

# Criminal Record Checks – Quick Guide

Criminal Record Checks can seem confusing at first glance. Which level of check is the correct one for the job role? What information is returned? How does the application process work? What should we do if the applicant has convictions? This informative guide answers these questions and more to help you get it right first time.

## WHICH LEVEL OF CRIMINAL RECORD CHECK IS THE CORRECT ONE FOR THE JOB ROLE?

There are four levels of criminal record check (or 'disclosure' as they are referred to): Basic, Standard, Enhanced and Enhanced with List Checks. **The level of disclosure applicable is determined the applicant's job role or profession.** Standard, Enhanced and Enhanced with List Checks can only be obtained if the applicant's job role or profession is specified in the Police Act 1997 and/or the Rehabilitation of Offenders Act 1974 (Exception) order 1975.



## WHAT INFORMATION IS RETURNED?

Each of the four types of disclosure return different levels of information:

	<b>NOT JOB ROLE SPECIFIC.</b> Employers can request a basic disclosure on any employee with their consent.	<b>Applicable if the applicant's job role is specified in the Police Act 1997,</b> for example regulated roles within financial services.	<b>Applicable for job roles that do not work specifically with children and/or adults but may work with both</b> e.g. taxi drivers and for certain other professions e.g. within the judicial system.	<b>Applicable to individuals working in regulated activity with children and / or adults under the Safeguarding Vulnerable Groups Act 2006.</b>
	<b>BASIC</b>	<b>STANDARD</b>	<b>ENHANCED</b>	<b>ENHANCED with list checks</b>
<b>Unspent Convictions</b>	✓	✓	✓	✓
<b>Spent Convictions</b>	✗	✓	✓	✓
<b>Cautions</b>	✗	✓	✓	✓
<b>Information Held Locally by Police Forces</b>	✗	✗	✓	✓
<b>Children's and/or Adults Barring Lists*</b>	✗	✗	✗	✓

\* Where relevant to the job role applied for



The Disclosure and Barring Service (DBS) provide guidance for employers to help determine which level of disclosure is the correct one for a candidate's job role - search 'DBS eligibility guidance' to access the guide and online eligibility tool.

[knowyourcandidate.co.uk](http://knowyourcandidate.co.uk)

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## WHAT ARE 'SPENT' AND 'UNSPENT' CONVICTIONS?

Under the Rehabilitation of Offenders Act 1974, convictions become 'spent' following a rehabilitation period. The rehabilitation period will vary depending on the conviction. An unspent conviction is one where the rehabilitation period has not expired. A custodial sentence of more than four years will never become spent.

## HOW LONG DOES IT TAKE FOR A CONVICTION TO BECOME 'SPENT'?

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed. The rehabilitation periods for the most common disposals are shown in the table below:

CUSTODIAL SENTENCES	REHABILITATION PERIOD FOR ADULTS <sup>(1,3)</sup>
0 - 6 months	2 years
6 - 30 months	4 years
30 months - 4 years	7 years
More than 4 years	Never spent

NON-CUSTODIAL SENTENCES	REHABILITATION PERIOD FOR ADULTS <sup>(2,3)</sup>
Community Order	1 year
Fine	1 year
Conditional Discharge	Period of the order
Simple Caution	Spent immediately
Conditional Caution	3 months

1) 18 and over at the time of conviction or the time the disposal is administered. This rehabilitation period applies from the end date of the sentence. 2) 18 and over at the time of conviction or the time the disposal is administered. This rehabilitation period applies from the date of the conviction. 3) The rehabilitation periods are halved for those who are under 18 at the date of conviction (except for custodial sentences of six months or less where the rehabilitation period is 18 months) **Important Note:** this is intended as general guidance only – IT IS NOT LEGAL ADVICE.

## HOW LONG IS A CRIMINAL RECORD CHECK VALID FOR?

Any information revealed on a disclosure certificate will be accurate at the time the certificate was issued. Disclosure certificates do not carry a pre-determined period of validity because a conviction or other matter could be recorded against the candidate at any time after it is issued.

You should check the date of issue on the certificate to decide whether to request a newer one. In certain employment sectors a new criminal record check may be required periodically.

## WHAT SHOULD WE DO IF OUR APPLICANT HAS A CONVICTION?

The majority of criminal record checks will be clear, however, in circumstances where convictions are returned employers should not automatically de-select the applicant from the recruitment process. Time should be taken to engage with the applicant and assess:

- The nature and background of the offence
- The relevance to the job role
- Whether the offence would affect the individual's ability to do the job
- The age of the candidate at the time of conviction
- The length of time since the offence occurred
- Whether the conviction was a one-off or part of a pattern of repeat offending



The CIPD, NACRO and Apex Scotland all provide guidance regarding employing ex-offenders.

Search 'employing ex-offenders' to access articles and guides on this topic.



Call us today to discuss your requirements.

[knowyourcandidate.co.uk](http://knowyourcandidate.co.uk)

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