

Disclosure guidance for adult job seekers



Here is a disclosure guidance for adult job seekers, ready and able to work who need to disclose their criminal record.

What is a DBS check?

A DBS check is a record of a person's criminal convictions and cautions – carried out by the Disclosure and Barring Service.

It's an essential requirement for those applying to work with children or vulnerable adults (e.g. in teaching or healthcare) – and the information shown is used to ascertain a candidate's suitability for a particular role.

So lets start with the basics—What does 'spent' and 'unspent' mean?

Spent— This is when your conviction or 'rehabilitation period' ends and no longer needs to be disclosed to employers for most jobs that carry out basic DBS checks. These jobs would be covered by the Rehabilitation of Offenders Act 1974.

Some jobs and roles might involve a standard or enhanced criminal record check and these checks will normally show spent convictions and cautions so you will need to disclose these if the organisation is doing one of these checks

It is against the law for companies to obtain information about your spent convictions unless the law states that they can ask an exempted question. This would usually happen when applying for a job that is 'exempt' from the Rehabilitation of Offenders Act.

Some spent cautions and convictions are removed from standard or enhanced checks if they meet a set of technical rules known as filtering. If your caution or conviction is now filtered, it will not show up on these checks and you do not need to disclose it when applying for any role that involves that level of check.

Unspent— This is when your 'rehabilitation period' is still on going and not yet 'spent'. Unspent convictions will show on all levels of DBS checks—basics, standard and enhanced.

If an employer asks, you must disclose convictions that are unspent. Many employers still recruit people with unspent convictions, however some companies may have a policy in place that means you are refused employment.

You could face prosecution if you fail to disclose an unspent conviction.

If you undergo a standard or enhanced DBS check, you'll be required to disclose any conviction, caution, final warning or reprimand that isn't protected. Only the information your employer is legally entitled to know will appear on your DBS certificate.



Disclosure & Barring Service

What the law say's — Rehabilitation of offenders Act 1974

In 1974 the Rehabilitation of offenders Act was introduced. Prior to this, all information in relation to any previous/current offences would need to be disclosed to an employer.

The Rehabilitation Act determines when a criminal record becomes spent and it gives people with spent convictions and cautions, the legal right not to disclose them when applying for most jobs, and other purposes such as purchasing insurance.

Employers are not allowed to discriminate on the basis of spent convictions. However, some jobs are exempt from this rule, including:

- Jobs that involve working with children or vulnerable adults
- Senior roles in banking or finance
- Law enforcement roles, including the police and judiciary
- The military, navy and air force
- Work involving national security
- Certain roles in healthcare, pharmacy and the law
- Certain roles in the prison service
- Private security work

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Will my offences show up on a criminal record check?

If you have any unspent convictions, you are legally required to disclose them.

The length of time it takes for the conviction to become spent – known as the ‘rehabilitation period’ – depends on how severe the penalty was. Until this rehabilitation period is complete, the conviction is ‘unspent’.

Some jobs may require your potential employer to apply for a DBS check on your behalf. If you have unspent convictions, they will show up on any level of disclosure.

If you have spent convictions, they won’t appear on a basic disclosure, but will show up on a standard or enhanced DBS check – unless they’ve been protected or filtered in line with current guidance.

‘Filtering’ is the term the DBS uses to describe the process which identifies and removes protected convictions and cautions so they’re no longer disclosed on a DBS certificate. I appreciate this can be really confusing, so I have attached a resource document from Unlock, which will help explain the filtering process.

Standard or enhanced DBS checks are required for jobs that involve working with children or vulnerable adults, or in positions of responsibility like law and accountancy.

If you are unsure on the type of DBS check you will need to complete for the line of work you are trying to get into—please visit www.unlock.org.uk—they have some excellent resources, including a list of A-Z jobs with the type of DBS required for each job role.

Will my convictions be held against me?

That depends on the nature and severity of your convictions, and whether they’re relevant to the job you’re applying for.

Serious crimes involving violence or sexual abuse are likely to prevent you from working with children or vulnerable adults, whilst crimes involving fraud or theft may prevent you from getting a job involving finance or cash handling.

Minor crimes, like getting into a fight as a teenager, may be overlooked by the majority of employers.

Honesty is always the best policy. Talk about your conviction in a way that will reassure a potential employer that you’ve moved on, and give examples of when you’ve showed responsibility and trustworthiness.

Remember, employers are not allowed to discriminate against applicants because of spent convictions, unless a DBS check shows they are unsuitable for the role.

Preparing to disclose.

It is a good idea to be prepared to disclose your criminal record if:

1. You have 'unspent' convictions and you are asked, by the employer, for a criminal record declaration; or
2. You are applying for a job that is 'exempt' from the ROA.

If one of the above applies to you, it is a good idea to check with the organisation or company what the recruitment or admission policy is in relation to the declaration of criminal records. You could check the organisation's website or make an anonymous enquiry with the Human Resources department. If the policy states that jobs are not offered to applicants with 'unspent' convictions, and you have an 'unspent' conviction, it is probably not worth applying. Many employers and organisations consider applicants on a case-by-case basis, so it is worth checking and applying if this is their policy.

Even though you might feel embarrassed about disclosing a criminal record, remember that almost one in four people of working age have at least one conviction and many more have accepted police cautions, reprimands and final warnings. You are not alone, and the employers are likely to have experienced criminal record disclosures before.

When disclosing your criminal record, it is important to relate what you write (or say) to the job for which you are applying. A good disclosure offers the employer reassurance about your offence(s). Try to put yourself in the shoes of the employer who is receiving this information and is trying to make a judgment on the basis of the information you are providing.



Preparing to disclose (continued)

When preparing to make a disclosure to an employer, consider the following:

- **When the offence was committed:** if your offence(s) happened a long time ago, then highlight this. If the conviction is recent but the offence happened a long time before, explain this as well.
- **Number of offences:** if the offence is a one-off and was out of character, highlight this. If you have a number of offences that occurred over a period of time, try to group them together (e.g. “between 2001 and 2005 I was convicted on a number of occasions for offences relating to...”).
- **Relevance:** offence categories include a range of behaviour or offences which can make it difficult for employers to judge whether the offence is relevant to the job you are applying for. For example, burglary can be breaking into somebody’s house and putting somebody in fear of violence, or it could be simply trespassing in a derelict building. If the offence is not particularly relevant, explain this to the employer.
- **Seriousness:** if the offence sounds more serious than the circumstances were, highlight this. One way of explaining to employers that an offence is not as serious as it might sound is by drawing attention to the penalty or sentence that you received.
- **Context:** if there were particular circumstances or reasons behind the offence(s), explain these to the employer. For example, if you had an addiction issue at the time of the offending which you have since addressed, this is important information for the employer to be aware of.
- **Responsibility:** if you took responsibility for the offence(s) at the time – for example if you pleaded guilty at the earliest opportunity, or co-operated with the investigation – then you should say so.
- **Changed circumstances:** this is the most important part of your disclosure – reassuring the employer that whatever the reasons or causes that led to your offending, that you have since addressed them, changed them, or learnt from them.

A disclosure statement can often help to get your thoughts into some kind of order which you can use as a prompt when disclosing face to face or to hand over to an employer as evidence of what you’ve disclosed.

If you would like support writing your own disclosure letter, please contact:

rudi@leicestershirecares.co.uk or Siobhan@leicestershirecares.co.uk

We can offer you online support and help draft you a letter to use for future interviews.



For more information about how to disclose correctly, how to write a disclosure letter, or how to work out whether your convictions are spent or unspent.

Please visit www.unlock.org.uk for some very useful tips and advice.