

Disclosing a criminal record

Cathy: Hello and welcome to our podcast on disclosing to employers about a conviction or criminal record, when applying for jobs. My name is Cathy and my colleague Lynne and I are both careers advisers with the OU. Telling employers about your record, can feel challenging and students have many questions about if they need to do this, and how.

Lynne: We are going to look at each issue from a range of viewpoints and we are doing this, so you can consider what is right for you. If you decide to do this, you will know how to talk to an employer effectively. Throughout the discussion, we'll be referring to additional resources, and these are available on the webpage, where you found this podcast.

So, the first issue we are going to discuss, is whether to you need to tell an employer about your record when you are applying for a job.

Cathy: People often wonder whether telling an employer, will put them off straightaway.

Lynne: Let's listen to what employers have to say about this:

Employer quote

'If the offence was unrelated and there were no legal restrictions with regard to the job and there were no contractual restrictions either so um for example some people may be required to have a driving licence as part of their contract and if you lost your driving licence due to a criminal conviction then that would automatically terminate your employment because it's a contractual requirement. So if there are no role requirements or contractual requirements within the role um then it shouldn't have a direct impact.'

Employer quote

'It's not something that we look at as part of the selection process. If we have made them an offer and it comes up there as an issue there may be a discussion, but it really would depend upon the nature of the role that you apply to. For instance if you have convictions around money laundering and we're placing you into a role in the finance team then obviously that's going to be an issue. I can say first hand an example of individuals who have convictions for possession of class C drugs and talking through their background situations it happened quite a few years ago and it has no impact on their actual work life absolutely fine.'

Cathy: Many employers said their decision depended on: the type of conviction, the sort of person you are, skills and experience. It helped if applicants with a record could show they had undertaken activities to move on in their lives.

Lynne: For example – being an OU student!

Cathy: But things are changing, the Government wants more companies to stop asking job applicants if they had convictions when they applied for jobs. Instead these questions should only be asked much further along the application process, during interview, where people have a chance to explain their situation. They are saying people should no longer have to declare their convictions on their CVs when going for jobs, the Prime Minister said the changes would apply to the Civil Service to encourage other companies to follow their lead, so it will be interesting to see what this looks like in a few years' time.

Lynne: So back to the question, do you need to disclose convictions when applying for a job?

Cathy: You don't need to disclose spent convictions when applying for most jobs.

Lynne: What is a spent conviction?

Cathy: The Rehabilitation of Offenders Act says most convictions and all cautions, reprimands and final warnings are considered as spent after a certain amount of time. This amount of time is decided by the sentence given, rather than by the type of offence. Once a caution, reprimand, conviction or final warning is spent, you don't need to disclose it to most employers. It is against the law for an employer to investigate spent convictions unless you are applying for a job which is exempt from this Act.

Lynne: That sounds complicated. How does an individual work out if their sentence etc. is spent?

Cathy: I am pleased to say there is a very quick and easy way. Unlock, is a charity supporting people with convictions and it has a online web tool can help you to work out when your convictions become 'spent' under the Rehabilitation of Offenders Act and so it no longer needs to be disclosed in most cases.

Lynne: But as you said Cathy, some jobs are exempt and you have to disclose. Which jobs are these?

Cathy: These jobs tend to be working with children and vulnerable adults, such a school staff or social service staff; jobs relating to administration of justice, or professions which have legal protection such as doctors, lawyers or accountants and jobs involving national security. You can find a list on the Disclosure and Barring Service website which is given on the webpage here, but NACRO – a charity supporting people with a record, have a guide on this and that is a good starting point.

In other occupations, regardless of whether a conviction is spent or not, applicants do not have to disclose convictions to employers unless they are specifically asked.

Lynne: It sounds as though the applicant has to work out whether the job is exempt or not, is that the case?

Cathy: It is up to the employer to request that successful applicants apply for different types of disclosure.

Lynne: So is the general opinion that you should disclose when you are asked?

Cathy: Generally, the advice from organisations supporting people with a record, is that it is best to do that, as that is when the employer is expecting to be told and it can help with your own peace of mind.

Lynne: Let's hear what employers have to say

Employer quote

This is a very um again related question to the disability question in that um we would not ordinarily look at that information until later in the process so it would be kept separate. Um unless it was a role that had a requirement for you not to have a criminal record so for example working with vulnerable adults um or vulnerable children. Um unless it was a key criteria for the role we wouldn't be considering it until later in the process so again in terms of um being open, being up front um coming to the table as I like to describe it with clean hands um rather than disclosing something at a later stage in the process which becomes much more difficult to do, I'd recommend doing it early in the process.

Employer quote

It's the kind of thing again I prefer to know as soon as possible but I know um they might not want to put it in the CV up front. They want to discuss it in the interview. But the sooner we know the better. I just speak from personal experience. When I was in the States I used to volunteer for um a charity that would help ex-offenders. Um and I would see how much they would struggle because once there's a mark um that you've been in prison the whole of society makes it a lot harder for you so I'd like to be able to arrange for a suitable role just because the sooner you um allow people to get back into working the better for everyone concerned. But it's just useful to have that conversation as soon as possible.

Cathy: Often, employers respond more positively when you disclose face to face. This way you can explain the circumstances and address any immediate concerns they may have.

Lynne: But often the first information an employer has about you, is either your CV or a job application. So how should you inform a prospective employer?

Cathy: NACRO and UNLOCK are very clear on this. The whole point of a CV is to show you are the best person for the job, so both advise very strongly, you should not put anything about your record on your CV.

Lynne: But what about gaps in your employment record?

Cathy: I always suggest to our students in prison that they complete skills CVs, not the traditional chronological CVs.

Lynne: What is a skills CV as opposed to a chronological CV?

Cathy: A chronological CV lists your details, under appropriate headings, starting with the most recent. It emphasises career progression. It's best used if you've had continuous employment with no gaps. Skills CVs focus on skills you have to offer, particularly the skills relevant to the job you're applying for. You still include what you have done and sometimes OU students in prison put the dates they were studying their degree, to cover a gap in their record.

Lynne: What else could you put down if you have spent time in prison?

Cathy: If you have spent time in prison, you can include orderly roles, which are jobs people have in prisons. For example, roles within the Education Department in a prison, helping out with teaching literacy.

Lynne: What about voluntary roles – would they count?

Cathy: There are voluntary roles in prison, such as a Listener, who works with the Samaritans, listening to people who are in crisis. You can also include courses you have taken in prison on your CV.

Lynne: Another option for a CV, is to put 'unavailable for work'. But you need to be prepared to explain what you mean by this, if asked during an interview. Does this advice also apply to application forms?

Cathy: With CVs, you are in charge, you can decide what to put. With application forms, this isn't the case and one issue can be a 'tick box', where you tick if you have a record. The problem with this is it doesn't give you a chance to explain. You could either write a sentence explaining you would be happy to discuss this, if selected for interview, or you can prepare a disclosure statement and write on the application form that you are going to send this separately. You would need to send it directly to the recruiter marked 'confidential'

Lynne: Any further advice on this?

Cathy: Remember that if an application form asks if you have a criminal record and your conviction is spent, you can say 'no'. But if you have unspent convictions and don't disclose them when asked, you could be dismissed by the employer.

Lynne: Not straightforward is it! What about disclosure statements – what are they?

Cathy: They explain your offence – highlight any relevant circumstances e.g. addiction issues and if you have several offences – group them together in one time period. Say if it was long ago, or a one off – out of character. If the offence sounds more serious than it was, then draw attention to the penalty or sentence you received. Show you took responsibility – e.g. by pleading guilty and attending relevant courses since.

The best statements are genuine and accurately show your circumstances and attitudes. Keep a template statement saved and alter this for each job.

Lynne: So to summarise.....

Cathy: Start with something positive – why you want the job, describe skills you have, with examples which prove you have these.

Lynne: But the main focus should be - reassurance you are not a risk – show what you have done which proves you are a safe and responsible staff member. For example, OU studies, orderly experience, voluntary work / work experience in a Cat D etc. If you have a character reference – mention this. UNLOCK have examples of disclosure statements on their website

Cathy: That really is a good resource – look at their website.....and remember to keep a copy of everything you send an employer. Send it to the right person and phone the company switchboard, if you aren't sure who this is.

Lynne: What about the next stage in applying for a job – interviews...

Cathy: Interviews are where most people feel comfortable telling an employer. But don't let the disclosure take over the interview. Prepare beforehand what you want to say, using the same guidelines as for the disclosure statement. Practice saying it out loud, like an actor learning their lines, so it feels familiar when you say it in the interview. Keep it simple and don't ramble on. The interview is about what you have to offer, not details of your conviction.

Lynne: So if the application form did ask about convictions and you chose not to disclose, you need to be the one to raise this during the interview. When would be a good time to do this?

Cathy: Not at the beginning of the interview, as you want to tell them why you would be the right person for the job first. That is your priority. So listen to how the conversation goes, and either bring it up at some point during the interview or another way of doing it is at the end of most job interviews, they will say to you 'do you have any questions you want to ask us, basically the employer is handing over control of the interview to you and you could mention it then.

Lynne: So, we've looked at whether you need to tell an employer in the first place, when to tell an employer and how to tell them. You can find links to useful advice on the webpage linked with this podcast. If you want to talk to a careers adviser about your situation, do get in touch and you can do this by using the contact tab on our website.

Cathy: Two charities which support people with convictions are on hand to offer advice both online and on the phone. They are NACRO and UNLOCK. Both advise on how and when to disclose and preparing a disclosure statement. If you feel awkward about disclosing a record, remember that one in four people of working age have a conviction. Thank you for

listening to this podcast and good luck to everyone in applying for jobs and remember, the careers team is always more than happy to help.