



Chartered Institute  
of Personnel and  
Development

## Employing people with conviction

A good practice guide on the employment  
of people with criminal records



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## Employing people with conviction

The title of this publication is intended to have a dual meaning.

The subject matter of the publication is  
the employment of people with a criminal record.

Its purpose is to show that,  
by following the appropriate recruitment procedures,  
organisations can employ people with a criminal record  
with both confidence and conviction.

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# Introduction

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The competitive advantage of UK business depends on its ability to tap into the skills and inventiveness of the labour market as a whole. Due to global competition and rapid technological change, the characteristics of the labour market have changed radically over the past two decades. As traditional manual occupations have declined in importance, part-time workers, women and older workers have become an increasingly prominent part of the workforce. More recently, unemployment generally has fallen. Some organisations that have faced difficulties recruiting new employees have begun to focus on groups that, traditionally, for one reason or another, have been marginalised from mainstream employment.

This publication concerns a significant and, more often than not, hidden group within the workforce, namely ex-offenders. It does not attempt to persuade organisations to consider ex-offenders for altruistic or social reasons, although it can be argued that these are important. (Organisations wishing to obtain further information on the social consequences of excluding ex-offenders from employment should refer to the various publications published by Nacro listed in the 'Useful organisations and publications' section on page 21 of this publication.) Rather, it aims to help organisations adapt to the requirements of legislation, in particular the Rehabilitation of Offenders Act 1974 and the Police Act 1997, the latter of which introduces new arrangements for obtaining criminal record information. It encourages organisations to adopt an open mind and to make objective assessments based on merit and ability to do the job. It also aims to inform organisations about a variety of new government and other initiatives currently being developed to provide ex-offenders with the skills and experience required in today's labour market.

Part Two of 'Employing People With Conviction' offers guidance for implementing fair and responsible policy and practice for employing ex-offenders – either as paid employees or volunteers – based on a full assessment of the risks involved. It takes as its starting point the view that some organisational concerns are understandable. For example, organisations may be concerned that ex-offenders will offend against employees, customers and clients; or that they will vandalise and steal company property. It may also be that organisations are anxious about attracting bad publicity. However, this publication is based on the assumption that stereotypical expectations regarding the employment of ex-offenders have influenced many organisations to implement blanket exclusion policies. For the most part, such stereotypes have remained unchecked because organisations have not been provided with the information and support necessary to respond to the specific issues that ex-offenders who apply for jobs present to them. 'Employing People With Conviction' aims to help rectify this situation.

# Part one - Background and current legislation

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## Ex-offenders in the workforce

It has long been recognised that ex-offenders comprise a large proportion of the workforce. Research published by the Home Office in 1987 found that one in three men born in 1953 had been convicted of a standard list offence (ie. those dealt with at all courts, excluding minor motoring offences) before the age of 31.

Only a small number of crimes committed are considered serious enough by the courts to warrant immediate custody. Of the 1.4 million offenders sentenced by the courts in 1997, only seven per cent received a sentence of immediate custody. The remainder received a variety of sanctions, the most common of which were community sentences and fines.

Most offenders sentenced to imprisonment receive short sentences. By far the majority of prisoners – 66 per cent of all adult prisoners in 1999 – serve sentences of less than 12 months.

In 1998, around 57 per cent of offenders were unemployed prior to their conviction. In 1992, around 90 per cent of offenders faced unemployment on release from prison.

Most offenders are male. The peak age of offending is 18. The majority of offenders cease to offend after the age of 25.

Research has revealed a widespread reluctance on the part of organisations to employ ex-offenders. Research has also shown that employment is the single most important factor in reducing reoffending.

## Equality of opportunity for all

*'A job is the best help that any ex-offender can get to avoid returning to crime' (Home Secretary, Jack Straw, in the House of Commons, 30 July 1997.)*

As part and parcel of measures taken recently by government to raise skill levels amongst the unemployed, a number of initiatives have been developed which relate directly to ex-offenders. Whilst it is recognised that recruitment practices reduce opportunities for ex-offenders to find work, it is also true that many ex-offenders remain excluded from the employment market due to a combination of poor qualifications and a lack of work experience. As such, they are frequently unable to obtain even the lowest skilled jobs.

To date, intervention in the form of training and employment programmes for offenders and ex-offenders has been spasmodic and largely unresearched. Training and work in prisons has borne little relation to work opportunities in the labour market, and funding for employment programmes in the community has not been made available in sufficient quantities to make a real difference.

However, tackling social exclusion is now at the heart of the Government's policy agenda. A new Government strategy aimed at improving equality of opportunity for all in the labour market includes measures designed to ensure that all sections of the unemployed possess the skills necessary to meet the changing needs of organisations. The Home Office, the Department for Education and Employment and the Department for the Environment, Transport and the Regions have each implemented strategies that aim to improve the employment prospects of the long-term unemployed, including ex-offenders. Organisations should be aware of the contribution such initiatives can make to improving the skills and personal attributes of unemployed people with a criminal record. The Chartered Institute of Personnel and Development will publish a good practice guide, including details of these and other initiatives, in the summer of 2001. Brief details of some of the major initiatives currently in operation are listed in Appendix One.

## The Rehabilitation of Offenders Act 1974

Every day, ex-offenders throughout the UK rejoin the labour market after serving prison or community sentences. The majority attempt to secure gainful employment, although some return to crime for a variety of reasons. The Rehabilitation of Offenders Act 1974 was introduced to ensure that ex-offenders who have not reoffended for a period of time since the date of their conviction are not discriminated against when applying for jobs. The report that led to the legislation argued that an offender who has not been reconvicted for a number of years should no longer be liable 'to have his present pulled from under his feet by his past'. The Rehabilitation of Offenders Act enables ex-offenders to 'wipe the slate clean' of their criminal record in the sense that, unless the post they are applying for is exempted (see below), they are no longer legally required to disclose to organisations convictions that have become 'spent'. Or put the other way round, the Act makes it illegal for an organisation to discriminate against an ex-offender on the grounds of a 'spent' conviction.

In order to protect certain vulnerable groups within society there are a large number of posts and professions that are exempted from the Rehabilitation of Offenders Act. These include posts involving access to children, young people, the elderly, disabled people, alcohol or drug misusers and the chronically sick. Many health service appointments and jobs involving the administration of justice, banking, other financial services and national security are also exempted. In such cases, organisations are legally entitled to ask applicants for details of all convictions, irrespective of whether they are 'spent' or 'unspent' under the Rehabilitation of Offenders Act. Further details concerning the principal exceptions to the Act are provided in Appendix Two.

The length of time required for an ex-offender to become 'rehabilitated' depends on the sentence received and the age when convicted. For example, the length of time required for a person aged 18 or over, sentenced to imprisonment for a period of between six months and two-and-a-half years, to become 'rehabilitated' is ten years. The rehabilitation period for a person aged 17 or under, sentenced to the same period of imprisonment, is five years. Custodial sentences of more than two-and-a-half years can never become 'spent'.

Cautions, reprimands and final warnings are not considered to be criminal convictions and so are not covered by the Rehabilitation of Offenders Act. Cautions, reprimands and final warnings become 'spent' immediately and so may be considered by organisations only in relation to exempted posts. A full breakdown of the rehabilitation periods is provided in Appendix Two.

The Rehabilitation of Offenders Act was designed to help ex-offenders become law-abiding and productive members of society. However, a general lack of awareness of the Act amongst both ex-offenders and organisations, along with evidence of widespread discrimination by organisations against ex-offenders looking for work, has meant that in many respects the Act has failed to live up to expectations. Research has shown that some organisations consider the nature of some offences to be reason enough to automatically disqualify applicants from employment, irrespective of whether the offences are employment related or not. Offences of a violent and sexual nature fall into this category. Others impose blanket bans on recruiting ex-offenders of any kind. Few organisations understand the complexities of the Act and, although some are aware of its existence, they fail to make reference to it when making recruitment decisions. For example, organisations are sometimes under the impression that ex-offenders can be employed only at the end of their rehabilitation periods, or that posts are exempted from the Act when they are not. Not only does this leave organisations open to legal challenge, it has the effect of deterring many ex-offenders from applying for jobs, and persuading those that do to hide their criminal convictions. In 1999, the report of the Better Regulation Taskforce stated:

*We are concerned by studies that suggest that the majority of employers would not employ anyone with a criminal record. It is important that criteria are developed to help employers or regulators test relevance in each particular field. Crucially, this should take account of the time that has elapsed since the last offence as well as the absence of a pattern of offending. Many individuals who acquire criminal records for petty offences during their teens will have matured and grown out of such behaviour by their mid or late twenties. Indeed, some may have learnt from their experiences and prove to be positive role models for others.*

Part Two of this publication sets out information and advice on how best to implement recruitment policies and practices that adhere to the requirements of the Rehabilitation of Offenders Act 1974. In doing so, it aims not only to improve job opportunities for ex-offenders, but also to increase the number of potentially able recruits who possess the qualities and competencies required in the labour market.

## **The Police Act 1997**

Part V of the Police Act 1997 includes measures that enable all organisations in England and Wales, irrespective of whether they are likely to ask exempted questions under the terms of the Rehabilitation of Offenders Act, to obtain criminal record information about prospective employees and volunteers from a centralised source. From autumn 2001, criminal record checks (known as Disclosures) will be carried out by a new executive agency of the Home Office called the Criminal Records Bureau (CRB). Separate provisions are to be implemented in Scotland by the Scottish Criminal Record Office. A decision has yet to be made regarding arrangements for Northern Ireland.

Eventually, three different kinds of Disclosure will be made available in England and Wales.

The **Basic Disclosure** will contain details of convictions held on the Police National Computer that are 'unspent' under the Rehabilitation of Offenders Act. The Basic Disclosure will not be issued to organisations directly. Instead, it will be made available to individuals on request when they are seeking paid or unpaid employment. All organisations are entitled to request that any applicant who is offered employment should obtain a Basic Disclosure before they are confirmed in post, although the applicant is under no obligation to comply with the request. The Basic Disclosure will be introduced in 2002, after which time it will be an offence for organisations to require applicants to run police checks on themselves under section 56 of the Data Protection Act 1998 (see below).

The **Standard Disclosure** applies to posts exempted under the Rehabilitation of Offenders Act and relates particularly to certain sensitive areas of employment, such as jobs involving regular contact with children and vulnerable adults. The Standard Disclosure contains details of both spent and unspent convictions, as well as cautions, reprimands and final warnings held on the Police National Computer.

The **Enhanced Disclosure** applies to posts involving greater contact with children or vulnerable adults, for example jobs involving the caring, supervising, training or being in sole charge of children and vulnerable adults. The Enhanced Disclosure contains the same information as the Standard Disclosure along with non-conviction information from local police records if that is thought to be relevant to the position being applied for.

Standard and Enhanced Disclosures will be introduced in autumn 2001. Applications for Standard and Enhanced Disclosures can be made only by organisations that have registered with the CRB. Applications must be made with the express agreement of the individual concerned and signed by both the applicant and the registered body.

Fears have been expressed that organisations will make extensive use of the new service and that the wider availability of criminal record information could lead some organisations to bar ex-offenders from large areas of employment as a matter of course.

In respect of the Standard and Enhanced Disclosure, the CRB has issued guidance to ensure that criminal record information is not used by organisations as the sole criterion to decide on a person's fitness for work. Organisations that register with the CRB for the Standard and Enhanced Disclosures are required to adhere to a strict 'Code of Practice', which has been designed specifically to ensure that Disclosure information is used fairly, sensibly and confidentially. Audits of registered organisations will be conducted by the CRB to check compliance with the 'Code of Practice'. In particular, organisations shall:

- use any guidance issued by the Bureau on the use of Disclosure information to fully consider the relevance of any conviction or other details revealed
- have a written policy on the recruitment of ex-offenders, giving a copy to all applicants for positions where a Disclosure will be requested
- ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application. Application forms should also carry a statement to the effect that a conviction will not necessarily be a bar to obtaining a position
- encourage those seeking positions to declare any convictions, or other matters that might be relevant, at an early stage in the recruitment process
- discuss any matters revealed by Disclosures with the person seeking the position before making a recruitment decision
- inform those seeking positions of the existence of this Code of Practice, making a copy available on request
- make guidance available on the employment of ex-offenders and the Rehabilitation of Offenders Act to staff making recruitment decisions.

Separate guidance on the use of the Basic Disclosure will be issued by the CRB in due course.

Part Two of this publication offers information and advice on how best to ensure recruitment policies and practices are developed which maximise the potential of organisations to recruit suitable employees and do not discriminate unfairly against people with a criminal record. It is recommended that all organisations, irrespective of whether they have registered with the CRB to receive the Standard and Enhanced Disclosure, or intend to make use of the Basic Disclosure when it is introduced in 2002, follow the recruitment procedures outlined in this publication. Further information about the CRB is provided in Appendix Three. For full details of the new service, organisations should refer to the various publications published by the CRB listed in the 'Useful organisations and publications' section on page 19 of this publication.

## **Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000**

Under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000, it is an offence for any organisation to offer employment that involves regular contact with young people under the age of 18 to anyone who has been convicted of certain specified offences, or included on lists of people considered unsuitable for such work held by the Department for Education and Employment and the Department of Health. It is also an offence for people convicted of such offences to apply for work with young people. Specified offences include murder or manslaughter, rape, grievous bodily harm and a number of sexual offences involving children. Further details are available from the Department of Health and the Home Office. See the 'Useful organisations and publications' section of this publication.

## **Data Protection Act 1998**

In the UK, the Data Protection Act 1998 covers personal information, in manual or computerised form, that is readily accessible. The law, which sets out eight principles that those in control of data must follow, has been brought into force in stages and will not come fully into effect until 24 October 2007. On 6 October 2000, the Information Commissioner issued a draft code of practice on the use of personal data in employee/employer relationships under the Data Protection Act. The draft code is far-reaching, covering issues such as recruitment, managing absence, employee monitoring and medical testing. It also gives guidance on appropriate periods that certain records should be kept. The Commissioner proposes to issue the code in separate parts over the forthcoming year.

## **Human Rights Act 1998**

Under the Human Rights Act 1998 anyone who believes their rights as set out in the European Convention on Human Rights have been violated by a public authority is able to raise their complaint before a UK court. Organisations that are public authorities should therefore be aware of the possibility of legal challenge from ex-offenders who believe their rights have been violated under article 14 of the Act, which guarantees freedom from discrimination. Equally, public organisations should be aware that victims of physical abuse caused by employees known to have a criminal record might also seek legal challenge on the grounds that the organisation failed to protect them sufficiently. In order to avoid prosecution by the courts it is recommended that organisations adopt recruitment policies that ensure vulnerable people are protected and at the same time treat ex-offenders fairly.

## **Anti-discrimination law**

Organisations should also be aware of their legal obligations under anti-discrimination law related to, for example, disability, race and gender. Organisations should ensure they do not compromise such laws in relation to the employment of people with a criminal record.

# Part two - Employing people with a criminal record

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## GOOD PRACTICE RECOMMENDATIONS

Part Two of 'Employing People With Conviction' offers organisations advice and guidance on implementing fair, responsible and effective policy and practice for recruiting and retaining people with a criminal record based on a full assessment of the risks involved. Whereas previously ex-offenders faced the dilemma of whether or not to disclose their convictions when applying for jobs, the introduction of the Criminal Records Bureau makes it possible for organisations to require all potential employees to obtain a Disclosure. It is therefore important that ex-offenders learn how to disclose offences in a manner that does not jeopardise their chances of employment. For their part, organisations that decide to make use of the new service will need to decide how to handle the increased flow of criminal record information sensibly and responsibly, taking into account legal obligations and good practice. It is recommended that the following framework for the selection of new employees is adopted.

## Gathering information about criminal records

Organisations are not legally required to obtain criminal record information from prospective employees. At the outset, organisations need to decide whether, given the nature of the jobs they are seeking to fill, it is appropriate to ask about criminal records and obtain a Disclosure. The fact that a person has a criminal record is frequently irrelevant to the job for which they are applying. Organisations should seek a Disclosure only in relation to posts that involve a degree of risk. Disclosure should not be used as a blanket requirement in all circumstances. It is strongly recommended that organisations wishing to recruit confidently from the widest possible pool of applicants ensure that the disclosure of criminal record information is used as one tool within the overall recruitment process.

Organisations that decide to ask applicants about criminal records should do so in such a way as to encourage honesty. Applicants should be informed at the outset if criminal record information will be requested from them. This will provide a basis for the applicant to decide whether or not to apply for the post. Organisations should emphasise that this information will be used only to assess the applicant's suitability for employment, in so far as it is relevant, and that they will be considered on merit and ability and not discriminated against unfairly. Otherwise, applicants may be encouraged to lie about their criminal record. The following steps are recommended:

### **1 A statement expressing an organisation's willingness to consider ex-offenders should be included with all job information sent to applicants.**

Such a statement could read as follows:

*(Name of organisation) aims to promote equality of opportunity for all with the right mix of talent, skills and potential. (Name of organisation) welcomes applications from diverse candidates. Criminal records will be taken into account for recruitment purposes only when the conviction is relevant. Unless the nature of the work demands it, you will not be asked to disclose convictions which are 'spent' under the Rehabilitation of Offenders Act 1974. Having an 'unspent' conviction will not necessarily bar you from employment. This will depend on the circumstances and background to your offence(s).*

For organisations registered with the CRB to access Standard and Enhanced Disclosures on cautions, reprimands and final warnings, as well as convictions, the following statement is recommended. (As noted in Part One, cautions, reprimands and final warnings are not criminal convictions and are not covered by the Rehabilitation of Offenders Act 1974.)

*As (name of organisation) meets the requirements in respect of exempted questions under the Rehabilitation of Offenders Act 1974, all applicants who are offered employment will be subject to a criminal record check from the Criminal Records Bureau before the appointment is confirmed. This will include details of cautions, reprimands or final warnings, as well as convictions.*

Organisations that use external employment agencies to administer the recruitment process should ensure that such statements are included with the job information sent by them to applicants.

## **2 Details about convictions should be requested only from people invited to interview.**

Candidates invited to interview should be told in writing that relevant criminal convictions and other associated information will be discussed at the interview in order to assess job-related risks. They should be encouraged to submit appropriate written details and dates in confidence to a named person responsible for ensuring the security of this highly sensitive information using an envelope marked 'private and confidential'. They should also be invited to attach any other information they wish to draw attention to that may improve understanding and fair decision-making.

Organisations seeking to recruit people for posts that are exempted under the Rehabilitation of Offenders Act should make it clear that the post requires the disclosure of all criminal record information, including details and dates of 'spent' convictions, cautions, reprimands and final warnings. Where the post is subject to Enhanced Disclosure, other relevant non-conviction information, such as police enquiries and pending prosecutions should also be asked for.

Organisations seeking to recruit people for posts that are not exempted under the Rehabilitation of Offenders Act should make it clear that criminal convictions will be taken into account only when they are relevant to the post. It should be explained that applicants are not required to disclose convictions that are 'spent' under the Rehabilitation of Offenders Act. Cautions, reprimands and final warnings are considered 'spent' immediately they are given.

The interview provides an opportunity for organisations to raise issues concerning offences with applicants in open discussion and is best done by people trained in interviewing techniques and as part of a carefully structured and managed process that allows open and honest discussion. One to one interviews are preferable to panel interviews for this purpose because of the sensitive nature of the information. However, as with any job selection process, the first step should be the assessment of the applicant's relevant skills, experience, qualifications and ability to do the job. All applicants should be judged on merit. Do they meet the requirements identified in the person specification? Do they have the relevant qualifications for the post and a good work record? Do they have the qualities to develop the skills required? Are they likely to show commitment to the job and a willingness to make a success of it?

After the interview, organisations may wish to take up any references regarding offence information provided by the applicant, for example from a probation officer or specialist employment organisation. But it is recommended that only after a full assessment of the applicant has been completed and a decision made about the person's ability to do the job should criminal conviction and, if relevant, other criminal record information be checked and verified using the Disclosure service.

### **3 Applicants should be given the opportunity to discuss Disclosure information before a final recruitment decision is made as part of a post-interview process.**

A job offer can be made subject to checks such as references, medical information and Disclosure details. It is at this stage that organisations registered with the CRB should seek Disclosure information as the service standards are for a one-week turnaround of information, (three weeks for enhanced Disclosure.) Disclosure information should not be requested for all short-listed applicants.

If it is the case that information provided in the Disclosure contradicts that provided by the applicant, this should be discussed with the applicant in person as part of a post-interview process. It may be that the Disclosure contains information the applicant was not asked about during the interview, or the applicant was unaware they had a criminal record. It may be they have been given inaccurate information and are under the impression their convictions have become spent under the terms of the Rehabilitation of Offenders Act. (Sentences of the court can be extremely complex and it is frequently the case that offenders do not understand the nature of the sentence(s) they have received.) It may be they hid their convictions in order to increase their chances of employment. (As noted in Part One, many ex-offenders consider that they stand little chance of getting a job if they disclose criminal record information to organisations.) Or, it may be that the information contained in the Disclosure is inaccurate, or relates to someone else with the same name. (Applicants are entitled to appeal to the CRB if they think a mistake has been made.) In any event, applicants should be given the opportunity to explain the situation before a final decision is made.

### **4 Existing employees who are found to have a criminal record should not be dismissed as a matter of course.**

Organisations may decide to seek Disclosure information in relation to existing employees. In cases where someone has been employed, and it is then discovered they have failed to disclose an 'unspent' conviction, they should not necessarily be dismissed. Only after a full appraisal of the situation, including the risks involved, should dismissal be considered. The organisation should first establish whether the conviction is relevant to the post. If an employee deliberately withheld conviction information to gain employment in a non-risk area, appropriate disciplinary procedures should be considered. Where there is a significant risk, the organisation might consider the introduction of safeguards, or moving the employee to a more suitable job. Evidence of previous convictions should not be used as an excuse to dismiss a person for poor job performance. The track record of the individual should be carefully assessed. If it is satisfactory, this should be considered positively.

Specialist voluntary organisations that have worked successfully with organisations in the past to improve employment prospects for ex-offenders can advise on these and other issues if necessary. Addresses of relevant organisations are provided in the 'Useful organisations and publications' section of this publication.

## **Assessing the relevance of criminal records**

The suitability for employment of a person with a criminal record will vary, depending on the nature of the job and the details and circumstances of any convictions. Deciding on the relevance of convictions to specific posts is not an exact science. An assessment of an applicant's skills, experience and conviction circumstances should be weighed against the risk assessment criteria for the job. It should be remembered that employing people on the basis of information provided in an application form and a short interview, irrespective of whether they have a criminal record or not, is never risk free. Staff responsible for recruitment need to identify what risks might be involved and what precautions put in place in order to provide satisfactory safeguards.

To facilitate this process, an applicant's criminal record should be assessed in relation to the tasks he or she will be required to perform and the circumstances in which the work is to be carried out. It is recommended that organisations consider the following when deciding on the relevance of offences to particular posts:

- does the post involve one-to-one contact with children or other vulnerable groups as employees, customers and clients
- what level of supervision will the post holder receive
- does the post involve any direct responsibility for finance or items of value
- does the post involve direct contact with the public
- will the nature of the job present any opportunities for the post holder to reoffend in the place of work?

The answers to such questions should help organisations to determine the relevance of convictions to specific posts. For example, paedophile, or child pornography offences would almost certainly disqualify any person required to work with children; some violent offences would be relevant to positions involving unsupervised contact with the public; fraud should be considered in relation to posts involving the handling of significant amounts of money; and theft in relation to posts involving the handling of stock.

In some cases, the relationship between the offence and the post will be clear enough for the organisation to decide easily on the suitability of the applicant for the job. In other cases, the decision may not be so clear-cut. For short-listed applicants who are assessed as meeting the requirements of the person specification and who then disclose a criminal record that is not related directly to the post, organisations should discuss the relevance of each offence with the applicant. It should be remembered that no two offences are exactly alike. For example, a premeditated burglary that involves extensive damage to property and the physical intimidation of the occupants ought not to be considered in the same light as someone convicted of reaching in through an open window and stealing a purse on a whim. Whilst it will not be possible to carry out a thorough risk assessment on each individual, it is recommended that the following issues are taken into account as a minimum requirement:

- the seriousness of the offence and its relevance to the safety of other employees, customers, clients and property
- the length of time since the offence occurred
- any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties
- whether the offence was a one-off, or part of a history of offending
- whether the applicant's circumstances have changed since the offence was committed, making reoffending less likely
- the country in which the offence was committed; some activities are offences in Scotland and not in England and Wales, and vice versa
- whether the offence has since been decriminalised by Parliament
- the degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

## Implementing safeguards

Organisations should ensure that information regarding offences is kept confidential and on a need-to-know basis. Applicants need to feel confident that information about their convictions will not be disclosed to colleagues unless there is a specific reason for doing so. Only the personnel office, or in small organisations the people directly responsible for recruitment, should be informed of an employee's criminal record. The successful applicant should be informed who in the organisation knows of the conviction and the reasons why the information has been disclosed.

Organisations registered with the CRB are required to have a written policy for the handling of Disclosure information. Criminal record information should be disclosed only to certain other people as defined within the Police Act 1997. Offence information should be kept securely in lockable filing cabinets. Access to keys should be restricted to individuals responsible for recruitment and personnel. Disclosures should be destroyed effectively, not later than the period specified in the 'Code Of Practice'. The name of the individual, the date, type and reference number of the Disclosure and the position applied for may be kept as a record of the recruitment decision taken and should be kept as confidential, secure information. All organisations should be aware that action could be taken against them if the CRB 'Code of Practice' is not complied with.

## Reviewing policies and procedures

*Managing diversity, like equal opportunities, requires organisations to ensure that all decisions about the employment and training of people are objective, based on merit, relate to individual personal development and support business goals. This can be achieved through the continuous review of workplace policies, practices and behaviour to check that these are helping all employees to give their best.*

*(Institute of Personnel and Development, 1996)*

Equal opportunity policies help organisations create an efficient and effective workforce. As well as not discriminating on the basis of age, ethnic origin, physical and mental ability, sexual orientation, etc. it is recommended that organisations adopt recruitment policies and practices that also do not discriminate against ex-offenders. With the introduction of the CRB, the case for adopting policies that ensure criminal record information is used in a way that protects the vulnerable, is fair and improves overall recruitment and retention processes, has been made all the more pressing. In order for the policy on employing people with criminal records to gain wide acceptance within the organisation, it is important to involve managers, employees and their representatives in its development. In particular, organisations should:

- review new posts to assess whether they involve any risk
- ensure staff involved in recruitment are provided with guidance on the employment of ex-offenders and the Rehabilitation of Offenders Act
- provide training to staff involved in recruitment on training and employment programmes for the unemployed, including those programmes that work specifically with ex-offenders
- consider the implementation of fidelity bonding arrangements (see Glossary on page 23), to cover 'at risk' posts
- provide relevant feedback related to their convictions to all unsuccessful applicants.

# Appendix one

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## **Training and employment programmes for ex-offenders**

Current employment and training initiatives that have a role in helping to improve the skills of ex-offenders include the following:

- New Deal for Communities
- New Deal for 18 to 24-year-olds, over 25s and lone parents
- Employment Zones
- Education Action Zones
- The Single Regeneration Budget
- Learning and Skills Councils
- The Connexions Service

More specifically, the Home Office, Prison Service, Probation Service, Employment Service and other government departments have begun to work together to develop new initiatives. These include:

- An interdepartmental scoping study, undertaken by the Social Exclusion Unit, to identify the barriers faced by offenders in their search for work and accommodation.
- A joint Prison Service and Department for Education and Employment partnership that aims to improve the quality of prison education.
- As part of the Home Office 'Crime Reduction Strategy', funding has been made available to develop six 'Pathfinder' projects that aim to tackle the various resettlement needs of prisoners, including the barriers they face to employment.
- The Government has provided the Prison Service with £30 million over the three year period 2001 to 2004 to establish a 'Custody to Work' unit, which will develop employment-related programmes for short-sentenced prisoners.
- The Probation Service 'What Works?' initiative is seeking to improve the effectiveness of employment programmes for offenders, some of which have been delivered over recent years in partnership with the voluntary sector.
- Some voluntary organisations, in particular, the Apex Trust and Nacro have impressive track records of developing training and employment programmes for ex-offenders, and have worked closely with organisations in the past to address some of the factors that obstruct ex-offenders in their attempts to find work.

# Appendix two

## The Rehabilitation of Offenders Act 1974

SENTENCE	Rehabilitation Periods	
	AGE 18 OR OVER WHEN CONVICTED	UNDER 18 WHEN CONVICTED
Prison and Young Offender Institution – sentence of 6 months or less	7 years	3 years
Prison and Young Offender Institution – sentence of more than 6 months - 2 ½ years	10 years	5 years
Fines, compensation order, probation (for people convicted on or after 3 February 1995), community service, combination order, action plan, curfew order, drug treatment, reparation order	5 years	2 years
Borstal (abolished 1983)	7 years	7 years
Detention centres (abolished 1988)	3 years	3 years
Absolute discharge	6 months	6 months

### Sentences for which the rehabilitation period varies

Probation order (for people convicted prior to 3 February 1995), conditional discharge, bind over, supervision order, care order	until the order expires (minimum period of 1 year)
Attendance centre orders	length of the order plus 1 year
Hospital order	2 years after the order expires (with a minimum of 5 years from the date of conviction)

### Suspended sentences

A suspended prison sentence is treated as one that has taken effect and the rehabilitation period is the same as for the full sentence.

## **Consecutive and concurrent sentences**

An offender may be sentenced at one time for several offences. If the court decides that imprisonment is the right penalty for more than one offence, it can order that these run concurrently or consecutively. If a person is sentenced to two terms of imprisonment of six months each, to run concurrently, the person will be subject to a rehabilitation period of seven years. If they were ordered to run consecutively, they would be subject to a rehabilitation period of ten years.

## **Extension of rehabilitation periods**

Rehabilitation periods may be extended if a person receives further convictions while an original rehabilitation period is still running.

If the second conviction is for a summary offence, ie. an offence that can be tried only in a magistrates' court, then the first rehabilitation period is not affected and both rehabilitation periods will run their separate course. If, however, the second conviction is more serious and could be tried in a crown court, then neither conviction will become spent until the longer rehabilitation period has expired.

Where the original sentence resulted in a disqualification, prohibition or other penalty, the rehabilitation period will not be affected if the person is convicted of a further offence.

## **Protection of a rehabilitated person**

The unauthorised disclosure of information about a spent conviction is made illegal. Unauthorised disclosure is where an official with access to information about the person's criminal record discloses this information other than in the course of official duties. Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1000, or both.

## **Exceptions to the Act**

Various kinds of employment, occupations and professionals are exempted. The Exceptions Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions. Ex-offenders have to disclose information about spent, as well as unspent convictions, provided the employer states clearly on the application form or at the interview that the job applied for is exempted. Exempted occupations fall into the following categories:

- Work involving matters of national security, for example some civil service posts, defence contractors, etc.
- Work that brings the person into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18.
- Professions that have legal protection, for example nurses, doctors, dentists, chemists, accountants.
- Posts concerned with the administration of justice, for example police officers, lawyers, probation officers, traffic wardens.
- Health service appointments.

# Appendix three

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## **The Criminal Records Bureau**

The CRB has been established to improve access to information on criminal records held by the police and government departments. The CRB will draw on four primary sources of information in order to confirm the offence details of successful applicants. These include: the Police National Computer, local police force records, records held by the Department of Health and records held by the Department for Education and Employment. Although the Police Act places no requirement on organisations to use Disclosure, the Protection of Children Act 1999 requires organisations seeking to fill regulated childcare positions to consult lists held by the Department for Education and Employment and the Department of Health. Access to these lists is now via Disclosure.

## **Different levels of disclosure**

The **Basic Disclosure**, which the CRB intends to introduce during 2002, will be available to individuals on payment of a fee. It will contain details of convictions held in central police records that are unspent according to the Rehabilitation of Offenders Act. All employers will be able to request the production of a Basic Disclosure as part of the recruitment process.

The **Standard Disclosure**, which will be introduced by the CRB in the autumn of 2001, will contain information about both spent and unspent convictions, as well as cautions, warnings and reprimands, and concerns positions that are exempted under the Rehabilitation of Offenders Act. It will be made available in relation to posts that involve regular contact with children and other vulnerable groups. As well as central police records, the Standard Disclosure will contain any relevant information held by the Department for Education and Employment and the Department of Health.

The **Enhanced Disclosure** will be introduced by the CRB in the autumn of 2001. It relates to particularly sensitive areas of work, for example that involving unsupervised contact with children and young people, or posts that require gaming, betting or lottery licences. As well as containing the same information as the Standard Disclosure, the Enhanced Disclosure may also contain any non-conviction information from local police records that is considered relevant.

# Useful organisations and publications

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## GOVERNMENT DEPARTMENTS AND AGENCIES

### **Criminal Records Bureau**

PO Box 91  
Liverpool L69 2UH  
Tel. 0870 90 90 811  
Website: [www.crb.gov.uk](http://www.crb.gov.uk)  
Disclosure information website: [www.disclosure.gov.uk](http://www.disclosure.gov.uk)

- *Safer Recruitment to Protect the Vulnerable*, Criminal Records Bureau
- *Code of Practice for Registered Bodies*, Criminal Records Bureau

### **Scottish Criminal Record Office**

1 Pacific Quay  
Glasgow G51 1EA  
Tel. 0141 585 8400  
Website: [www.scro.police.uk](http://www.scro.police.uk)

### **Employment Service**

236 Grays Inn Road  
London WC1X  
Tel. 020 7211 3000  
Website: [www.employmentservice.gov.uk](http://www.employmentservice.gov.uk)

- *Just for the Record*, Employment Service

### **Department for Education and Employment – Adult Disadvantage Policy Division**

8th floor, Moorfoot  
Sheffield S1 4PQ  
Tel. 0114 259 4806  
Website: [www.dfee.gov.uk](http://www.dfee.gov.uk)

### **Department of Health**

Richmond House  
79 Whitehall  
London SW1A 2NL  
Tel. 020 7210 4850  
Website: [www.doh.gov.uk](http://www.doh.gov.uk)

- *The Protection of Children Act 1999 – A practical guide for all organisations working with children*, Department of Health

### **Home Office**

50 Queen Anne's Gate

London SW1H 9AT

Tel. 020 7273 4000

Website: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

- *Wiping the Slate Clean*, Home Office
- *Safe from Harm: Safeguarding the Welfare of Children in Voluntary Organisations in England and Wales*, Home Office
- *Criminal Justice and Court Services Act 2000 – Protection of Children Guidance*, Home Office

### **HM Prison Service**

Cleland House

Page Street

London SW1P 4LN

Tel. 020 7217 3000

Website: [www.hmprisonservice.gov.uk](http://www.hmprisonservice.gov.uk)

## **EMPLOYMENT ORGANISATIONS**

### **Advisory, Conciliation and Arbitration Service**

Head Office

Brandon House

180 Borough High Street

London SE1 1LW

Tel. 020 7210 3613

Website: [www.acas.org.uk](http://www.acas.org.uk)

(See telephone directory for address and telephone number of your local ACAS office.)

### **Chartered Institute of Personnel and Development**

CIPD House

Camp Road

Wimbledon

London SW19 4UX

Tel. 020 8971 9000

Website: [www.cipd.co.uk](http://www.cipd.co.uk)

### **Confederation of British Industry**

Centre Point

103 New Oxford Street

London WC1A 1DU

Tel. 020 7395 8247

Website: [www.cbi.org.uk](http://www.cbi.org.uk)

### **Trades Union Congress**

Congress House  
Great Russell Street  
London WC1B 3LS  
Tel. 020 7636 4030  
Website: [www.tuc.org.uk](http://www.tuc.org.uk)

## **SPECIALIST VOLUNTARY ORGANISATIONS**

### **Apex Trust**

St Alphage House  
Wingate Annexe  
2 Fore Street  
London EC2Y 5DA  
Tel. 020 7638 5931  
Website: [www.apextrust.com](http://www.apextrust.com)

- *Work Matters: A Five Point Guide to Employing People with a Criminal Record*, Apex Trust
- Apex Fidelity Bond, Apex Trust

### **Apex Trust Scotland**

Lower Ground Floor  
9 Great Stuart Street  
Edinburgh EH3 7TP  
Tel. 0131 220 0130

### **Nacro**

169 Clapham Road  
London SW9 0PU  
Tel. 020 7582 6500  
Website: [www.nacro.org.uk](http://www.nacro.org.uk)

- *Employing Offenders: Advice to Employers*, Nacro
- *Recruiting Safely*, Nacro/CJNTO

**Scottish Association for the Care and Resettlement of Offenders (SACRO)**

1 Broughton Market  
Edinburgh EH3 6NU  
Tel: 0131 624 7270

**Coping with Convictions Unit**

Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)  
169 Ormeau Road  
Belfast BT7 1SQ  
Tel. 01232 320157

- *Coping with Convictions: An Employer's Guide to Good Practice in the Employment of People with Criminal Records in Northern Ireland*, NIACRO

**Society of Voluntary Associates (SOVA)**

350 Kennington Road  
London SE11 4LH  
Tel. 020 7793 0404  
Website: [www.sova.org.uk](http://www.sova.org.uk)

# Glossary of terms

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**Cautions** are given when there is sufficient evidence for a conviction but it is not considered to be in the public interest to institute criminal proceedings. Cautions have traditionally been most used for juvenile and first time offenders.

**Conviction(s)** arise from offences tried at court.

**Criminal records** contain details of convictions, as well as cautions, reprimands, final warnings, etc.

**Fidelity bonding.** A fidelity bond, or fidelity guarantee insurance, is a form of insurance that organisations can purchase to protect themselves against loss of money or property caused through the dishonest acts of employees.

**Reprimands and Final warnings** replaced cautions for juveniles in June 2000

**Vulnerability.** A person may be considered vulnerable if he is in receipt of some form of care, has a physical or mental disability, or is of such an advanced age that he would be incapable of protecting himself from assault or physical abuse. Readers are advised to check the full definition of vulnerability provided in the CRB 'Code of Practice'.

# Bibliography

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**APEX TRUST.** *The hidden workforce: Employing ex-offenders – recruitment policy and practice, a national survey.* London Apex Trust, 1991.

**ASSOCIATION OF CHIEF OFFICERS OF PROBATION (ACOP).** *Offender employment statistics summary.* London, ACOP, 1998.

**BETTER REGULATION TASK FORCE.** *A view of the criteria used to judge people's suitability for certain occupations.* London, Central Office of Information, 1999.

**BREEZE, J., FLETCHER, D, et al.** *Improving the employment prospects of offenders by addressing the concerns of employers.* York, Joseph Rowntree Foundation, 2001.

**GARDINER COMMITTEE.** *Living it down: the problem of old convictions.* London, Justice, 1972.

**HOME OFFICE.** *Criminal statistics England and Wales.* London, HMSO, 1997.

**HOME OFFICE.** Statistical bulletin. *Criminal careers of those born in 1953: persistent offenders.* London, Home Office, 1987.

**HOME OFFICE.** *Prison statistics England and Wales.* London, HMSO, 1999.

**HOME OFFICE, CRIMINAL RECORDS BUREAU.** *Code of practice for registered bodies.* London, Home Office, 2001.

**INSTITUTE OF PERSONNEL AND DEVELOPMENT (CIPD).** *Managing diversity: A vision for the development of equal opportunities.* London, IPD, 1996.

**LIPSEY, M.** 'What do we learn from 400 research studies on the effectiveness of treatment with juvenile delinquents?' (1995) in McGuire, J. (ed.) *What works in reducing offending: guidelines from research and practice.* Chichester, John Wiley and Sons.

**NACRO.** Resettlement survey. Unpublished, 1993.

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