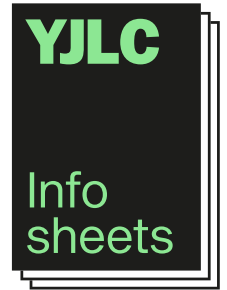


Criminal Records

Childhood Convictions



Convicted of a criminal offence when under 18

This document provides advice about what that means and what the consequences are in terms of your record.

What is a childhood conviction?

A childhood conviction means that the court has found that you are guilty of one or more criminal offences either because you pleaded guilty or you were found guilty, and you are under 18. Your conviction for the offence(s) will be recorded on a database called the Police National Computer (PNC).

Your conviction will only be treated as a childhood conviction if you were under 18 when you were convicted.¹ This is the day that you first pleaded guilty at court, or the day that the court found you guilty. If you were 18 or older when this happened, it will be treated as an adult conviction even if you were a child (under 18) when you committed the offence.

Do I have to tell my employer, college or insurance company?

Spent convictions

Generally, the answer depends on whether the conviction is spent or unspent. Any employer, or college or insurance company can ask you about unspent convictions and cautions. There may be a box on an application form asking if you have unspent cautions or convictions.

When your conviction becomes spent will depend on the sentence that the court gave you. If you received a prison sentence of more than four years, your conviction will never be spent.²

Additional orders

If the court gave you an order as part of your sentence – for example, a compensation order or a restraining order – then the conviction will not be

spent until that order has also finished. For a compensation order, it will be spent when the money has been paid in full.

If you received: ³	The conviction is spent:
A hospital order, a bind over, a conditional discharge, a referral order, an absolute discharge or a reparation order	At the end of the order
A fine	6 months after you were given the fine
Youth Rehabilitation Order (YRO) (including a YRO with ISS (intensive supervision and surveillance))	6 months after the end of the order
Imprisonment (Detention and Training Order (DTO) or a sentence of detention) for 6 months or less	18 months after the end of training or licence period

1 s5 Rehabilitation of Offenders Act 1974; s113A(6E)(c) Police Act 1997
 2 s5(1) Rehabilitation of Offenders Act 1974
 3 s5 Rehabilitation of Offenders Act 1974

Imprisonment (DTO or a sentence of detention) for 30 months or less	2 years after the end of training or licence period
Detention between 30 months and 4 years	3.5 years after the end of the licence period
Other relevant orders – for example, a restraining order or a compensation order	When the order is finished

Some employers can ask you about convictions or caution even if they are spent. They can only ask you if are applying for certain jobs.

Additional orders

If the court gave you an order as part of your sentence – for example, a compensation order or a restraining order – then the conviction will not be

spent until that order has also finished. For a compensation order, it will be spent when the money has been paid in full.

Multiple convictions or cautions

If you get convicted or cautioned for another offence before this conviction is spent, then none of those cautions or convictions are spent until they

all are. You should therefore check if each conviction or caution has been spent separately.⁴

Filtered convictions

Employers can check your criminal record no matter what role you apply for – this is called a Disclosure and Barring Service (DBS) check or criminal record check.

Also,

Whether a conviction or caution is filtered is different to whether it is spent. Employers for certain jobs can ask you about unfiltered convictions and cautions.

If your conviction is for a violent or sexual offence other than common assault, then it will never be filtered.⁵ There is a list of offences that will never be filtered on gov.uk.⁶

If you received a custodial sentence, including a Detention and Training Order (DTO), then your conviction will never be filtered.⁷

If your conviction is for any other offence and you did not receive a sentence of imprisonment,⁸ then your conviction will be filtered 5.5 years after the date you were convicted.⁹

If an employer is asking you about spent convictions or cautions, they may carry out a standard criminal record check or an enhanced criminal record check. All unfiltered cautions and convictions will appear on both a standard or an enhanced check.

This will usually happen for a job working with children or vulnerable adults, such as a teacher or a childminder. However, it may also be required for a job where you might come into contact with children, such as a plumber if you may need to go into schools or people's houses.

Enhanced criminal record checks

If your employer carries out an enhanced criminal record check, then the police have a wide discretion about what to disclose.¹⁰ The police can add other information that they consider relevant in addition to unfiltered cautions and convictions.

Normally they will not disclose a conviction that has been filtered, but there may be exceptional circumstances when they think it is necessary to do so. If this happens, you should seek legal advice.

4 s6(2) Rehabilitation of Offenders Act 1974

5 s113A(6)(a)(i) Police Act 1997

6 'List of offences that will never be filtered from a DBS certificate', DBS and Home Office, www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check

7 s113A(6)(a)(ii) Police Act 1997

8 s113A(6)(a)(ii) Police Act 1997

9 s113A(6)(a)(iii) Police Act 1997; and s113A(6E)(c)(i) Police Act 1997

10 s113B(4) Police Act 1997

Other effects of a childhood conviction

A childhood conviction will stay on the Police National Computer for the rest of your life. It may affect a number of things other than applying for jobs, college and insurance. For example:

- If you apply for certain jobs which require a very high level of security checks (such as to become a police officer or a judge) or want to join the security services (such as MI5) it will be disclosed to your employer, as the nature of certain jobs will require employers to see everything on your record, even things that are filtered. These are very rare – most jobs will only ask for an enhanced criminal record check.
- If you are prosecuted for another offence, your record will be produced to a criminal court, and that will include your conviction.
- A childhood conviction may affect any immigration applications you make – for example, for leave to remain or for citizenship.
- A childhood conviction may be disclosed in other legal proceedings, such as family law proceedings; or to other professionals, such as social services, for safeguarding reasons.
- A childhood conviction may affect travel to other countries. Each country has its own rules about criminal records, and so you would need to seek legal advice about the country you wish to travel to.
- Certain sexual offences will lead to notification requirement (also known as the ‘sex offenders register’) which means you have to keep the police informed of where you are residing, or could lead you to being barred from working with children or vulnerable adults.

Further information and support

If you would like further information about any of these or other questions, please seek legal advice or visit the websites of the Youth Justice Legal Centre¹¹ or Unlock¹² (a charity for people with criminal records).

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¹¹ www.yjlc.uk

¹² www.unlock.org.uk