



## Criminal records – Removing homosexual convictions



If you have a conviction, the court has found you guilty of a crime and this has been put on your criminal record.



Being gay or homosexual is not a crime anymore, and it should never have been a crime. That is why a homosexual conviction can now be removed.

When a conviction has been removed it is called 'spent'.



If someone asks about your criminal record you don't have to tell them about a spent conviction. For example, if they ask you at a job interview.



## Which homosexual convictions can be removed?



Please note – some of the words used in this factsheet are now offensive. But they are used here because they were the legal words used for some convictions in the past.



If you feel upset reading this factsheet, you can ask for emotional help. See page 12 for more information.

These types of homosexual convictions can be removed:



- buggery – which is males having sex with each other



- encouraging other males to have sex with each other



- telling a male you want to have sex with them, and this upset them.

Other convictions that relate to homosexuality can also be removed. For example:



- disorderly or offensive behaviour



- offensive language.



If you aren't sure if your conviction can be spent, see page 12 about getting legal advice.

## Who decides if my conviction can be spent?



A magistrate will decide if your conviction can be spent. A magistrate is a court judge.



You will need to leave some paperwork with the court. You probably won't need to see the magistrate in person.

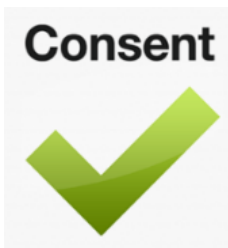
The magistrate will check:

~~Crime~~

- that your actions would not be a crime today



- the age of anyone else involved in the sexual activity



- whether the other person or people gave consent (agreed) to the activity.

~~Other crime~~

The magistrate will also check that the conviction only relates to homosexuality, and not any other crime.



You don't need to convince the magistrate you are a good person or that you deserve to have the conviction removed.



The magistrate will only look at your actions, and not anyone else who was involved.

For example, if you were aged under 17 years at the time, but the other person was aged over 17.

## Who can apply to have a conviction removed?



You can apply to have your own conviction removed.



You can apply for someone else if that person has died, has an intellectual disability or another mental incapacity.

You can apply for another person if you:



- are their husband, wife or de facto partner



- are their brother or sister, and you are an adult



- are their child, and you are an adult



- are their guardian



- look after their estate, if they have died.

## How to apply



Fill out a form called the **Magistrates Court Criminal Form 110**.

How to get this form:



- download it from the website

[www.courts.sa.gov.au](http://www.courts.sa.gov.au)



- write to the courts and ask them to send you the form.

The postal address is:

The Registrar  
Adelaide Magistrates Court  
PO Box 6115, Halifax Street  
Adelaide SA 5000



- visit the Magistrates Court and ask for the form.

Call the court on (08) 8204 2444 to ask about your nearest court location.



When you have filled out the form, take it to the Magistrates Court. Give the form to the person at the registry counter.



## Information to include in your application

If you are applying to have your own conviction removed, you will need to put this information in the form:



- your name
- your date of birth
- your address and contact details

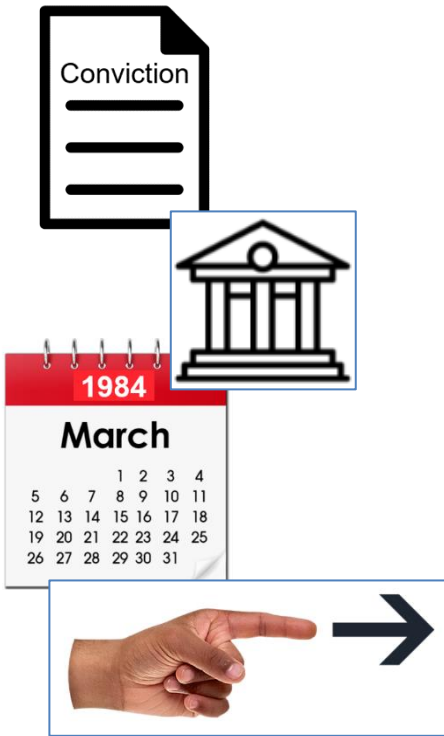
If you are applying for another person, you will need to put this information in the form:



- their name
- their date of birth
- their address (if the person has one)
- why you are applying for them – for example, they have died and you are their sister.



Other information you need to include in the form:



- the name of the conviction
- the name of the court that said you were guilty
- the date when your conviction was recorded
- why you were charged and sent to court.

Attach a National Police Check to your application.



- You can get the Police Check form online or from your local police station.



- If you already have a Police Check you can use that. But if the date on the Police Check is more than 6 months ago, you will need to get a new one.



If you have a copy of what the judge said when you were found guilty, attach this to your application.

If you don't have some of the details to include in your form:



- have a look at your National Police Check. It will have some of the information.



- ask the Courts Administration Authority about accessing court records.



You will need to give them information to help them find the records you need.

For example, your name and date of birth.

Contact the courts:



Telephone (08) 8204 2444



Email [enquiry@courts.sa.gov.au](mailto:enquiry@courts.sa.gov.au).

## Cost to apply



The application to have your conviction removed is free.



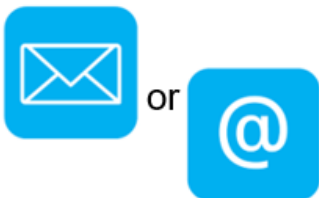
But there is a cost to get a National Police Check.

## Who will be told about your application?



Your application is private.

The court will need to tell some people from the government and police that you have applied, but your application won't be made public.



You may be sent letters or emails about your application.



You could arrange a postal or email address that only you can access. Put this as your contact address on your application.

## If you need help to have a conviction removed



You could ask for legal help from:

- **Legal Services Commission**  
Telephone 1300 366 424
- **A community legal centre**
- **A private lawyer**  
For referrals telephone the Law Society on 8229 0200.

You will need to pay fees for a private lawyer.

## If you need emotional support



If thinking about the time you were convicted makes you feel upset, you can get support from:

- **Council On The Ageing SA, Rainbow Hub**  
For information and referral  
Telephone (08) 8232 0422
- **QLife**  
Telephone 1800 184 527  
(3pm to midnight daily)
- **Lifeline**  
Telephone 13 11 14