

Notes for Prospective Job Applicants

Rehabilitation of Offenders Act 1974 (ROA '74)

One of the questions on the application form asks whether you have any convictions for criminal offences. If you have never at any time been convicted of a criminal offence, then answering the question presents no difficulty. If on the other hand, you have in the past been convicted of a criminal offence, then under certain circumstances, ROA '74 allows you to regard the conviction as "spent", and to answer the question as though the offence had never occurred.

These notes are designed to help you to determine whether or not your conviction is "spent", when considering your response to the question.

[Please note that should you be applying for a post that requires a Criminal Records Bureau Disclosure check, then all convictions whether spent or not will be detailed on the disclosure certificate that is issued to both the Council and the applicant. This check is carried out once a preferred candidate has been selected, prior to a formal offer of employment being made.]

Exempt Occupations

The first important point is that the provisions about non-disclosure of "spent" convictions do not apply to certain occupations. If the post for which you are applying is one of these exempted occupations, a conviction can never become "spent" and you must declare any previous convictions.

As far as this Local Authority is concerned, the following professions, occupations, offices or employments are exempt under the Rehabilitation of Offenders Act 1974, and any previous conviction must be disclosed:-

- (i) Barrister, Solicitor
- (ii) Chartered Accountant, Certified Accountant
- (iii) Any officer of employment concerned with provision to persons aged under 18 of accommodation, care, leisure and recreational facilities, supervision or training, which enables the office holder to have access in the course of his/her normal duties to those under 18, and any office holder whose normal duties are carried out wholly or partly on the premises where such provision takes place.
- (iv) Any employment by a local authority in connection with a position enabling the holder to have access to the following people in the course of normal duties:
 - People over the age of 65
 - People suffering from serious illness or mental disorders
 - People addicted to alcohol or drugs
 - People who are blind, deaf or dumb
 - Other people who are substantially and permanently handicapped by illness, injury or congenital deformity.

When is a Conviction Spent?

If the job for which you are applying does not fall into any of the above categories, then you should read the following information.

The purpose of the Act is to make life easier for persons who have been convicted of criminal offences and have subsequently gone straight. It provides for a period of rehabilitation after conviction for an offence after which anyone who has a conviction shall be treated for all purposes in law as a person who has not committed that offence. In other words, provided you have completed the appropriate rehabilitation period, you can be regarded as of good character, and can, without fear of the consequences, deny that you have ever been convicted of an offence.

The Two and a Half Year Exception

One major exception which would put you outside the provision of the Act is if on conviction, you were sentenced for a period of more than two and a half years. Such convictions, with sentences of more than two and a half years, can never become spent, and must therefore be declared.

The Rehabilitation Periods are as follows:-

	Rehabilitation Period
For a sentence of imprisonment between six months and two and an half years	10 years
For a sentence of imprisonment of six months or less	7 years
For a sentence of borstal training	7 years
For a fine or other sentence (e.g. community service order) for which no other Rehabilitation Period is prescribed	5 years
For an absolute discharge	6 months
For a probation order, conditional discharge or bind over; and for fit person orders, supervision orders or care orders under the Children and Young Persons Acts (and their equivalents in Scotland)	1 year or until the order expires (whichever is the longer)
<i>For detention by direction of the Home Secretary:-</i>	Rehabilitation Period
From six months to two and a half years	5 years
From six month or less	3 years
For a detention centre order	3 years
For a remand home order, an approved school order or an attendance centre order	The period of the order and a further year after the order expires
For a hospital order under the mental Health Acts	The period of the order plus a further two years after the order expires (with a minimum of five years from the date of conviction)

Offences committed whilst serving in the armed forces are treated as set out above. The following rehabilitation periods are for specific types of military punishments:-

	<i>Rehabilitation Period</i>
For cashiering, discharge with ignominy or dismissal with disgrace	10 years
For simple dismissal from the service	7 years
For Detention	5 years

The rehabilitation periods are halved for persons who were under 17 years of age when they were convicted.

It is immaterial for the purposes of calculating a rehabilitation period whether a sentence is suspended or not.

If after considering the above information you consider that

- (i) the post you are applying for is not on the exempt list and
- (ii) the rehabilitation period for your conviction has finished and
- (iii) the sentence for your conviction was not for more than two and a half years then, and only then, can you consider your conviction "spent".

You are advised that, if you make a false statement on the application form, then this could lead to dismissal.

If you still have any doubts about how you should reply to the question on the application form, you should seek help from your legal adviser.