



## Criminal Convictions & Public Interest Policy

### Introduction

One of the States of Guernsey's primary objectives is to provide a safe and secure community for Islanders to live in. In a small community like Guernsey, where the impact of harm caused by crime in the Island can be greater than in larger communities, this policy has been developed to help meet that objective.

If you are not resident in Guernsey and have a **“serious criminal record”**, the Population Management Office will in almost all cases refuse to grant a Permit or Certificate to you, and this will mean you will not be able to come to live and work in the Island. (Reference CC1)

In most cases, if you are given a Permit to come and live in Guernsey, it will be a condition of the Permit that you do not acquire a **“relevant conviction”** during your time in Guernsey. If you do, your Permit will be invalidated. If the conviction results in you having a serious criminal record, you will not normally be granted a new Permit and will have to leave the Island.

This policy explains what “relevant convictions” are, and explains what convictions, or combination of convictions, lead to a “serious criminal record”. As part of the on-line Permit/Certificate application, a person must declare all unspent convictions. This policy also explains when an application for a Permit might be refused on other public interest grounds.

When making decisions on applications for Certificates and Permits, the Population Management Office will respect your Human Rights and act with fairness and impartiality.

### Rehabilitation of Offenders

Guernsey has its own Rehabilitation of Offenders Law ("the Rehabilitation Law"), setting out how long it is before a conviction becomes “spent”. Some convictions never become spent. Where this Policy talks about “unspent convictions” it is referring to the “spent” periods set out in Guernsey's Law, which might be different to similar legislation in other places. When making a declaration about unspent convictions as part of your Permit or Certificate application, **you must use the spent periods set out in the Guernsey Law** - not those that might apply in your home country. (Reference CC2)

This table is a guide to the Rehabilitation Periods under the Rehabilitation Law:

Sentence	Clear Period	
	Adult	Juvenile (under 18)
6 – 30 months imprisonment	10 years	5 years
Up to 6 months imprisonment	7 years	3.5 years
Fine/community service order/community order	5 years	2.5 years
Probation order, bind over, conditional discharge, Attendance Centre Order, Supervision Order	1 year*	1 year*
Caution	6 months	6 months

\*Or the end of the probation order or bind over if the Order exceeds 12 months' duration

A sentence of imprisonment for life or for more than 30 months never becomes spent, even if the actual time served in prison as a result of that sentence is less than 30 months' duration.

The Rehabilitation Law can be found [here](#).

## Relevant Convictions

There are two different categories of "relevant convictions".

### Category 1:

- a conviction for any offence resulting in a sentence of more than 30 months' imprisonment; or
- an unspent conviction for a serious crime of violence; or
- an unspent conviction or caution for a sex offence; or
- an unspent conviction for a money laundering or terrorist financing offence; or
- an unspent conviction for a fraud offence.

A "**serious crime of violence**" means an offence that resulted in a sentence of 12 or more months imprisonment and was an offence of a type which –

- leads, or is likely to lead, to a person's death or to physical injury to a person, or
- is required to be charged as arson.

A "**sex offence**" means an offence which –

- makes the offender subject to the notification requirements in the Criminal Justice (Sex Offender and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 ("the Sex Offender Law"), or
- makes the offender subject to similar notification requirements in England and Wales, Scotland, Northern Ireland, Jersey, the Isle of Man or any other jurisdiction, or
- a court has certified to be a sexually aggravated offence, or
- has resulted in a court making a sexual offences prevention order or a foreign travel order under the Sex Offender Law, or a court in another jurisdiction making an order of similar effect;

and in addition, a person who is the subject of a risk of sexual harm order made under the Sex Offender Law, or a similar order made somewhere else, is treated for the purposes of this policy as having an unspent conviction for a sex offence (and therefore as having a Category 1 conviction) while the order remains valid.

A "**money laundering or terrorist financing offence**" means an offence under Part II of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, an offence under Part III of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, or an offence under a similar law somewhere else, that resulted in a sentence of 12 or more months imprisonment.

A "**fraud offence**" means an offence of fraud under the Fraud (Bailiwick of Guernsey) Law, 2009, or an offence under a similar law somewhere else, that resulted in a sentence of 12 or more months imprisonment.

### **Category 2:**

An unspent conviction or caution for:

- an offence involving violence which is not a "serious crime of violence", or
- an offence with a sexual element which is not a "sex offence", or
- a public order offence (such as affray), or
- an offence against property (such as theft or criminal damage), or
- a drugs-related offence, or
- an offence of dishonesty (such as tax evasion), or
- an offence that could endanger the lives of others, whether through intent or recklessness (such as possessing an offensive weapon; dangerous driving; or driving whilst under the influence of drugs or alcohol)

### **Serious Criminal Record**

A person is considered to have a serious criminal record if they have:

- one Category 1 conviction; or
- two Category 2 convictions.

### **Declaring Criminal Convictions**

As part of the on-line Permit/Certificate application, you **must** declare **all** unspent convictions as set out in this policy. You must also declare if you are currently the subject of a risk of sexual harm order made under the Sex Offender Law, or an order of similar effect made in another jurisdiction. The declaration will be checked, and some people will be asked to provide a formal disclosure document (usually a Basic Police Disclosure) before the application can be processed. (Reference CC3)

**It is an offence to make a false declaration when making a Permit/Certificate application.**

If you make a false declaration, we will notify you that your application will not be processed. (Reference CC4)

**If we discover after we have issued your Permit or Certificate that you failed to declare an unspent conviction when you made your application, we will normally revoke your Permit or Certificate. (Reference CC5) You can be prosecuted for making a false declaration on your Permit or Certificate application.**

## **Refusal to issue a Permit or Certificate in the Public Interest**

In rare circumstances we will refuse to issue a Permit or Certificate because we are satisfied that it is not in the public interest for you to be resident in Guernsey even if you don't have a serious criminal record. This will normally be because you would pose a significant risk of damaging Guernsey's:

- international reputation;
- relationship with the United Kingdom or a foreign power; or
- community relations.

(Reference CC6)

## **Your Right of Appeal**

If an application is refused because of a serious criminal record or because we have concluded that it is not in the public interest for you to be resident in Guernsey, your right to appeal that decision will be explained.

## **Relevant Convictions during the Permit Period**

If you are issued with a Permit, it is likely to be a condition of the Permit that you do not commit an offence that leads to a relevant conviction during the Permit Period. If this happens, your Permit will be invalidated. (Reference CC7)

## **It is an offence to live and work in Guernsey without a valid Permit or Certificate.**

If you want to stay in Guernsey after your Permit has been invalidated because of a conviction, you will have to make a new Permit application, and you will have to provide a Basic Police Disclosure document. (Reference CC8) If the Basic Police Disclosure document shows that you now have a "serious criminal record", it is unlikely that you will be issued with a new Permit. (Reference CC9) Your right to appeal that decision will be explained. You will normally be given a short period of time to make plans to leave the Island. (Reference DR1e)

## **Policy Review**

This policy will be reviewed on 2 April 2018. The policy should not be relied upon as an indication of the likely outcome of Certificate and Permit applications made after the review date. If the policy changes as a result of the review, the change will not be retrospective. The Administrator reserves the right to review this policy before the published review date if there is good reason to do so.