



Looking for work and disclosing convictions

What is the Law?

The Rehabilitation of Offenders (NI) Order 1978 was introduced to give people a chance to 'make a fresh start'. After a period of time, convictions can become 'spent' making it legally right to say 'No' when asked the question 'Do you have a criminal record?' The length of time (i.e. the rehabilitation period) depends on the age at the time of conviction and the type of sentence received

Sentence	Aged 18 or over at conviction	Under 18 years at conviction
Absolute Discharge	6 months	
Probation Order, Bind Over, Conditional Discharge, Care/Supervision Order	Date Order ceases OR 1 year—whichever longer	
Attendance Centre Order, Juvenile Justice Centre Order, Youth Conference Order, Reparation Order, Community Responsibility Order	1 year after Order expires	
Hospital Order	5 years OR 2 years after Order expires—whichever longer	
Fine or Community Service Order Combination Orders	5 years	2 1/2 years
Prison—(immediate or suspended) OR Young Offenders Centre—sentence of 6 months or less	7 years	3 1/2 years
Prison—(immediate or suspended) OR Young Offenders Centre over 6 months—under 2 1/2 years	10 years	5 years
A period of detention of less than 6 months under Article 45 of the CJ(Children) (NI) Order 1998	N/A	3 years
A period of detention of over 6 months but less than 30 months under Article 45 of the CJ (Children) (NI) Order 1998	N/A	5 years
NB: CUSTODIAL SENTENCE OF MORE THAN 2 1/2 YEARS CAN NEVER BECOME SPENT		

- Consecutive prison sentences count as a longer single sentence
 - If more than one sentence was imposed, the longer period applies.
 - If you are re-convicted during a rehabilitation period, it may be extended.
 - Under this Legislation an employer is not entitled to 'spent' conviction information and can not use this as a reason to dismiss or not to recruit an applicant.
 - Having a spent conviction doesn't mean that it is removed from your criminal record, just that you don't have to declare it.
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Exceptions

There are some jobs where different Legislation applies – called 'excepted' employment. In these cases The Rehabilitation of Offenders (Exceptions) Order NI 1979 applies. These jobs are usually where you have elevated risk element – perhaps through working with young people (e.g. teaching) adults in certain capacities (e.g. nursing) or handling financial information (e.g. working in a call centre).

In these cases employers are entitled to spent and unspent conviction information, and some non-conviction information too (like cautions) provided that the employer asks the question and that they clearly indicate that the post is an excepted one.

There may be occasions where, even for excepted posts, your conviction information might not need to be disclosed as the information might be 'filtered'. For more information on this contact Access NI.

How should I disclose conviction information?

If an employer does not ask you any questions about your record, then it will be up to you whether or not you wish to disclose the information about unspent convictions.

It might be better for the employer to get the information directly from you at the start, as failure to disclose a conviction which is not spent can give the employer the opportunity to dismiss you.

If you are asked directly about your criminal record, you would be expected to declare any conviction that is not spent and you should take the opportunity to disclose this information in an honest and constructive way.

This can be difficult to do if you are asked for details on the application form itself. However you could indicate yes I do have a conviction and state *'willing to provide further information at a later date'*.

If you have served a prison sentence there may be gaps in your work history when completing the application. Again you might want to say 'unavailable for work at that time' and explain the circumstances in a separate letter.

Preparing a letter or statement discussing your criminal convictions may seem a difficult thing to do but it does give you a chance to make the points that you think are most important and you should include the following:

- Factual information ... offence title, date of conviction and sentence
- Your circumstances at the time that may have led to the offence being committed
- Your own views / feelings about what happened. It is important that you don't blame others or make excuses and that you take responsibility for your own actions and the impact on others
- What has happened since / any relevant changes in your circumstances during the period since conviction, any particular achievements
- The job you are applying for / and why the employer should be able to disregard your convictions.