

Nacro >

**Criminal Record
Support Service**



Rehabilitation of Offenders Act 1974

A Nacro Guide

nacro.org.uk

Registered charity no. 226171

Background	3
Reforms to the Act	4
Does the ROA apply throughout the whole of the UK?	4
Rehabilitation periods	4
Conditional /diversionary/youth conditional cautions – how do they work?	9
Motoring convictions – how do they work?	9
Military convictions	10
Sentences not covered by the Act	12
Multiple convictions - how do they work?	12
The Relevant order rule	14
Sentences received after a sentence which is never 'spent'	17
Concurrent or consecutive sentences	18
Breach of court orders	18
Unpaid Work requirements	19
Applying for jobs	20
Applying for insurance	21
Court proceedings	21
Exceptions to the Act	21
Immigration and nationality decisions	22
Historic sentences and disposals	23

Background

The [Rehabilitation of Offenders Act 1974 \(ROA\)](#) primarily exists to support the rehabilitation into employment of people with convictions who have stopped offending and wish to turn their lives around. The Act allows all cautions and most convictions to be considered 'spent' after a specified period of time, legally referred to as the rehabilitation period – but in practice it is a disclosure period. The length of the rehabilitation period varies according to the sentence or disposal given.

Once 'spent', the Act treats the person as if they had never been cautioned or convicted of the offence. As a result, the caution or conviction in question does not need to be disclosed by the person when applying for most jobs, educational courses, insurance, housing applications or other purposes, unless the role applied for is 'exempt' from the Act (see 'Exceptions to the Act'). If a role is covered by the Act, the organisation is only legally entitled to carry out a [basic DBS check](#) which will reveal all 'unspent' cautions and/convictions.

It is unlawful for an organisation to knowingly carry out (or enable someone else to obtain) a higher-level (standard, enhanced or enhanced with barred list check) Disclosure and Barring Service check (DBS check) on a person for a role which is covered by the Act. It is also unlawful for an employer to refuse to employ a person, or dismiss an existing employee, because of the 'spent' caution or conviction – unless an exception applies.

To work out when a caution or conviction may become 'spent' you can use the [Ministry of Justice \(MOJ\) Disclosure Checker](#)

Reforms to the Act

The provisions of the ROA were originally amended via [Section 139 of the Legal Aid, Sentencing and Punishment of Offenders \(LASPO\) Act 2012](#).

These changes were implemented on 10 March 2014. Further amendments were made to the Act via the [Police, Crime, Sentencing and Courts \(PCSC\) Act 2022](#) and implemented on 28th October 2023. The PCSC changes significantly reduce the length of time that community sentences and most custodial sentences need to be disclosed. However, the rehabilitation periods for all other sentences under the LASPO reforms remain the same. As a result, there are many instances where people convicted of less serious offences (e.g. minor motoring offences) have to disclose their convictions for disproportionately longer – when compared to those receiving community or custodial sentences for serious offences.

Does the ROA apply throughout the whole of the UK?

The ROA exists throughout the whole UK, including people serving in the armed forces who are subject to military law, but it's important to note that there are significant differences between the individual countries. This guidance only covers the law in England and Wales. The length of time it takes for a caution or conviction to become spent in [Scotland](#) or [Northern Ireland](#) may be different to England and Wales.

Rehabilitation periods

For custodial sentences, the rehabilitation period will start from the end of the total sentence imposed by the court (including the licence period) – not from the time served in custody (i.e. the day of release). The rehabilitation period includes an additional 'buffer period' that runs from the end of the sentence. This 'buffer period' is determined by the length of total sentence imposed. The 'buffer periods are halved for those aged under 18 at the date of conviction.

The rehabilitation periods for custodial sentences (including suspended custodial sentences) are shown in Table A below.

Table A: Rehabilitation periods for custodial sentences and suspended custodial sentences

Sentence/disposal	'Buffer period' for adults (aged 18 and over when convicted) from end of sentence including licence period	'Buffer period' for young people (aged under 18 when convicted) from end of sentence including licence period
Imprisonment or detention in a young offender institution for 12 months (1 year) or less	1 year	6 months
Imprisonment or detention in a young offender institution for over 12 months (1 year) and up to and including 48 months (4 years)	4 years	2 years
Imprisonment or detention in a young offender institution for over 48 months (4 years)	7 years	3½ years
Imprisonment or detention in a young offender institution for over 48 months (4 years) following a conviction for any serious violent, sexual, or terrorist offences listed in Schedule 18 of the Sentencing Act 2020, or a public protection sentence (of any length)	Never 'spent'	Never 'spent'

Examples of 'spent' periods for custodial sentences:

- Omar receives a three-month suspended custodial sentence as an adult. He is aged 18 or over when convicted. **His sentence may become 'spent' after 15-months:** the rehabilitation period is the total suspended sentence of three-months and the additional 'buffer period' of 1-year.
- Michelle receives a six-month custodial sentence as a young person. She is aged under 18 when convicted. **Her sentence may become 'spent' after 12-months:** the rehabilitation period is the total sentence of six-months (including the licence period) and the additional 'buffer period' of 6-months.
- Kelly receives a 12-month sentence as an adult. They are aged 18 or over when convicted. **Their sentence may become 'spent' after two years:** the rehabilitation period is the total sentence of 12-month/1-year (including the licence period) and the additional 'buffer period' of 1-year.
- Layla receives a three-year custodial sentence as a young person. She is under 18 when convicted. **Her sentence may become 'spent' after five years:** the rehabilitation period is the total sentence of three-years (including the licence period) and the additional 'buffer period' of 24-months/2-years.
- Jamie receives a seven-year custodial sentence as an adult. They are aged 18 or over when convicted) for supply of class A drugs. **Their sentence may become 'spent' after 14-years:** the rehabilitation period is the total sentence of seven-years (including the licence period) and the additional 'buffer period' of 7-years.
- John receives a **five-year custodial sentence** as an adult (he is aged 18 or over when convicted) for wounding with intent to cause grievous bodily harm. **His sentence may never become 'spent'** as it is for a conviction of **over 4-years** for a serious violent, sexual or terrorist offence listed in [Schedule 18 of the Sentencing Act 2020](#).
- If John had instead **received a four-year custodial sentence** for wounding with intent to cause grievous bodily harm his sentence **may become 'spent' after 8-years:** the rehabilitation period would be the total sentence of 4-years (including the licence period) and the additional 'buffer period' of 4-years.

Table B: Rehabilitation periods for non-custodial sentences – which start from the date of conviction

Sentence/disposal	Rehabilitation period for adults (aged 18 or over at the time of conviction, or at the time the disposal is administered)	Rehabilitation period for young people (aged under 18 at the time of conviction, or at the time the disposal is administered)
Caution/youth caution	‘Spent’ immediately	‘Spent’ immediately
Conditional caution/ diversionary caution/youth conditional caution	3 months or when caution ceases to have effect if earlier	3 months or when caution ceases to have effect if earlier
Absolute discharge	‘Spent’ immediately	‘Spent’ immediately
Reparation order	‘Spent’ immediately	‘Spent’ immediately
Referral order***	At the end of the order	At the end of the order
Bind over ***	At the end of the order	At the end of the order
Conditional discharge order***	At the end of the order	At the end of the order
Compensation order*	When paid in full	When paid in full
Fine**	1 year	6 months
Community order/youth rehabilitation order***	At the end of the order	At the end of the order
Endorsements	5 years	2½ years
Hospital order/interim hospital order***	At the end of the order	At the end of the order
Engagement and support order***	At the end of the order	At the end of the order
Remand (Home)***	At the end of the order	At the end of the order

Supervision order***	At the end of the order	At the end of the order
Relevant order***	At the end of the order	At the end of the order

*It is important that individuals obtain proof of payment of the compensation order from the court and keep this document to prove it has been paid in full. This evidence of payment may be required before a DBS check can be issued by the Disclosure and Barring Service.

*The rehabilitation period for a fine applies even if the person is subsequently imprisoned for default of the fine. Fines arising from fixed penalty notices and penalty notices for disorder (PND) are not covered by the Act as they do not form part of an individual's criminal record so they do not have a rehabilitation period.

****A community order, youth rehabilitation order or relevant order which has no specified end date has a default rehabilitation period of two years from the date of conviction or from the time the disposal is administered. The rehabilitation period is not halved if the person was under 18 when convicted. No account is taken of any subsequent variation of the date originally provided for on the order.

Conditional /diversionary/youth conditional cautions – how do they work?

If Marcus receives a three-month conditional/diversionary/youth conditional caution it will become 'spent' after three months from the date of issue. If he receives another conditional/diversionary/youth conditional caution or a conviction during the rehabilitation period – it would not be extended. The conditional/diversionary/youth conditional caution for the earlier offence will still become 'spent' at the end of three-months from when it was given (or until conditions are met), and the caution or conviction for the later offence will become 'spent' after the normal rehabilitation period.

However, if Marcus does not comply with the conditions attached to the conditional/diversionary/youth conditional caution and is subsequently prosecuted; the conditional/diversionary/youth conditional caution will cease to have effect. Any subsequent conviction will then attract the relevant rehabilitation period for the sentence imposed by the court.

This is best shown in the following examples:

- Marcus receives a conditional/diversionary caution for common assault and two months later he receives a fine for shoplifting. He complies with the conditions of the conditional/ diversionary caution which is therefore 'spent' after three months. The fine will be considered 'spent' separately after one year as he was over 18 when convicted.
- Marcus receives a conditional/ diversionary caution but fails to comply with the conditions and he is prosecuted for the original offence as a result. He receives a fine which may be considered 'spent' after one year as he was over 18 when convicted.

Motoring convictions – how do they work?

An endorsement for a road traffic offence listed in Schedule 2 to the Road Traffic Offenders Act 1988, imposed either by the court or by receiving a fixed penalty notice (FPN) is a sentence for the purposes of the ROA and may become spent after 5 years (or two and half years where the individual is under 18). Road traffic legislation specifically provides for a FPN in these circumstances to be treated as a conviction. Penalty points and a driving disqualification imposed by the court on conviction may become spent when they cease to have effect (penalty points have effect for three years as set out in road traffic legislation). Where the court imposes more than one sentence or penalty for the offence then the longest rehabilitation period determines when the conviction may become spent.

Motoring conviction example

Emma is convicted as an adult of a road traffic offence and the court imposes a fine (rehabilitation period: one year), an endorsement (rehabilitation period: five years), penalty points (rehabilitation period: three years) and a driving disqualification for one year (rehabilitation period: one year). The rehabilitation period for her conviction will be five years because the endorsement carries the longest rehabilitation period.

If Emma was aged under 18 and received the above sentence, her conviction may become 'spent' after three years because the longest rehabilitation period applicable would then be three years for the penalty points (the endorsement would become 'spent' after two and a half years).

Military convictions

The ROA also applies to service personnel convicted of a criminal offence, or relevant service offence by a civilian court in the case of criminal offences, or Court Martial/Commanding Officer (Summary Hearing) in the case of service offences. The same rehabilitation periods apply to custodial sentences, community orders, fines and compensation orders imposed in the service justice system as their equivalent sentences imposed by civilian courts. For example, a fine imposed on an adult by a Magistrates/Crown Court and a fine imposed by a Court Martial/Commanding Officer have the same rehabilitation period of one year from the date of conviction.

Table C: Rehabilitation periods for military convictions

Sentence/disposal	Rehabilitation period
Imprisonment	See custodial sentences
Service community order	See community order
Removal from Her Majesty's Service (which includes cashiering, discharge with ignominy, dismissal with disgrace or simple dismissal)	12 months from the date of conviction*
Service detention	12 months from the date on which the sentence is completed*
Service supervision and punishment order	'Spent' immediately
Forfeiture of seniority	'Spent' immediately
Reduction in rank or disrating	'Spent' immediately
Fine	12 months from the date of conviction*
Severe reprimand/reprimand	12 months from the date of conviction*
Service compensation order	Once paid in full
Stoppage of leave	'Spent' immediately
Restriction of privileges	'Spent' immediately
Admonition	'Spent' immediately

*The rehabilitation periods are halved if the person is under 18 at the time of conviction or the date the sentence is imposed.

Sentences not covered by the Act

The following sentences are 'exempt' from the Act **and can never become 'spent'**.

- Sentence of imprisonment for life
- Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training of over four years for serious violent, sexual or terrorist offences listed in [Schedule 18 of the Sentencing Act 2020](#)
- Sentence of preventive detention
- Sentence of detention at His Majesty's Pleasure
- Sentence of custody for life
- Public protection sentences* (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders)

*A public protection sentence (the provisions for which are set out in [Part 12 of the Criminal Justice Act 2003](#) and [Part 8 of the Armed Forces Act 2006](#) means a sentence of imprisonment or detention, as detailed above, imposed for specified sexual and violent offences.

Multiple convictions - how do they work?

If a person has an unspent conviction and they get a further caution or conviction before the earlier conviction has become spent – one of the following will apply:

- a. If the later outcome is a caution (either a caution or a conditional/diversionary caution for adults, or youth caution or youth conditional caution for young people), neither rehabilitation period will be affected. The conviction for the earlier offence will become 'spent' at the time originally fixed, and the caution for the later offence will become spent after the normal period (immediately for a caution or youth caution, or three months for a conditional/diversionary caution or youth conditional caution).

b. If the later outcome is a conviction, then **neither** conviction will become spent until the rehabilitation periods for **both** offences are over. The earlier unspent conviction will be affected and in effect dragged forward so that neither offence will become 'spent' until they both are. This is known as the 'drag on' effect. **Important note: there are very limited exceptions to this under section 6(5) of the 1974 Act** which we cover later in this guide.

c. If the later outcome is a conviction that can never become 'spent' then neither the second nor the first conviction will ever become 'spent'.

However, once a conviction becomes 'spent', it remains 'spent', even if a person is convicted of other offences later.

Scenario 1

Mohammed, age 16, was convicted of drugs offences on 13/01/23 and received a 6-month referral order. This conviction would become 'spent' on 13/07/23.

On 15/06/23 he receives a youth conditional caution for theft which would become 'spent' on 15/09/23.

Because the later offence resulted in a youth conditional caution neither rehabilitation period will be affected.

Scenario 2

Harvey, age 24, was convicted of drugs offences on 20/09/22 and received a 24-month community order. This conviction would become 'spent' on 20/09/24.

On 28/10/23 he is convicted of theft and received a 12-month custodial sentence. This conviction would become 'spent' on 28/10/25.

Because he was convicted of a further offence within the rehabilitation period of the first offence, both offences will remain 'unspent' until the later date of 28/10/25.

Scenario 3

Sandra, age 29, was convicted of fraud on 15/07/22 and received a 12-month conditional discharge order. This conviction would become 'spent' on 15/07/23.

On 28/10/23 she was convicted of common assault for which she was given a fine of £200. This conviction would become 'spent' on 28/10/24.

Although she has been convicted of a further offence, the first conviction had reached the end of the rehabilitation period before she received the second conviction.

In this case, only the later conviction would need to be disclosed.

Scenario 4

Callum, age 23, was convicted of fraud on 13/12/22 and received a 12-month community order. This conviction would become 'spent' on 13/12/23.

On 28/10/23 he was convicted of grievous bodily harm for which he received a 4½ year custodial sentence. This conviction can never become 'spent' as it is for a sentence of more than four years that is included in Schedule 18 of the Sentencing Act 2020.

As a result, in this case neither of Callum's convictions can ever become 'spent'.

Top tip: Use the [MOJ Disclosure Checker](#) to help work out if/when the convictions may become 'spent'.

The Relevant order rule

What is a relevant order?

A relevant order can be handed down upon conviction imposing a disqualification, disability, prohibition or other penalty, or a requirement. Examples include conditional discharge orders, restraining orders, hospital orders, bind overs, referral orders and care orders. For instance, a criminal behaviour order may prohibit an offender from doing anything described in the order and/or require an offender to do anything described in the order.

Under the ROA, “relevant order” means-

- (a) an order discharging a person conditionally for an offence,
- (b) an order binding a person over to keep the peace or be of good behaviour,
- (c) an order under section 1(2A) of the Street Offences Act 1959,
- (d) a hospital order under Part 3 of the Mental Health Act 1983 (with or without a restriction order),
- (e) a referral order under Chapter 1 of Part 6 of the Sentencing Code,
- (f) an earlier statutory order, or
- (g) any order which –**
 - (i) imposes a disqualification, disability, prohibition, penalty, requirement, or restriction, or**
 - (ii) is otherwise intended to regulate the behaviour of the person convicted and is not otherwise dealt with in the Table.**

Important note: A sexual harm prevention order (SHPO) is a relevant order but being subject to sex offender notification requirements (i.e. being on the sex offenders register) is not treated as a relevant order.

When does a relevant order become ‘spent’?

A relevant order is considered ‘spent’ on the last day provided for by the order or when the order ceases to have effect. If there is no date provided on which the order ceases to have effect – the rehabilitation period is two years.

What is the relevant order rule?

As mentioned earlier in this guidance, there are limited exceptions to the ‘drag on effect’ of multiple conviction. The majority of relevant orders listed are subject to the ‘drag on effect’ as normal, however, when considering the ‘drag on effect’ of further convictions, *relevant orders issued upon conviction in table (g) are not taken into account.*

Conversely, a relevant order in table (g) could be subject to the ‘drag on effect’ rule but only in line with the longest rehabilitation period of any other sentence that may have been passed in the same proceedings that the relevant order was imposed.

Important note: We have included a link to a table of relevant orders that are not subject to the 'drag on effect' [here](#). Please note that this list may be subject to change.

Scenario 1

On 01/09/20 Alex, age 18, was convicted of common assault and given a three-month suspended custodial sentence. The rehabilitation period would end on 01/12/21.

Alex was then convicted of battery on 10/06/21. He was sentenced to:

- A 12-month custodial sentence (would become 'spent' 10/06/23)
- Restraining order until further order (will be 'unspent' until further notice)
- A fine of £150.00 (would become 'spent' 10/06/22)

In this case the conviction for battery will remain 'unspent' due to the restraining order until further notice having the longest rehabilitation period. Therefore, it will be disclosed on a basic DBS certificate indefinitely.

However, the earlier conviction for common assault will only have its rehabilitation period extended until 10/06/23, at which time it will become 'spent'.

This is because Alex was convicted of the second offence during the earlier rehabilitation period, but the rehabilitation period for the relevant order (i.e. the restraining order) is ignored; the conviction is instead extended according to the rehabilitation periods for the fine and the custodial sentence. In this case, the custodial sentence has the longer rehabilitation period and so the 'drag on effect' will apply until the date when the custodial sentence would have become spent - 10/06/23.

The restraining order until further order should not be used to extend a rehabilitation period of any other offence. This rule applies to all relevant orders under (g).

Scenario 2

Marisa, age 38, a company director was convicted on 02/08/20 of fraud. As a result, she received a six-month custodial sentence (would become 'spent' 02/02/22) and a six-year company director disqualification (would become 'spent' 02/08/26). The fraud conviction would therefore become 'spent' on 02/08/26 as the company director disqualification (which is a relevant order) has the longest rehabilitation period in the proceedings.

A few years later, Marisa was convicted of Class A drugs possession on 19/05/23 and received a 12-month community order which may become 'spent' on 19/05/24 .

Although the drugs conviction overlaps with her first conviction, it will still become 'spent' on 19/05/24 as it only overlaps with the company director disqualification. As the company director disqualification is a relevant order it will not be used to extend the rehabilitation order of the second conviction.

The custodial sentence would have otherwise been 'spent' on 02/02/22 which is before Marisa was convicted of the second offence – so the 'drag on effect' does not apply in this scenario. This rule applies to all relevant orders under (g).

Sentences received after a sentence which is never 'spent'

Sentences that have a determinate sentence received after a sentence that is never 'spent' are not disclosed after the rehabilitation period has elapsed. The following examples help to illustrate this point:

Scenario 1

An adult is given 4½ year custodial sentence for an offence listed in Schedule 18 Sentencing Act 2020 (which is never 'spent') and is then given a 12-month custodial sentence (which is 'spent' after two years) for a subsequent offence. In this scenario the later sentence of 12-months is capable of becoming 'spent'.

Scenario 2

An adult is given a 12-month custodial sentence and is then given a 4½ year custodial sentence for an offence listed in Schedule 18 Sentencing Act 2020 for a subsequent offence during the rehabilitation period of the first offence. In this scenario neither sentence would ever become 'spent'.

Concurrent or consecutive sentences

If a person receives two or more prison sentences in the course of the same proceedings, the rehabilitation period will depend on whether they are to run concurrently or consecutively. So, for example, two 12-month terms ordered to run consecutively are treated as a single term of 24 months, giving a rehabilitation period for an adult of six years. (total sentence plus 'buffer period' of four years).

However, two such sentences ordered to take effect concurrently are treated as one sentence of 12-months, giving a rehabilitation period for an adult of two years (total sentence plus 'buffer period' of one year).

Important note: A concurrent or consecutive sentence for an offence listed in Schedule 18 Sentencing Code 2020 can only never become 'spent' if the sentence is for more than four years – in its own right. Any other sentence in the same proceedings will also never become 'spent'. This can be complicated area so if you need further advice contact our Criminal Record Support Service on 0300 123 1999 or email us at helpline@nacro.org.uk.

Breach of court orders

If someone is given a community order or conditional discharge order and is later brought before the courts for a breach of the order, this might affect the rehabilitation period applicable to the original conviction. If the court imposes a further sentence when it deals with the breach, then the original conviction will run on until both rehabilitation periods have expired. If, however, the individual received as sentence a relevant order under (g), e.g. a restraining order, the original conviction would run until 'spent' as normal and would not be impacted by the second order.

If the courts do not deal with the breach until after the rehabilitation period applying to the original conviction has already expired, then the new conviction will not 'drag on' the first conviction – they will become 'spent' independently.

Sometimes a court varies the original order after a breach rather than issuing a new order. ROA 5(7)(d) states that subsequent variation of an order cannot be taken into account, so the order would become spent on the original date no matter whether the order is varied to be longer or shorter.

Unpaid Work requirements

An Unpaid Work requirement is one of thirteen requirements that can be added to a Community Sentence. Courts can impose sentences of 40-300 hours of Unpaid Work, depending on the seriousness of the offending.

All Unpaid Work requirements are 12-months in length. However, if the hours are not completed within this time, the probation practitioner may return the order to Court for the requirement to be extended and the hours to be worked.

Unpaid Work requirements as part of a **Suspended Sentence Order** end either when the hours are completed, or at the end of the operational period of the Suspended Sentence, whichever is first. This does not affect when the conviction is spent.

Unpaid Work requirements as part of a **Community Order** can be extended beyond the original end date of the Community Order. This is outlined in the [Sentencing Act 2020 \(Section 220\)](#)

(1a) at the end of the end date, or

(1b) if later when the person has completed any Unpaid Work requirement.

It also states that:

(3) the Unpaid Work requirement is only complete when all of the hours are worked.

This means that unless the Unpaid Work requirement is revoked by the Court, it can be continually extended until the offender completes the specified number of hours.

The rehabilitation period for Community Orders (see table B) were amended by the Police Crime, Sentencing and Courts (PCSC) Act 2022. The rehabilitation period for Community Orders now ends *“the day provided for by or under the order as the last day on which the order is to have effect”*. This means that the rehabilitation period has been reduced from 12 months after the end date of the Community Order, to the end date of the Community Order.

For Community Orders with Unpaid Work requirements this means that the rehabilitation period ends at the **original end date** of the order specified at the point of sentencing **regardless of an extension** to the Unpaid Work requirement.

In practice, this means that if an Unpaid Work requirement is extended beyond the original end date of a Community Order, the individual can declare their conviction as spent at the original end date, even if they have not completed or are still in the process of completing their Unpaid Work hours.

Applying for jobs

Many people think that once an offence is 'spent', it is wiped from the record. It is not. Rather, the Act gives people the right not to disclose 'spent' offences when applying for most jobs unless those jobs are 'exempt' from the Act. Under the Act, a 'spent' conviction or caution shall not be proper grounds for not employing someone or for dismissing them. However, if applicants do not disclose 'unspent' cautions or convictions when asked to do so, they may be found out and dismissed on the grounds of having deceived the employer. In a few cases, they could be prosecuted.

The Act does not generally provide sufficient means of enforcing a person's right not to be refused employment, a place on a college course or entry into a profession on the grounds of a 'spent' conviction. However, if an employee can prove that they have been dismissed for a 'spent' conviction and they have been in employment for two years or more, they may be able to claim unfair dismissal. It is considered automatically unfair to dismiss someone because of a 'spent' conviction (the employee may still need to meet the qualifying period to bring a claim at an employment tribunal).

If the role is covered by the Act, and the conviction is 'unspent' but the employer has not asked for disclosure of convictions, then there is no legal obligation on the applicant or employee to disclose it.

If you have been refused employment due to an illegal check that revealed a 'spent' caution or conviction, or have been dismissed because of a 'spent' conviction from a role that is covered by the Act, or been dismissed by an employer due to a conviction that you have previously disclosed when you applied for the role, Nacro's Criminal Record Support Service offers a free advocacy service which may be able to assist you with seeking legal recourse against the employer which has acted unlawfully or unfairly.

Please contact our Criminal Record Support Service on 0300 123 1999 or email us at helpline@nacro.org.uk.

For more information on disclosing criminal records, visit Nacro [website](#).

Applying for insurance

The Act gives applicants the right not to disclose 'spent' cautions or convictions when applying for insurance; however, FPN's for motoring offences must be disclosed for insurance purposes for five years (or two and a half years if aged under 18 at the time the disposal is administered). If the insurance company does not ask – you do not need to disclose.

Court proceedings

In civil proceedings, no one should be asked questions that might lead to the disclosure of 'spent' convictions. If such questions are asked, they need not be answered. This rule does not apply:

- In civil proceedings relating to children (adoption, guardianship, wardship, marriage, custody, care and control, and schooling);
- When the court is satisfied that justice cannot be done unless evidence of 'spent' convictions is admitted (anyone who has 'spent' convictions can always consent to evidence being given about them)
- If the proceedings involve a matter 'exempt' from the Act (see 'Exceptions to the Act');
- The rule on civil proceedings also applies to arbitration proceedings, disciplinary proceedings before an administrative tribunal, and to a club committee which has powers to affect anyone's rights, privileges, obligations, or liabilities.

Exceptions to the Act

Under the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(Amendment\) \(England and Wales\) Order 2020](#) there are a number of posts, activities and occupations which are 'exempt' from the ROA. If the position applied for is 'exempt' from the Act, the organisation can ask applicants to disclose all unspent cautions and convictions; as well as all adult cautions and 'spent' convictions that are not 'protected' (i.e. those that have qualified for filtering). For further information see Nacro's specific guidance on filtering for employers and applicants). The [DBS filtering guidance](#) may also be useful.

Where an 'exemption' exists, the organisation will be eligible to carry out a higher-level DBS checks (either standard, enhanced, or enhanced DBS with barred list check) with the DBS if the organisation is based in England or Wales. In Scotland, the relevant checks can be carried out through [Disclosure Scotland](#); in Northern Ireland they can be carried out through [Access Northern Ireland \(Access NI\)](#).

A regularly updated list of 'exempt' posts, occupations and activities can be found on the Disclosure and Barring Service [website](#). The list includes the following:

- Any work which is defined as regulated activity relating to children or vulnerable adults within the meaning of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012);
- Certain professions, occupations, offices, and employments in areas such as health, pharmacy, finance, the courts, and the law;
- Licences to drive taxis and to work in the private security industry.

There are a small number of jobs or activities for which require **full disclosure** of all reprimands final warnings, youth cautions, youth conditional cautions, conditional/diversionary cautions, 'spent' and 'unspent' convictions must be made. These are generally jobs or activities relating to national security, police constables, judicial appointments, and firearms certificates. An applicant will be informed by the employer, organisation, or licensing body if full disclosure is required when applying for these jobs or activities. Please be aware, disclosure of criminal records in these instances is not provided by the Disclosure and Barring Service.

If a position is not listed in the Exceptions Order, it is not 'exempt' from the Act, and therefore any higher-level DBS check (either with the DBS or its Scottish and Northern Irish equivalents) is unlawful. Despite this, there are many employers, which run checks on positions which are not 'exempt' from the Act.

Important note: If they do not ask, you do not need to disclose.

If you have been subject to an illegal check Nacro's Criminal Record Support Service for advice and/support.

Immigration and nationality decisions

UK Visas and Immigration decisions are 'exempt' from the Act. The Home Office can rely on an applicant's full criminal record history to make final immigration and nationality decisions.

Further information about the effect of a conviction or caution on a person's immigration or nationality application can be found in the Home Office's [Good character requirement guidance](#).

Table D: Impact of the ROA on nationality applications

Sentence	Impact on nationality applications
4 years or more imprisonment	Application would be refused regardless of when the conviction occurred
Between 12 months and 4 years imprisonment	Application would be refused unless 15 years have passed since the end of the sentence.
Up to 12 months imprisonment	Applications would be refused unless 10 years have passed since the end of the sentence
A non-custodial offence	Applications would be refused if the conviction/caution occurred in the last 3 years

Historic sentences and disposals

Table E below contains details of sentences or disposals that have either been discontinued or replaced by other disposals already mentioned in (Table A and Table B).

Table E: Historic sentences and disposals

Sentence/disposal	Rehabilitation period
Action plan order	Replaced by youth rehabilitation order
Approved school order*	Replaced by community order/youth rehabilitation order
Borstal training sentence	Equivalent to custodial sentence (see Table A)
Combination order	Replaced by community order/youth rehabilitation order
Community punishment order	Replaced by community order/youth rehabilitation order

Community punishment and rehabilitation order	Replaced by community order/youth rehabilitation order
Community service order	Replaced by community order/youth rehabilitation order
Curfew order	Replaced by community order/youth rehabilitation order
Detention and training order (6 months or less)	Equivalent to custodial sentence (see Table A)
Detention and training order (more than 6 months)	Equivalent to custodial sentence (see Table A)
Drug treatment and testing order	Replaced by community order/youth rehabilitation order
Final warning	Replaced by youth caution ('spent' immediately)
Probation order	Replaced by community order
Reprimand	Replaced by youth caution ('spent' immediately)
Secure training order	Replaced by detention and training order and is equivalent to custodial sentence
Suspended custodial sentence	Equivalent to custodial sentence (see Table A)
Youth custody order (6 months or less)	Equivalent to custodial sentence (see Table A)
Youth custody order (more than 6 months)	Equivalent to custodial sentence (see Table A)

Please also contact our Criminal Record Support Service on: **0300 123 1999** or email us at helpline@nacro.org.uk if you have any queries in relation to the advice contained in this guide. You may also wish to seek independent legal advice. The MoJ has also developed guidance on the Rehabilitation of Offenders Act 1974 which is available [here](#).

Disclaimer

To the fullest extent permitted at law, Nacro is providing this guide and its contents on an "as is" basis and makes no (and expressly disclaims all) representations or warranties of any kind, express or implied, with respect thereto or to the information, content, products, or services included, without limitation, warranties of merchantability and fitness for a particular purpose.

Whilst every effort has been taken to ensure the accuracy of the information, the content is naturally subject to change. In no event will the Nacro be held liable for any direct, indirect, special incidental or consequential damages arising out of the use of the information in this