



## **Magistrates Court of Western Australia Criminal Jurisdiction**

### **Fact Sheet 43 – Spent Conviction at the Time of Conviction**

*This fact sheet explains how you can apply to the Court at the time of sentencing to have a conviction declared spent*

#### **What is a spent conviction order?**

At the time of **sentencing**, you may ask the magistrate for a Spent Conviction Order. The Court may order a spent conviction if it is satisfied that:

- You are unlikely to commit an offence again;
- The offence is of a minor nature; or
- You are a person of previous good character.

The effect of the order is that you will not always be required to disclose your conviction to others.

#### **What are the benefits of having a spent conviction order**

The main benefit of having a Spent Conviction Order is that you will generally not have to disclose or acknowledge the conviction for employment or some other purposes. It is unlawful for example for employees, contractors, professional or trade organizations and licensing boards to discriminate against a person because of a spent conviction.

However, there are exceptions where you must disclose a spent conviction. Some examples of circumstances where you will need to disclose the spent conviction are:

- If you apply for employment as a police officer, prison officer, bank employee, casino employee, security guard or teacher you may be required to disclose information of your Spent Conviction Order.
- If you wish to become a foster parent.
- If you apply for a license under the Firearms Act.

## **How to apply**

Before the magistrate imposes a sentence, you will need to ask the magistrate for a Spent Conviction Order. If you have a lawyer, the lawyer can do this on your behalf.

You may want to tell the magistrate about yourself and point out any of the following:

- Your previous good character and that you have no previous criminal record.
- That you are sorry for the offence committed.
- Your willingness to attend any rehabilitative programs to address your behaviour.
- Any family, drug or alcohol problems that may have been part of the reason why you committed the offence.
- The impact a conviction will have on your current employment or future job prospects.
- The effects a conviction will have on your family and social life.

The Court has a discretion in these matters and there is no guarantee that a Spent Conviction Order will be made.

If the Court does order a spent conviction, it may also impose:

- A conditional release order, which means you can be released immediately;
- A fine; or
- A community based order.

## **Additional information – spent convictions for old offences**

In Western Australia it is also possible to have an old criminal conviction declared spent.

The Magistrates Court is not involved in these applications. You will need to apply to either the Commissioner of Police or the District Court – depending on the seriousness of the original conviction.

For further information on spent convictions for old offences please contact Legal Aid WA, the District Court or the WA Police Service.

**This is a guide only. The content is subject to change.**

If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.