

**Seeds for
Change**
In-depth guide



Impact of convictions

A guide to how criminal convictions can impact your life

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Introduction

The impact of a criminal conviction will be different for different people, and will also change over the course of an individual's life. Understanding these varying impacts can enable us to support each other better, and to help make more informed choices about the kind of risks we are each able to take.

This guide covers the impact of convictions on various areas of life for people in the UK. It focuses on the ways disclosing a criminal record may affect you – it does not explore the wider consequences convictions can have, such as impacts on your financial security, emotional well being, health or relationships.

How badly people's lives are impacted by convictions is also shaped by inequality. Convictions can have greater consequences depending on how secure your housing or employment is, your citizenship or immigration status, or the wealth you have available if fined, for example. How people are treated by the police and courts in the first place is also unequal – often affected by your race, class, or other factors.

The information here is written with people in mind who may face convictions for protest action, but it may be useful for anyone with a criminal conviction. We have included links to further info where possible.

The information in this guide is largely taken from two websites: **unlock.org.uk** (which also operates a helpline and online forum) and **greenandblackcross.org**. Please refer to these websites for more information.

Please note

The information in this guide is based on current (November 2022) rules on convictions. The rules in some areas – particularly immigration – are likely to change. You may want to double check with specific sources or a lawyer.

Understanding your criminal record

What is normally called your 'criminal record' is a list of offences you've been **convicted** of. It can be used by potential employers, insurance companies or other authorities. The level of information disclosed in your record depends on the situation.

There is a lifelong record kept on the Police National Computer of your historical involvement with the police (e.g. arrests, charges, cautions and convictions). However, this contains much more information than what must be disclosed to employers or other authorities, or would be shown in most checks.

In general, your criminal record only contains **convictions** and **cautions**. These become 'spent' when a certain period has passed (see section below). The Rehabilitation of Offenders Act 1974 sets out that in most cases you should not be discriminated against if your conviction is 'spent' and that you do not have to declare spent convictions, even if asked. Most checks will only disclose your unspent convictions. This means that in most cases, when you are asked "do you have any criminal convictions?", the question means **unspent convictions** only.

There are some exceptions, for example employers can ask for spent convictions for certain types of work (see 'Employment' section).

Many people don't know the details of their record and it's important to get this right before disclosing to employers, insurance and mortgage providers. Usually, this means applying for a copy of your police record. This is free of charge and is known as a 'Subject Access Request'.

See unlock.org.uk/advice/police-records.

Working out if or when your record becomes 'spent'

For most jobs (and other things like mortgages and insurance) you don't need to disclose convictions once they're 'spent'.

Fines: If you are sentenced to a **fine**, it will be spent within a year.

Prison sentences (or suspended prison sentences) of 4 years or less will be spent after a period of two to seven years, plus the period of your sentence.

Cautions are either spent immediately, or after 3 months for a conditional caution.

You can work out whether your conviction is spent by using disclosurecalculator.org.uk

For more guidance on the Rehabilitation of Offenders Act 1974 see unlock.org.uk/guide/rehabilitation-of-offenders-act-1974/

Prison sentences are currently rare for protest offences. However, be aware that the police will occasionally charge activists with a much more serious offence than they were anticipating, or the courts may hand out an unexpectedly harsh sentence.

Employment

Existing employment

Whether you have to disclose a conviction obtained during employment is not always clear. A lot will depend on whether you have a contract of employment and what it says. If your contract says that you have a duty to inform your employer of convictions received during your employment, then this is pretty clear cut and a failure to do so would be treated as a breach of your employment contract. This means that if you don't inform your employer of your conviction and your employer finds out, you may be dismissed.

If your contract doesn't require you to disclose convictions received during employment, then there is no legal obligation on you to do so. However, depending on your relationship to your employer, you may choose to tell them, rather than waiting for them to find out. If you are planning a protest action that doesn't rely on secrecy, you could even discuss it with your employer in advance!

If the conviction isn't relevant to your role at work, then it shouldn't be a reason, on its own, to dismiss you. However, it is still possible that your employer will start disciplinary procedures. For example, they could be concerned that your arrest or conviction is bad for the reputation of the organisation.

A very long trial or a period in prison would involve taking a considerable period of time off work, which could have implications for keeping your job.

Source: unlock.org.uk/advice/receiving-a-criminal-record-whilst-you-are-employed/

Membership of professional bodies

If your employment is dependent on membership of a professional body, then you should also check their requirements around disclosing convictions (or even charges). It is likely that you will then have to explain the circumstances surrounding your charge or conviction, and the body will pass a judgement on whether it impacts on your suitability for the profession.

If you're working without a secure contract

The more precarious your work situation, the more scope there is for court cases and convictions to have negative consequences on your employment. That said, if the offence isn't relevant to your role, and if you can manage absences for court appearances and so forth, your employer may not be worried.

Applying for a new job

Unspent convictions

All employers can ask you about unspent convictions. Many do discriminate against people with unspent convictions. But there are also lots of employers who do not discriminate, especially where the conviction is irrelevant to the job.

All employers can ask you for a **basic DBS** (Disclosure and Barring Service) check. A basic DBS will only show unspent convictions, and you don't need to declare any that are spent. A standard or enhanced DBS shows more information (see below).

Spent convictions

Employers are not generally entitled to ask you about spent convictions. Even if they ask "Have you ever been convicted of a criminal offence" you are usually not obliged to disclose spent convictions.

There are some exceptions - some employers can ask for a **standard or enhanced DBS check**. This will show spent convictions and cautions on top of any unspent ones. In the case of an enhanced DBS, it may also include any information held on the Police National Computer which police deem to be relevant to the role you are applying for.

Standard and enhanced DBS checks apply to working with children and vulnerable adults, and a few other professions such as lawyers and accountants. Find out here who this applies to: gov.uk/find-out-dbs-check

A number of convictions and cautions will be 'filtered' (i.e. not shown) even on standard and enhanced checks after a certain number of years have passed. See more details here: unlock.org.uk/advice/filtering-cautions-convictions/

Convictions for minor protesting offences such as Aggravated Trespass or Obstruction of the Highway are often not taken into account by employers.

There are many people with protest-related convictions who work as solicitors, civil servants, teachers, social workers, plumbers, carers for vulnerable people, security guards, jobs in retail, administration, research, etc.

Self-employment

A criminal record shouldn't have a major impact on future self-employment. You may have to shop around for commercial insurance (see section on *Insurance*). Depending on the nature of your work, then companies who contract you to work for them may still ask for a DBS check.

Having a criminal record should not stop you from being a director of a company, unless as part of your conviction you were specifically disqualified from being a company director.

Source: unlock.org.uk/advice/things-think-becoming-self-employed/

Benefits

Having a criminal conviction does not affect your benefits. However, there have been occasional cases where campaigners had their benefits affected due to being targeted by the police. In 2018, Lancashire police passed on details and video footage of disabled anti-fracking protestors to the Department for Work and Pensions. None were charged with any crimes, but some had their disability benefit claims challenged in DWP interviews. At least one person had their claim suspended and was instructed to repay their disability living allowance.

Immigration status

The guidance below is meant to be a pointer as to what you need to think about - it is not legal advice. Immigration laws are very complex and prone to change. You may wish to check with an immigration lawyer exactly what your status is and how a conviction might affect you.

The info here is based on current (November 2022) Home Office rules.

Impact on current immigration status

Convictions can have a major impact on your immigration status. If you are not a British national you may need to carefully think about what kind of risks to take. You need to check what the basis of your legal right to be in the UK is, and how any convictions would affect this. Below we give some information on some types of immigration status.

Deportation

Indefinite Leave to Remain and **Settled Status** can be revoked if you:

- receive a prison sentence of 12 months or more, or
- are convicted of serious offences or
- are convicted of repeated minor offences.

This means some convictions may lead to deportation.

The UK Borders Act 2007 states that you will be automatically deported if you are a foreign national (not a British citizen) convicted of an offence for which you receive a prison sentence of 12 months or more. If someone does not meet this threshold, they can still be deported under the Immigration Act 1971 if the Home Office deems it to be 'for the public good'. Again, this has to be for 'serious' or persistent convictions, but the Home Office has a lot of discretion in this.

Source: informeddissent.info/arrestandimmigrationstatus

Temporary visas

Some temporary visas, such as a student visa or work visa, may also be affected by criminal convictions. Your 'leave to remain' can be curtailed (you lose this status and must leave the country) for various reasons and the Home Office has very broad discretion in deciding when to do so.

Another thing to bear in mind is that if you are on a student visa, your immigration status is based on you being a student. If you lose this status because the university decides to expel you (based on their internal disciplinary rules), you are also losing your visa (if you cannot transfer to another institution which can sponsor your visa). Likewise, losing your job due to a criminal conviction would invalidate your work visa.

Applying for leave to remain, citizenship or settled status

The impact of a past arrest, prosecution or conviction may differ across these types of applications. However, all 3 of these application processes are subject to some form of 'good character' or suitability requirement. In recent years the Home Office has increasingly used these good character assessments as a way to exclude people. There is therefore a high degree of discretion to refuse your application because of your criminal record.

Applying for leave to remain

You will need to disclose all convictions and cautions, even if they are spent. Current guidance states that if you have been convicted and sentenced to 12 months imprisonment or more, or if you are considered a persistent offender or to have caused serious harm, you will be refused. Additionally, even if you do not meet this threshold, your application could be refused if the Home Office think your criminal record indicates 'bad character'. This means that repeated minor convictions, for example, could mean you are refused.

Source: informeddissent.info/arrestandimmigrationstatus

Applying for citizenship

Similar criteria apply as for 'leave to remain'. A 'good character' assessment is part of the UK citizenship application. Current guidance states that your application will normally be refused if you have received:

- a prison (custodial) sentence of at least 4 years at any point
- a prison sentence of at least 12 months in the last 15 years
- a prison sentence of less than 12 months in the last 10 years
- a non-custodial sentence in the last 3 years.

This means that even minor convictions in the last 3 years can be grounds for refusing your application. In addition, minor convictions, fines or cautions from any time could count against you if they are believed to be part of a pattern of repeated convictions demonstrating 'bad character'.

Source: www.gov.uk/government/publications/good-character-nationality-policy-guidance

EU citizens applying for settled/pre-settled status

When applying for EU settled status, if you're 18 or over, the Home Office will check you have not committed serious or repeated crimes, and that you do not pose a security threat. This will include a search on police records. Current guidelines state that you do not have to declare spent convictions or cautions, and that you'll still be eligible for settled or pre-settled status if you've only been convicted of a minor crime.

See: gov.uk/settled-status-eu-citizens-families/what-youll-need-to-apply

Be aware though that repeated unspent convictions will count against you, even if they are minor. If considering protest action, also bear in mind that people are occasionally convicted of a much more serious offence than they had anticipated.

For more detailed information visit the UKCEN support forum for EU nationals. The forum is now closed but you can still access posts and information: forum.ukcen.com/resources/settlement-scheme/1122-criminality-and-suitability

Housing

Social housing

If you are already renting social housing, you do not need to disclose new convictions. You only have to tell them (about unspent convictions) when you are applying for somewhere to live with them. The only exception to this is where your initial agreement with them makes it clear that you must tell them about any future convictions you receive.

You could be evicted by the Council or Housing Association if you have received a conviction for a few specific offences, such as anti-social behaviour, drug dealing or growing drugs on the premises, or violence towards your partner or to a housing or other official.

Eviction should be the last resort – the first option should be to ask you to agree that you don't commit the same crime again. This could be by getting you to agree to an Acceptable Behaviour Agreement, or by getting an Anti-Social Behaviour Order, or by downgrading the tenancy so that you can be evicted more easily if you do not follow the rules.

Private renting

You don't need to tell your landlord about a new conviction you get when you are renting - unless it is stated in your tenancy agreement that you must tell them about any future convictions you receive. You shouldn't be evicted unless there are specific conditions about criminal convictions in your tenancy agreement.

If you are applying to rent privately, then you need to declare unspent convictions if the landlord asks.

Source: unlock.org.uk/guide/housing/

Mortgage

Spent convictions do not have to be disclosed to banks, building societies or mortgage brokers, irrespective of what questions they ask. If you're asked to disclose any unspent convictions then legally, you are required to do so. Every bank/building society will have their own lending criteria and some may refuse a mortgage to anybody with unspent convictions. However, there are plenty of providers who do not ask about convictions e.g. HSBC and Nationwide. For more information and a list of mortgage providers that do not ask about convictions see this link:
unlock.org.uk/advice/owning-home/

Insurance

Many insurance companies ask whether you have a conviction, arguing that it may be relevant to the risk. Under the Rehabilitation of Offenders Act you do not have to disclose spent convictions - even if they ask. You do have to disclose unspent convictions, and companies are entitled to adjust the cost or refuse to insure you as a result. You do not have to disclose new convictions obtained during your insurance policy - unless it says so in your contract.

For commercial insurance only, you have to disclose spent convictions even if they don't ask as it is 'material fact'. More info here: unlock.org.uk/advice/commercial-insurance-2/

Here is a list of insurance brokers who do not ask people about convictions at all: unlock.org.uk/advice/list-insurance-brokers/

Here is a list of major personal motor insurance providers who do not ask about about non-motoring convictions:
unlock.org.uk/wp-content/uploads/Motor-insurance-with-non-motoring-convictions.pdf

Voting

Having a criminal conviction does not affect your right to vote. However, if you are a convicted prisoner you cannot vote until released.

Studying

Having a conviction does not prevent you from going to university or college. In most cases you do not have to declare convictions.

The exception is if you are applying for a course that is related to jobs that are exempt from the Rehabilitation of Offenders Act, for example working with children or vulnerable adults. In this case, applicants are asked to declare whether they have any criminal convictions including spent convictions that are not filtered from an Enhanced DBS check. If your convictions aren't relevant to the job you are applying to do, they shouldn't automatically disqualify you.

If you are already registered to study at a university or college, then consult your individual disciplinary policy, and/or speak to fellow students with similar convictions. The university or college may pursue disciplinary proceedings, but there are many cases where they haven't.

Source: unlock.org.uk/advice/university

Travelling

Having a criminal record does not bar you from travelling abroad, and your criminal record is not linked to your passport. However, if you want to go to some countries, notably the US, you have to fill out a form that asks you about criminal convictions. Having a conviction will not necessarily mean you can't travel to these countries but may make it harder.

Source: unlock.org.uk/guide/travelling-abroad

Adoption and Fostering

You will not be approved as an adoptive parent or foster carer if you have been convicted of offences against children, or certain sexual offences. However, simply having a criminal record (e.g. for protest offences) should not count against you.

Adoption and fostering involves an Enhanced DBS check, so agencies will have full access to any relevant information held about you on the Police National Computer. You are strongly encouraged to be open about any convictions or cautions early in the process.

Source: unlock.org.uk/advice/fostering/

www.first4adoption.org.uk/who-can-adopt-a-child/10-common-misconceptions-squashed/

Resources and Support

Unlock - <https://unlock.org.uk/>

Information and advice for people with criminal records, including a helpline and online forum.

Green and Black Cross - <https://greenandblackcross.org/>

Training, resources and legal support for protest. Protest legal support line on 07946 541511

Informed Dissent - <https://informeddissent.info/index.php/>

Protest legal support project, providing training, legal support and court support.

Migrant Legal Project - www.migrantlegalproject.com/

Free legal advice and representation for migrants in Wales, west and southwest England.

Black Protest Legal Support - <https://blackprotestlaw.org/>

Resources, free legal advice and support for protestors.

Scottish Community and Activist Legal Project (SCALP) -

<https://www.scottishactivistlegalproject.co.uk/>

Provide legal observers, arrestee support and legal information to activists

Liberty - www.libertyhumanrights.org.uk/advice-and-information/

Legal information and advice on human rights including protest rights.

Netpol - <https://netpol.org/>

Monitoring and campaigning on police abuse of power. Their website contains *Know Your Rights* resources and a *Protest Solicitors List*.

Impact of convictions

Criminal convictions can impact a person's life in different ways, and knowing these impacts can inform the decisions of you or your group when taking protest action. This guide helps you understand how criminal records work. It covers the impact of convictions on various areas of life for people in the UK, including employment, immigration status, housing and other areas.

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