relevant information, such as allegations made to the police. There is a strict procedure that the police follow, deciding whether it's relevant to the specific situation, before deciding whether to disclose it or not on the check.
- Enhanced checks can also include checks against the children's and adult's barred lists, depending on the role the check is being applied for.
- Some employers try to do a higher level of check than the role is eligible for. This can cause particular problems for people with old convictions that no longer need to be disclosed. Help individuals challenge this where this happens.
- Some employers rely on informal checks, such as internet search engines and checks of social media. Some people with recent and/or serious offences will find that their details can be found online. Informal checks are not recommended as they often contain inaccurate or misleading information.

3. Advise if (or when) their record is spent and so removed from a basic disclosure

- Whether a criminal record is "spent" is determined by the Rehabilitation of Offenders Act 1974.
- Once a conviction is spent, it doesn't need to be disclosed when applying for most jobs and will not be disclosed on a basic check. For example, a 4-month prison sentence as an adult becomes spent 2 years from the end of the full sentence. That's assuming there are no further convictions in between. It gets more complicated if there are multiple convictions.
- 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.
- There is a useful online tool that can help – www.disclosurecalculator.org.uk
- Most jobs are covered by these disclosure rules (unless the job is 'exempt') and these jobs can involve a basic criminal record check as part of the recruitment process.
- For official confirmation, you should advise the individual to get their own basic disclosure – this is proof of any unspent convictions (but it doesn't tell you when they might become spent).

4. Advise whether it will show up 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, can be removed from standard and enhanced DBS checks after a certain period. This is known as 'filtering'. 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 they legally need to disclose

- Generally, an applicant only needs to disclose if they're asked, but it also depends on the job and their record.
- If it's unspent (for jobs involving basic checks), or not yet filtered (for jobs involving standard or enhanced checks), they would legally need to disclose if they're asked.
- If it's spent (for jobs involving basic checks), or filtered (for jobs involving standard or enhanced checks), they don't need to disclose, even if they're asked specifically about them.

6. Discuss when it might be beneficial to disclose even if they're not asked

- An applicant should generally wait until they're asked about their criminal record before they disclose.
- Some employers wait until the job offer and then simply conduct official checks. 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 the sex offenders register may be required to disclose by the police or probation as part of their safeguarding responsibilities.
- If a person 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 for themselves instead of waiting for the employers to find out some other way.

7. Recognise when someone might choose not to disclose when asked

- If an employer asks a misleading question, the person may not need to legally disclose even if the question suggests they should. For example, if they're applying for a job in a supermarket, they don't need to disclose spent convictions, even if the question they're asked is "have you ever been convicted?".
- Some people prefer to disclose at a different stage to when they're asked. For example, many companies ask questions at application stage, whereas many people prefer to disclose face-to-face. There are downsides to withholding information until later on.
- For some people, the risk of not disclosing is worth it. They feel they're much more likely to get the job. Many employers don't do official checks. For certain situations, like temporary work, the risks of not disclosing are reduced significantly. However, if an employer finds out they've lied, they will see it as a breach of trust and could withdraw their job offer. They'll have grounds for dismissal in the future. 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 them work out when and how it might be 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 on our information site – visit hub.unlock.org.uk/gettingwork.

10. Support and challenge employers

- Many employers react negatively when an applicant discloses a criminal record. They are often concerned about their staff, customers and reputation.
- You can support the applicant by offering to be a referee or a point of contact for the employer.
- You can support an employer to take a case-by-case approach towards each person and help them to better understand the specific situation before they make a recruitment decision.
- Unlock manages a website for employers, Recruit! (recruit.unlock.org.uk), which has practical guidance for employers and ten principles of fair recruitment practice. Encourage employers to use this in their approach and to sign up to campaigns like Ban the Box.
- Some employers have misleading questions in their application process and operate unfair recruitment practices. Challenge these employers using the guidance and resources on Recruit!. Share examples of bad practice with Unlock.

Our information is subject to a disclaimer. Please read this before taking any action. Visit hub.unlock.org.uk/disclaimer.

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