

To disclose or not to disclose?

- This is part of our information on disclosing your criminal record to employers when applying for jobs.
- Find out more about disclosing on our self-help information site – visit hub.unlock.org.uk/disclosing.

The golden rule - “You only have to disclose if you’re asked”

- Our general view is that you shouldn’t voluntarily disclose.
- If an employer wants to know, then they should ask you.

Exceptions to the golden rule – When you might disclose even if you’re not asked

Although you legally don’t have to disclose unless you’re asked, it’s sometimes not as simple as that. Technically, you won’t have done anything wrong by not disclosing if you’re not asked. However, it can be hard to successfully challenge an employer who later finds out and uses it against you, particularly if you’ve only recently started the job as you have very few legal rights. There’s a couple of scenarios that we often come across where, on reflection, individuals may have been better-off disclosing voluntarily. Ultimately, this something you have to come to a judgement on.

- **Scenario 1 - “We do checks”** - You might think that you’ve not been asked about your criminal record. However, if the employer is going to carry out a formal criminal record check, you might prefer to self-disclose before the results of the check come through. Most employment positions that are not covered by the Rehabilitation of Offenders Act 1974 will involve a standard or enhanced check. Even if they don’t ask about criminal records during the initial recruitment process, they might state in their company policy that they will do a check. Yet remember – they’ll still need your consent before being able to do a criminal record check on you.
- **Scenario 2 - If you prefer to disclose** - Although our general view is that people shouldn’t voluntarily disclose, some people prefer to disclose even if they don’t have to. For some roles, your past might actually help – for example, you might be applying for a ‘peer’ role.
- **Scenario 3 - If you’re on licence/probation/MAPPA** - If you’re subject to licence, probation, MAPPA or police notification, you need to be aware that these authorities may come to a decision as to whether they wish to inform a potential employer of your past (or ask you to disclose), even if the employer hasn’t asked you about convictions. This varies on a case-by-case basis, so you should keep them up to date with the details of the jobs you’re applying for.
- **Scenario 4 - If you think the employer will find out and change their mind** - This is a difficult scenario, because the *chance* that the employer might find out shouldn’t *normally* be enough to suggest that you should disclose even if you’re not asked. As a result, this is something which has to be decided on a case-by-case basis – for example, if your case has been featured in the local press, if you’re well-known locally, or if you’re going into a high-profile role.
- **Scenario 5 - If you’re barred** - If you’re on the ‘children’ or ‘adult’ barred lists, then it is illegal for you to even attempt to work with the groups that you’re barred from.

Exceptions to the golden rule – When you might not disclose even if you are asked

Although you should normally disclose when asked, there are some potential exceptions to this:

- **Scenario 1 – If you don't legally have to disclose** - Employers are only allowed to ask about certain cautions or convictions. What the employer is allowed to ask, and so what you need to disclose if they do ask, depends on the role that you're applying for:
 - a. If the job is covered by the Rehabilitation of Offenders Act, you only have to disclose unspent convictions – even if the employer asks you to disclose spent convictions too.
 - b. If the job is not covered by the Rehabilitation of Offenders Act and an employer is doing a standard or enhanced check, you only have to disclose cautions and convictions that are not yet filtered – even if they employer asks you to disclose “all” cautions and convictions.
- **Scenario 2 – If you think the wrong level of check is being done** - If you have strong evidence to suggest that the employer is carrying out an ineligible check, you can decide to [challenge this first](#) (particularly if you have spent convictions). For information on the types of jobs not covered by the Rehabilitation of Offenders Act, [search for 'eligibility' on hub.unlock.org.uk](#).
- **Scenario 3 – If you'd rather disclose at a different stage to when you're asked** - For example, you might get asked on an application form, but you might decide to disclose at interview instead. See our separate information on when to disclose for more detail.

If you're asked to disclose and you don't when you should have

Some people take a risk and choose not to disclose even when they've been asked. There are some potential pro's and con's to this.

Pro's	Con's
They might not check	Employer sees you as dishonest and regard it a breach of trust (even if happy with your actual criminal record)
You may be more likely to get the job?	Withdraw their offer
Worth it if it's just temporary work?	Grounds for dismissal at a later stage
You get to prove yourself before they find out	You could be prosecuted – for example, under s.2 of the Fraud Act 2006
	If you're on licence, you could be recalled
	You'll be forever looking over your shoulder

About this information

This information was last updated in January 2017. It may have since been amended or updated. Latest versions are available through searching for [‘to disclose or not to disclose’ on our self-help information site, hub.unlock.org.uk](#).

Found this helpful?



We rely on charitable grants and individual donations to continue our work; we do not deliver government services. By being independent, we are able to respond to the needs of the people with convictions. [Help us carry on our work](#).

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Feedback?

- If you use this information, please [let us know how you get on](#) (no personal details required).
- We’re always updating our information and your feedback helps us when we’re providing advice in the future to others in similar situations.
- If you’ve got a suggestion, found a broken link, or have a personal experience that would help to add a 'real-life' example to this information, please contact us.

Question? Contact us

theHelpline - confidential peer advice on overcoming the effects of criminal convictions

Call: 01634 247350

Email: advice@unlock.org.uk

Other: For other ways to contact us, visit hub.unlock.org.uk/contact

Online: For online self-help information, visit hub.unlock.org.uk

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