

Living with a criminal record



Surini Saparamadu of Knights Solicitors says the future is somewhat bleak for anyone convicted of a wildlife offence.

The last *KtB* reported on the expulsion of a member from the NGO as a result of his prosecution for raptor persecution and related crimes (*KtB* Spring 2023, page 11). Pleading guilty, Mr Allen was given a 15-week sentence suspended for 12 months. Some commentators felt he got off lightly.

What is a suspended sentence?

It is a custodial sentence where the offender does not have to go to prison if they commit no further offences and comply with any requirements imposed. A suspended sentence is imposed only when the custodial sentence imposed is no longer than two years. When imposing a suspended sentence, the Court may impose several conditions and requirements that must be complied with during the suspended period. These may include:

- Completing unpaid work.
- Participating in offender programmes.
- Refraining from participating in certain activities.

- Adhering to a curfew.
- Remaining resident at a certain address and attending supervisory meetings with a probation officer.

If the offender is convicted of another offence during the period of the suspended sentence or does not comply with the requirements/conditions of the order, he will most likely have to serve the original custodial term plus any new sentences imposed for the new offence.

A suspended sentence is regarded as 'spent' after a certain period. This is defined by the original custodial sentence period given and not by the suspended sentence period. If the original custodial sentence is for four years or more, it will never be spent. For sentences of less than four years the spent time is:

- Sentence plus seven years, for sentences more than 30 months and less than or equal to four years
- Sentence plus four years, for sentences

more than six months and less than or equal to 30 months.

- Sentence plus two years, for sentences less than or equal to 12 months.

So in the case of Mr Allen, his conviction will not be spent until April 2025.

Although a suspended sentence enables a person convicted of a crime to continue in their life in the community rather than going to prison, it is still a conviction. It is recorded on the Police National Computer and will appear on the person's record indefinitely. This means it will show up in criminal disclosure checks and any future criminal proceedings. It will also appear on Disclosure & Barring Service (DBS) checks. The length of which it will appear on DBS checks depends on the level of disclosure required. For example, Standard and Enhanced DBS checks will show up even after the sentences are spent, whereas Basic DBS check will only show 'unspent' convictions. →



Having a criminal record has far-reaching implications beyond the obvious ones and will likely have a lasting impact on a person's life.

Firearms

It need hardly be said that the courts and police take a very serious view of any breaches of the law affecting the possession and use of firearms. Losing the right to own and use a firearm is a definite in this case as the charge included failing to comply with licence conditions, so would make any further involvement in gamekeeping just about impossible.

Employment

If someone is convicted of an offence, they may have to inform their employer especially if the offence has any connection to the employment or was committed during employment. This may result in disciplinary proceedings or in the latter two events in a dismissal. An employer may also ask a prospective employee to disclose their criminal record. Whether to declare spent or unspent convictions depends largely on the type of employment. Some employers have a legal obligation to file for a DBS check and be in breach of their legal obligations if they fail to do so. This is especially the case with employment that involves working with children or other vulnerable people (with disabilities or the elderly). A gamekeeper convicted of a wildlife crime and who was expelled as a member of the NGO will struggle to find any employment opportunities within the industry.

A criminal record may also prevent someone from entering a certain profession. This is because some industries have regulatory bodies that set higher standards for entering or remaining in a certain profession. Law, accounting, healthcare and childcare are examples of professions where a higher standard is expected.

Education

Some higher education institutions and higher education programmes may request disclosure of criminal convictions. This will limit a person's chance of obtaining the desired qualifications or training. Also, if someone is already in an education course or programme at the time of conviction, they may have to inform the provider and may even be discontinued from the course or programme.

Travel

Most people with convictions will fail to obtain entry visas to some countries which have strict immigration rules. Immigration forms in some countries require you to disclose criminal convictions. Countries like USA or Australia, for example, have strict rules, making it unlikely that a person convicted of a criminal offence would be allowed to enter these countries. Entering EU countries with a criminal conviction since Brexit has yet to be determined.

“Stress and depression are common, caused by guilt and separation.”

Insurance

Some insurance policies require the disclosure of a criminal record. This may result in an increase in premiums and some insurance companies may outrightly deny a particular type of insurance based on a conviction. A failure to disclose if required to do so will result in a charge of insurance fraud.

Housing

There is a high chance that a convicted person in rental accommodation will be evicted from their home. Also, some mortgage providers may request DBS checks and could therefore affect whether that person could buy property. In a situation where an employer provides or guarantees accommodation to their employees (as is a common scenario for gamekeepers), a criminal conviction may easily result in losing employment along with accommodation provided or guaranteed.

In addition to the examples listed already, having a criminal record would have implications on other aspects of life too. The convicted person would also say goodbye to any application for adoption or participating in jury services, and would find they are subject to many other personal and long-lasting implications.

Custodial sentences

In the case of Mr Allen, there were strong mitigating circumstances that meant the judge did not issue a custodial sentence. Many convicted of a similar crime would expect to go to prison after a judge delivers a 'determinate custodial sentence', which

is a sentence of imprisonment for a period of time set by the Court. The implications of such a sentence would be greater and have deeper lasting consequences than for a non-custodial sentence.

Depending on the length of the sentence, the first half is served in custody and the second half on licence. A licensed prisoner can be recalled to prison if the licensing conditions are breached.

■ A custodial sentence will affect a person's financial and social life.

■ The strongest implications are due to the psychological effects associated with custodial sentences. Stress and depression are common, caused by the feeling of guilt and separation of family and friends.

■ The effect of the custodial sentence does not stop with the offender but has implications for their families too, especially children.

There will be dire and punitive consequences of a prison sentence on any dependants and family.

■ Many offenders continue to feel the stigma of their time in prison even after the prison sentence is spent.

■ Many offenders find it difficult to find and hold down employment after release.

■ Re-establishing relationships and a social circle is challenging and makes for uncertainty and instability.

■ The very nature of time spent in prison will have a lasting effect on someone's life.

In short, know the law and stay within it! ●



NGO FREE LEGAL HELPLINE

NGO members in need of emergency legal advice relating to gamekeeping and fieldsports can call the helplines below. Up to 30 minutes telephone advice is available free of charge as a benefit of your NGO membership.

For those in the South: Matthew Knight, Richard Atkins, Surini Saparamadu or Evie Green at Knights Solicitors (Tunbridge Wells), 01892 537311.

For those in the North, Scotland and Wales: Michael Kenyon, Solicitor (Macclesfield), 01625 422275 or 07798 636460. ●