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Criminal Record Checks

As an employer, you have a number of factors to consider when deciding whether you need to conduct a criminal record check for a position within your organisation. Factors include legal requirements, the type of position, company policies, the level of the check and more.

Criminal record checks can reveal 'spent' and 'unspent' convictions. A conviction becomes spent after a rehabilitation period, the length of which will depend on the type of sentence received and the age of the person when convicted. A conviction is considered unspent if the rehabilitation period has not passed or if the sentence was for more than two and one-half years.

All employers in the United Kingdom are entitled to ask and know details about any unspent convictions an applicant may have through a basic disclosure request. This can be done through [Disclosure Scotland](#), which services all of the United Kingdom for basic disclosure requests. However, to obtain details about spent convictions, employers need to follow country-specific legislation and requirements.

ENGLAND AND WALES

Disclosure and Barring Service (DBS) Checks

Employers in England and Wales can request a DBS check, which discloses spent convictions for those applying for specific positions and professions. This includes positions and professions such as health care professionals, barristers and solicitors, certified accountants, certain government officials, court officers and taxi and private hire drivers, or positions or professions in which employees work with children and vulnerable adults. Organisations and employers are legally responsible for ensuring that they are entitled to submit a check for the position. If there are any questions about whether your organisation can conduct a check for a certain position, contact the DBS.

There are three types of DBS checks in England and Wales:

- Standard Checks
 - This checks for spent and unspent convictions, cautions, reprimands and final warnings, and will take about two weeks. To be eligible, the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.
- Enhanced Checks
 - This includes the same information as the standard check, plus any additional information held by local police that is reasonably considered relevant to the position being applied for (working with adults, children or potentially both). It takes about four weeks. To be eligible, the position must be included in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) Regulations.
- Enhanced with list checks
 - This is like the enhanced check, but includes a check of the DBS barred lists, and takes about four weeks. There are two DBS barred lists that list individuals who are unsuitable for working with children or adults. To be eligible for a barred lists check, the position must be specifically listed in the Police Act 1997 (Criminal Records) for barred lists checks.

A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out. It is up to an employer to decide if and when a

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new check is needed. Applicants and employers can use the DBS update service to keep a certificate up to date or to carry out checks on a potential employee's certificate.

SCOTLAND

Disclosure Scotland

Employers in Scotland have several different criminal record disclosures they can apply for, depending on the type of position and what legislation allows. Eligible positions for a criminal record disclosure include those where employees work in the administration of law, provide care services, or work in a field that requires a licence such as firearms or gambling. Employers should look to the Rehabilitation of Offenders Act 1974, the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 to determine whether they are allowed to run a check for a certain position. In order to apply for a disclosure on an individual, you must become a registered body, which includes an annual fee. Contact Disclosure Scotland for more information.

There are three main types of disclosures in Scotland:

- Standard Disclosures
 - This includes both spent and unspent convictions held on central records under the Rehabilitation of Offenders Act 1974. To qualify for a standard disclosure, the position must be exempt from the provisions of the Rehabilitation of Offenders Act 1974 under the regulations contained in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (As Amended).
- Enhanced Disclosures
 - This includes the same information as the standard disclosure, plus any other non-conviction information considered to be relevant by the police or other government bodies.
- Protecting Vulnerable Groups (PVG) Scheme
 - The Scottish government created a new membership scheme in 2011 to replace and improve disclosure arrangements for people who work with vulnerable groups. This disclosure contains all spent and unspent conviction information and any other non-conviction information considered to be relevant by the police or other government bodies. It checks to ensure that potential employees and volunteers are not barred from working with children and protected adults, and provides ongoing monitoring even after the initial check.

NORTHERN IRELAND

AccessNI

Employers in Northern Ireland have the option to apply for two main criminal record checks to reveal spent convictions. Like the other countries in the United Kingdom, this will depend on legal requirements, internal policies and the type of position. Employers should follow the Rehabilitation of Offenders (Northern Ireland) Order 1978, the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, the Safeguarding Vulnerable Groups (NI) Order 2007 and subsequent amendments and regulations.

The two main types of disclosures in Northern Ireland are the following:

- Standard AccessNI Checks
 - This check is the disclosure of an individual's full criminal record, including spent and unspent convictions. Eligible positions for Standard AccessNI checks include medical practitioners, solicitors, nurses and dentists.
- Enhanced AccessNI Checks
 - Employers may be legally required to obtain an Enhanced AccessNI check before employing someone, primarily for positions in which employees work with vulnerable groups. This check gives an individual's full criminal history, including spent and unspent convictions, cautions and any other material that the police consider to be relevant to the position applied for and should be disclosed.