

SOUTH DERBYSHIRE DISTRICT COUNCIL

Rehabilitation of Offenders Act 1974 **Information and Guidance**

1.0 Spent Criminal Convictions

- 1.1 The Rehabilitation of Offenders Act (ROA) 1974 sets out to help people who have been convicted of a criminal offence and who have since lived on the right side of the law. In general, a person convicted of a criminal offence and who receives a sentence of no more than two and half years in prison, benefits from the Act if they are not convicted again during a specified period. This period is called the rehabilitation period.
- 1.2 In general terms, the more severe a penalty is, the longer the rehabilitation period. Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered to be 'spent'. Once a conviction has been spent, the convicted person does not have to reveal or admit its existence in most circumstances, including, for example, when applying for a job. In most circumstances, an employer cannot refuse to employ someone, (provided they are suitable to do the job for which they have applied) or dismiss them, on the basis of a spent conviction.
- 1.3 However, there are jobs for which all convictions must be declared on the application form. More details are given in Section 4.

What is an 'unspent' conviction?

- 1.4 If you've ever been convicted of an offence for which a **sentence of more than 2 and a half years** was imposed (*regardless of the amount of time you actually spent in prison*) this conviction can never become 'spent': It's an 'unspent' conviction which you must disclose when asked about your criminal convictions (*such as when applying for a job*).

Is this the only time a conviction is 'unspent'?

- 1.5 No. If you were given a sentence of two and half years or less, a conviction may still be unspent. Whether or not depends on the length of time that's elapsed since the date of the conviction. This time is called the **rehabilitation period** – and it differs according to the type of sentence passed.
- 1.6 The following tables show the range of rehabilitation periods for different sentences imposed. Until such time has passed from the date of the conviction, the conviction will remain 'unspent' and will have to be declared to a potential employer on the job application form. Additionally, the applicant should enter a cross in the YES box on the Disclosure application form at Section H, line 66. If the conviction is 'spent', you may cross the NO box.

TYPE OF SENTENCE IMPOSED	NUMBER OF YEARS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
Imprisonment or detention in a young offender institution (previously known as youth custody) between six months and two and half years	10 years
Imprisonment or detention in a young offender institution (previously known as youth custody) of six months or less.	7 years
A fine or any other sentence for which is a different rehabilitation period is not provided (e.g. a compensation or community service order, or a probation order received on or after 3 rd February 1995).	5 years
An absolute discharge	6 months

Except for an absolute discharge, all of the periods above are **halved** if the person convicted was **under 18** at the time. If a person was under 18 and received a probation order on or after 3rd February 1995, the rehabilitation period is two and half years or until the order expires – whichever is longer.

In the past there were sentences that could be imposed **only on young people**. The rehabilitation periods for sentences like this are as follows.

TYPE OF SENTENCE IMPOSED on you people aged under 18 years at the time	NUMBER OF YEARS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
Borstal	7 years
Detention Centre	3 years
An order for custody in a Remand Home or an Approved School order	1 year after the order expires

Some sentences like this carry **variable rehabilitation periods**.

TYPE OF SENTENCE IMPOSED on you people aged under 18 years at the time	NUMBER OF YEARS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
A probation order received before 3 rd February 1995, a conditional discharge or a bind over	1 year or until the order expires (whichever is longer)
A care order or supervision order	1 year, or until the order expires (whichever is longer)
An Attendance Centre order	1 year after the order expires
A Hospital order (with or without restriction order)	5 years, or two and half years after the order expires (whichever is longer)

In Scotland, supervision requirements made by Children's Hearings have the same rehabilitation periods as care or supervision orders.

2.0 People in the armed Services

2.1 Rehabilitation periods for imprisonment in the armed Services are the same as in civilian life. For specific Service offences, the periods are as follows:

TYPE OF SENTENCE IMPOSED on men or women in the armed Services	NUMBER OF YEARS from date of conviction BEFORE CONVICTION BECOMES 'SPENT'
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service	10 years
A sentence of dismissal from Her Majesty's service	7 years
A custodial order under the relevant Schedules and sections of the Army, Air Force and Naval Discipline Acts – where the maximum period of detention specified in the order is more than six months	7 years
A sentence of detention in respect of a conviction in Service disciplinary proceedings	5 years
A custodial order under the relevant Schedules and sections of the Army, Air Force and Naval Discipline Acts – where the maximum period of detention specified in the order is six months or less	3 years

These periods are **halved** if the offender was **under 18** at the time.

3.0 Convictions after the original offence

- 3.1 Later convictions only affect the rehabilitation periods of earlier convictions if they are imposed before the first conviction is completely 'spent'.
- 3.2 If it is one of the less serious offences, which can be tried only in a magistrates' court (*some more serious offences can be tried both by a Crown Court and by magistrates*) the first conviction becomes spent at the time originally fixed. The rehabilitation period for the second offence will then run for its normal length.
- 3.3 But if the later conviction is for an offence which **could** be tried in a Crown Court (for example, stealing) then neither conviction will become spent until the rehabilitation periods for both offences are over.
- 3.4 If, however, the second conviction is so serious that it incurs a prison sentence of more than two and half years, then **neither** the second nor the first conviction will ever become spent.

4.0 Exceptions

- 4.1 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) provides that in certain circumstances all convictions both 'spent' and unspent' must be disclosed.
- 4.2 This is to protect vulnerable persons and in such cases we are legally entitled to ask you for details of all convictions - whether spent or unspent. The job advert will indicate whether you are legally required to disclose both spent and unspent convictions of which case all applicants who are offered employment to one of these posts will also be subject to a criminal record check. This check will be completed via the Criminal Records Bureau.

5.0 Failure to Disclose

- 5.1 If you take up employment with South Derbyshire District Council, failure to disclose convictions could result in disciplinary action or dismissal.

6.0 Confidentiality

- 6.1 All information you give on your job application form will be treated as strictly confidential. Only those involved in the recruitment and selection process will have access to your job application form. The original job application forms of unsuccessful applicants will be kept in a secure place for a period of 3 months. They will then be destroyed. The job application form of the successful applicant will form part of the individual's personal file which is kept in a secure filing system in the Personnel and Development Division.
- 6.2 Copies of job application forms will be destroyed on completion of the recruitment and selection exercise.
- 6.3 Disclosure information will only be obtained for the successful applicant. The information will be kept securely and only those entitled to see it during the course of their duties will have access. The Council's Security Policy is available from the Personnel and Development Division.