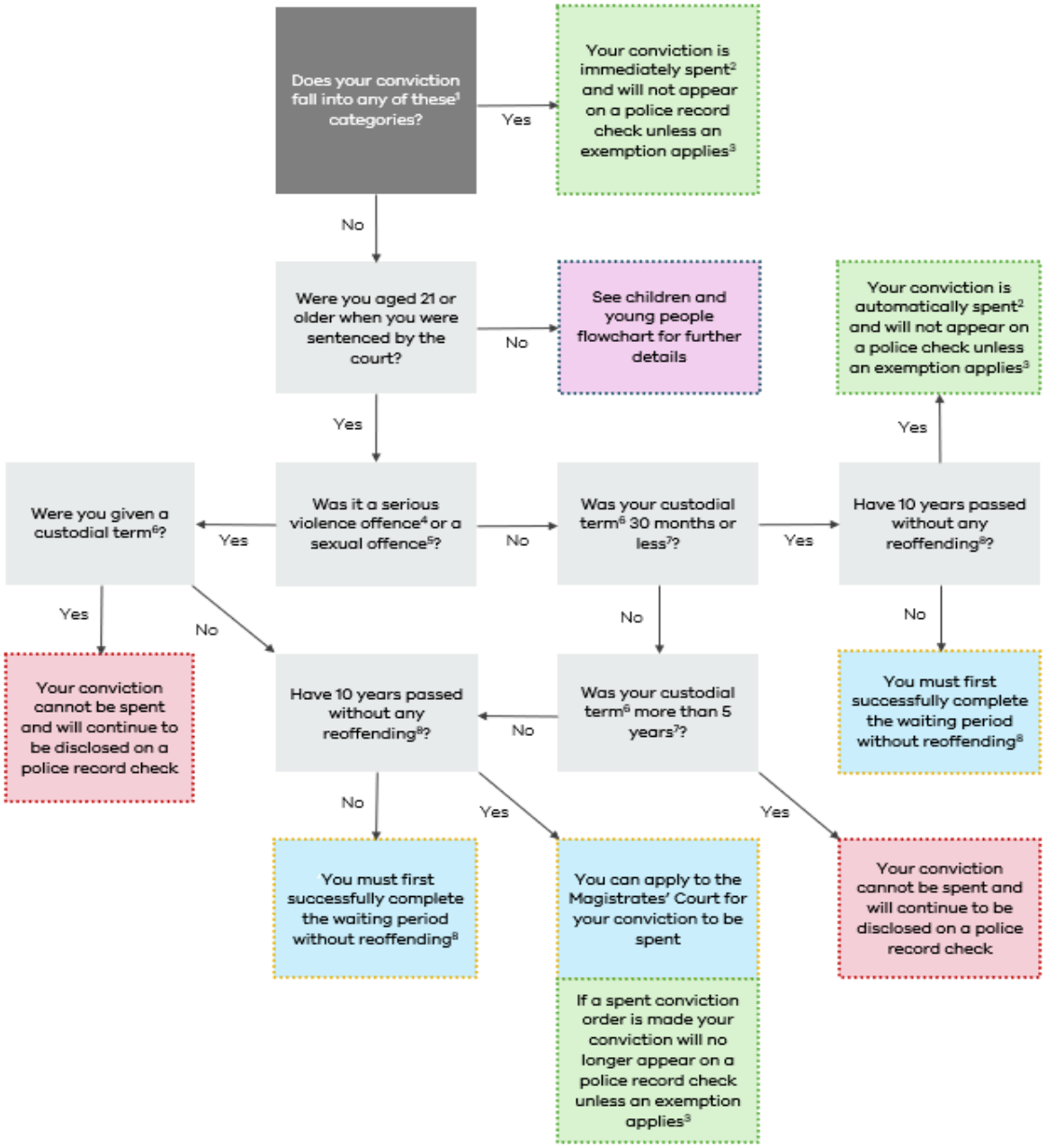
Spent Convictions Act 2021

Flowchart for adults

Can my conviction be spent?

When you apply for work, education or volunteering you are often asked for a police record check. In some circumstances your old and minor convictions can be 'spent' and so will not show up on your police record check (unless an exemption applies).

This flowchart applies if you were aged 21 or older when you were sentenced for your offence. If you were under 21, please see the flowchart for children and young people.



Last updated: September 2026

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Key for flowchart

1. **Categories:**
   - You were found guilty but the court did not record your conviction
   - Your only penalty was a fine ordered by the Children's Court
   - The Children's Court recorded your conviction but you did not receive any other penalty
   - You received an infringement (on-the-spot fine) such as for speeding
   - The conviction was a 'qualified finding of guilt' under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.*
2. **You must first complete any conditions (including being of good behaviour) before your conviction is spent immediately.**
3. **Police, courts and some other specific exempt agencies will still have access to your spent conviction in certain circumstances.**
4. **A serious violence offence refers to several specific offences such as:**
   - Murder or manslaughter
   - Causing serious injury intentionally or recklessly
   - Kidnapping
   - Arson causing death.

   See the *Serious Offenders Act 2018*, Schedule 2 for further details.
5. **A sexual offence is defined very broadly and includes different types of offending such as:**
   - Rape or sexual assault
   - Sexual offences against children
   - Indecency offences.

   See the *Criminal Procedure Act 2009*, section 4 for further details. Note that 'sexual offence' does not include any intimate image offences.
6. **A 'custodial term' is a term of physical imprisonment or detention.**

   The length of a 'custodial term' includes time spent on parole.

   A court secure treatment order is considered a 'custodial term'.

   The following types of sentences are not a 'custodial term': a suspended sentence, intensive correction order, residential treatment order, a drug and alcohol treatment order or home detention.
7. **The 30-month and 5-year limits are for an individual charge, not your total effective sentence.**
8. **For adults (21 or over at the time of sentencing) the 'waiting period' is a 10-year period without most reoffending. If you reoffend during the waiting period, this period restarts.**

   The waiting period does not restart if your reoffending results in one of the following outcomes:
   - Your only penalty is a fine of no more than 10 penalty units
   - Your only penalty is an order to pay victim compensation (such as for pain and suffering) or restitution (such as to restore stolen property)
   - No penalty was imposed.
   - You were found guilty but the court did not record your conviction.

   If you reoffend after the waiting period for a conviction has ended, the waiting period for that conviction does not restart.

More information
Find more information about what the *Spent Convictions Act 2021* means for you: www.justice.vic.gov.au/spent-convictions-act-2021

Disclaimer
The information in this flowchart is a general guide only and you should seek legal advice about how the law applies to your circumstances.

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