

Disclosing Convictions:

Frequently Asked Questions

Is my conviction/caution spent?

What makes a conviction 'spent' depends on your age at date of conviction in court and the length and type of sentence received. The rehabilitation periods are outlined in The Rehabilitation of Offenders legislation. The Rehabilitation of Offenders (NI) Order 1978 applies in NI. The England / Wales equivalent is The Rehabilitation of Offenders 1974 Act. The rehabilitation periods by virtue of the 1974 Act are shorter. If a recruiter in NI chooses to ask for disclosure under the 1974 Act then you can respond accordingly.

Convictions can only become spent for certain jobs. If you have more than one conviction there can be implications. It can depend on offences being classed as summary or indictable. A Basic Access NI Certificate will provide information on any unspent convictions. If a conviction is spent, it should not appear on a Basic Certificate.

A caution is not a conviction but some jobs will require disclosure of unfiltered caution information.

- **Is my conviction / caution filtered?**

Contact Access NI for information on the filtering process.

- **Is my diversionary youth disposal spent?**

This is not a conviction but may be disclosable for certain jobs if not subject to filtering.

- **I'm completing a job application form. How do I disclose?**

You need to determine what, if anything, you need to disclose. Don't disclose any specific details on the application form. Respond 'yes' as appropriate and say you are willing to provide further information at a later stage. This may improve your chances of being shortlisted. Keep copies of application forms. If you meet the criteria and are not shortlisted then ask why.

- **I'm applying for a course at university / college / training. Do I need to disclose my conviction / caution / informed warning etc.?**

It depends on the course you are applying for.

- **Do I need to disclose my conviction I got during 'the Troubles'?**

Conflict related convictions are subject to disclosure just the same as ordinary convictions. Refer to the relevant legislation to determine the rehabilitation period of your conviction. Consider the nature of the job you are applying for.

- **I've been suspended from work because of an old conviction. What do I do?**

Seek advice from your union if a member. Look at your terms and conditions. Consider - did your employer ask you to disclose at point of recruitment? Might the conviction be spent?

- **I have a case pending. Do I need to tell my employer?**

This depends on the job.

- **I've been refused a job because of my conviction. What can I do?**

You can explore the process used. Was an Access NI Enhanced Disclosure Certificate obtained? If so, did the recruiter comply with the Access NI Code of Practice? Further info from Access NI, LRA or ECNI.

- **I've been asked for an Enhanced Access NI Disclosure Certificate for a new job. I'm unsure this job requires an EDC. What can I do?**

Ask the recruiter – does the position meet the definition of an 'Excepted' position as defined by the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 amended or is it a Regulated Activity position as defined by the Safeguarding Vulnerable Groups NI Order 2007. There must be lawful justification for any recruiter to obtain an Enhanced Disclosure Certificate.

- **I've heard about changes to the disclosure legislation. What has changed?**

In April 2014 The Rehabilitation of Offenders 1974 Act changed. This meant the rehabilitation period was reduced, allowing convictions to become spent much sooner. This legislation applied in England and Wales, not in NI, but some recruiters in NI still ask for disclosure by virtue of the English legislation. If you are asked to disclose under the English legislation and your conviction is spent, you can say 'no' as you lawfully have no disclosure to make. If however this recruiter should ask for a Basic Access NI Disclosure Certificate, information would be disclosed by Access NI in line with the NI specific legislation, The Rehabilitation of Offenders NI Order 1978.

- **I've heard I can get my criminal record wiped. How can I do this?**

Once information goes on your criminal record it stays there. Your record can never be wiped. In the event of factual inaccuracy you can raise a dispute with Access NI. There are proposals in the recently passed Justice Bill for a review mechanism planned for 2016 which may consider not disclosing some convictions on a case-by-case basis.

- **What types of jobs involve criminal record checks?**

A recruiter can do a criminal record check for any type of job. The level of check which can be done depends on the post. There are three levels of Access NI Disclosure Certificates. Further information is available from Access NI.

- **Will my conviction/caution be disclosed on a Basic Standard / Standard / Enhanced Access NI Disclosure Certificate?**

This depends on whether your conviction is spent or information is subject to filtering. Further information is available from Access NI.

- **I've been asked for a Disclosure Scotland check. What is this?**

Disclosure Scotland provides criminal record checks under Part V of the Police Act 1997, similar to Access NI. Anyone can apply for a Basic Disclosure Scotland Certificate. As there are differences in the legislation, Disclosure Scotland will look at the applicants address and automatically apply the legislation which applies in the country of residency. Applicants from NI can write to Disclosure Scotland and ask for the English legislation to be applied. This

means if your conviction is spent under the English legislation and not under the equivalent NI legislation, it should not be disclosed.

- **What does filtering mean?**

Filtering was introduced by Access NI in April 2014 for standard and enhanced checks. Access NI follows complex filtering rules which apply to convictions, cautions, informed warnings or diversionary youth conferences in an individual's criminal history. If your offence was 'specified' it will not be filtered. Further information is available from Access NI.

- **How can I find out the details of my criminal record?**

You can apply for a Subject Access Request. This will provide details of all information on your record. Alternatively you can apply for a Basic Access NI Disclosure Certificate. This will provide information on any unspent convictions.

- **I need to get insurance – where can I go?**

Most insurance companies ask for information on unspent convictions. Failure to disclose can invalidate a policy. The organisation [Unlock](#) has extensive information on companies which will consider individuals with convictions. Note – some do not insure in Northern Ireland.

- **Does my record stop me from travelling abroad?**

It might. You can travel within the European Union without difficulty. If you need a visa you can contact the relevant foreign consulate office to explore implications. Convictions can have an impact on visa issue.

- **Do I need to disclose my penalty notice for disorder?**

This information may be disclosed on an Enhanced Access NI Disclosure Certificate, even though it is not a conviction. It's a personal decision. There is no way of knowing until the certificate is issued.

- **I have penalty points on my driving licence. Do I need to disclose these for a job application?**

Penalty points are not disclosable under The Rehabilitation of Offenders Legislation. If you are applying for a driving position there may be implications for insurance so the recruiter would be justified in asking for certain posts. This information is best disclosed at the latter stage of the recruitment and selection exercise.

- **I want to apply for an SIA Licence. Will my criminal record stop me?**

It might. There is a Criminal Record Indicator tool on the Security Industry Authority's website. This will provide an indication of the implications.

- **Will my criminal record stop me from getting into certain jobs?**

Having a criminal record does not rule you out of applying for certain jobs. The only exception is if you are on a Barred List you should not apply to work in Regulated Activity. Otherwise you can apply for any job but there are some occupational areas where you will encounter difficulties.

- **I've been investigated by PSNI but never charged. Will this show up on my record?**

This non-conviction type of information will be held on your record and may be disclosed on an Enhanced Access NI Disclosure Certificate.

- **I received a caution twenty years ago. I was twelve years old. Will this be on my record?**

Yes it will be on your record and can currently routinely be disclosed by Access NI on an Enhanced Disclosure Certificate. If the caution is subject to filtering it may not be disclosed. Further information is available from Access NI.