

Nacro >

**Employer Advice
Service**



Mind the Gap

**A practical guide to employing people with
convictions in the construction industry**

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Registered charity no. 226171

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This publication has been produced by Nacro's Employer Advice Service and is primarily set within the context of the legal arrangements in England and Wales. It is a practical guide aimed at employers and recruiters in the construction industry to help them understand their legal rights and responsibilities and best practice when employing a person with a criminal record. The guidance outlines how to implement fair, safe and responsible policies, and practices for employing people with convictions, based on a full understanding and assessment of risks involved.

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Forewords

At Nacro, a national social justice charity, we've been delivering local services across England and Wales for more than 50+ years. We are committed to helping people move forward with their lives and we do this across the range of work we deliver, which includes supported housing, education and skills for young people, and substance misuse services. We help people to access safe, suitable, and secure housing as well as employment and training opportunities, and support them to move forward with their lives and away from crime. In all our work, we recognise that employment, training, and education (ETE) – alongside accommodation, relationships, a sense of place, belonging and self, and being part of the community – contributes to reducing reoffending. That is why we are so committed to supporting the Mind the Gap programme.

We are delighted to work with our partners – A Fairer Chance, BeOnsite, Bounce Back, and the Mitie Foundation – led by Lendlease, to support the Mind the Gap programme by developing this practical guide to employing people with convictions in the construction industry. This publication is based on guidance from Nacro's Employer Advice Service and has been developed by a former colleague from that team – Dominic Headley – who now operates as a consultant. This helpful and practical guide is aimed at employers and recruiters in the construction sector, to help them understand their rights and responsibilities and best practice when implementing fair and safe practices for employing a person with a criminal record. We very much hope that it will support employers and enable those with criminal records to play a full and economically active role in society, helping to boost employment in the construction industry, reduce skills gaps and contribute to reducing reoffending.

Helen Dyson, Director of Justice & Health, Nacro

Lendlease is at the forefront of the regeneration industry in the UK, developing and delivering a number of ambitious, large-scale developments. We aim to be the world's leader in sustainable urban regeneration, and are committed to creating communities that people want to be a part of. Across all of our projects, we work responsibly, considerately and safely.

Lendlease has worked with serving prisoners and people with convictions on our construction projects in London for more than 20 years and, in 2008, we established our not-for-profit organisation, BeOnsite, to further focus our activities. BeOnsite works with Lendlease to ensure that regeneration does not simply change physical structures but delivers on the opportunity to transform lives. Our approach to training, supporting and directly employing people with convictions has seen reoffending rates fall below the national average and has contributed to the rehabilitation and reintegration of over 95% of the 600 individuals we have employed. With a quarter of BeOnsite's employees having engaged with the criminal justice sector, our reoffending rate is just 4.5%. Our ethos is to be completely inclusive and to support those who come from the hardest to reach groups. With the construction industry in the midst of a skills and labour shortage it makes sense to seek out new talent pipelines.

Although there is more to be done, Mind the Gap is a clear example of our holistic approach to demonstrating how the construction industry can address pressing societal issues at the same time as meeting some of its own skills needs. We hope this guidance will help others in the construction sector to explore ways to reduce both skills gaps and reoffending.

Jessica Mellor-Clark Head of BeOnsite, Lendlease

Mind the Gap

Mind the Gap (MTG) is a three-year project commissioned by the CITB. The consortium of partners – led by BeOnsite, Lendlease’s not for profit organisation, A Fairer Chance, Bounce Back, Mitie Foundation and Nacro – are working together with other key stakeholders to reduce skills gaps, reoffending rates and improve outcomes in local employment and skills plan obligations contained within planning agreements (section 106 outcomes). This will be achieved by providing construction industry employers with the resources, training and support they need to recruit serving prisoners, offenders on licence and other people with criminal records who are motivated to work.

This guidance, which has been developed by Nacro in consultation with the partners and other key stakeholders, supports employers in the construction sector to adopt a ‘business as usual’ approach to recruiting people with convictions within their workforce. It helps them to understand their legal rights and responsibilities, supports them to implement safer and fair recruitment policies and procedures and ensures they can confidently and effectively manage and mitigate any potential risks involved.

Introduction

Unemployment in the UK has been at near record lows. Employers across many sectors including the construction industry are now competing in a tightening labour market. Many in the industry report that they are struggling to fill their vacancies due to [labour, skill and talent shortages](#). Some also report that they struggle to achieve their section 106 or social value obligations.

The government’s [See Potential](#) campaign encourages employers across all industrial sectors to recognise the potential within people regardless of their background. By making simple changes to their recruitment practices, employers can access a wider talent pool of people who may face specific barriers to gaining employment, including care leavers, homeless people or people at risk of homelessness, long-term unemployed people, people recovering from addiction, single parents, military veterans and people with convictions.

Some employers in the construction industry have embraced the See Potential agenda and developed entry route programmes into the industry for disadvantaged groups. However, many are still averse to providing opportunities to people with convictions, not considering that people do not tend to fall into just one category; many people from disadvantaged backgrounds have a criminal record.

Employers who have policies or practices that automatically exclude people with criminal records may inadvertently be creating their own barrier to achieving their section 106 or social value obligations, or filling their chronic skills gaps. As a result of Brexit, fewer people from the EU are coming to work in construction and a large number of EU nationals have left the UK. Consequently, employers and recruiters in the sector need to address any restrictive or negative attitudes towards people with convictions now more than ever.

There are also vast societal implications. Reoffending costs the UK up £18 billion a year (Home Office, 2020) – a figure that does not take into account the other social and economic costs of restricting people with criminal records from gaining employment. In addition to stable accommodation, having a job is known to be the most important factor in reducing reoffending.

There are more than 12.3 million people recorded as having a criminal record on the Police National Computer (PNC) (Home Office, 2023). This equates to more than 25% of the working-age population.

Many of these individuals may have committed relatively minor offences and have a wide-range of skills and abilities, yet they face unnecessary barriers to working in the construction industry due to the fact some employers and recruiters refuse to take on someone who has an ‘unspent’ conviction, or a criminal record certificate that is not clean. Consequently, many of these individuals are not in a position to provide for their families, pay taxes and contribute positively to society. Some face being confined to a life on benefits and a burden to the taxpayer.

The ripple effect of low employment rates among people with convictions can lead them to experience problems in other aspects of their lives, such as an inability to secure and maintain adequate housing, unmanageable debt and expenditure issues, increased likelihood of developing substance or alcohol misuse or mental health problems and difficulty maintaining positive personal and family relationships.

Employers in the sector often struggle to understand their legal rights and responsibilities when considering people with convictions. Some have unfounded fears about the potential impact on securing contracts, reputational risks, or even obtaining insurance. The relevant law around recruiting people with convictions is complex; recent changes to disclosure legislation, data protection laws and high-profile discrimination cases concerning people with criminal records mean that many employers’ and recruiters’ policies and procedures need to be updated. The costs of not doing so could mean that they are breaking the law and could face substantial fines or civil claims; in some cases, an employer could even face criminal sanctions.

Pre-employment checks

Conducting pre-employment checks on job applicants is a key aspect of many employers' recruitment and selection processes. However, the level and degree of checks carried out must be proportionate to any potential risk that an applicant may pose. Employers should be mindful that poor recruitment processes can result in huge associated costs; the Recruitment and Employment Confederation estimates the cost of a failed recruitment can be up to £132,000 per applicant at mid-management level, which is separate to discrimination and data protection risks.

The CIPD recommends that when conducting pre-employment checks, employers should aim to:

- > Protect the organisation
- > Protect clients and customers
- > Be fair to all candidates
- > Ensure non-discrimination and compliance with data protection law
- > Rely on fact, not opinion
- > Validate information to be relied upon
- > Ensure relevance to the post to be filled
- > See the candidate in the round
- > Be transparent and open to candidates about the checking process

In the construction industry, employers may carry out a wide range of pre-employment checks depending on the role applied for, including:

- > Identity checks
- > Right to work checks
- > Criminal record checks
- > DVLA checks
- > Education checks
- > Professional memberships
- > Employer/personal references
- > Directorships
- > Drug and alcohol testing
- > Credit checks
- > Social media
- > Financial Conduct Authority

When conducting pre-employment checks, employers should follow the Information Commissioners Office (ICO) good practice recommendations detailed in the [Employment Practice Code](#):

- > Make it clear early in recruitment process that vetting will take place and how it will be conducted
- > Carry out vetting at as late a stage as practicable
- > Use vetting to obtain specific information, not for general intelligence gathering
- > Seek information from reliable sources only, from which it is likely relevant information will be revealed
- > Allow applicant to make representations about accuracy of information obtained

The ICO also advises:

‘Only use vetting where there are particular and significant risks involved to the employer, clients, customers or others, and where there is no less intrusive and reasonably practicable alternative.’

The Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 (ROA) allows cautions and convictions to be considered spent (‘legally ignored’) after a specified period of time known as the rehabilitation period, which is decided by the sentence or out-of-court disposal received. If the person is reconvicted within the rehabilitation period, none of their convictions will become spent until they all are. However, once the record is considered spent, the law treats the person as if they had never been convicted of the offence. They no longer need to disclose the caution or conviction when applying for employment (or self-employment), education or training courses, insurance or other purposes unless the role applied for is exempt from the ROA.

If a person’s caution or conviction is spent, it is unlawful for an employer to refuse an applicant, dismiss an existing employee, or take into account the caution or conviction when making a decision about their suitability for the role.

Does the ROA apply throughout the whole of the UK?

This guidance only covers the legal arrangements in England and Wales. The ROA does exist throughout the whole UK but there are some differences in the way in which it operates in [Scotland](#). The relevant Northern Irish legislation is the [Rehabilitation of Offenders \(Northern Ireland\) Order 1978](#).

Organisations that employ staff throughout the UK should note that the time it takes for a caution or conviction to become spent in Scotland or Northern Ireland may be entirely different to the time it does in England and Wales. Therefore, employers should review their recruitment of people with convictions policies and practices to take the differences into account.

Further details on the different rehabilitation periods in Scotland or Northern Ireland can be found on the Nacro [website](#).

Does the ROA apply to people convicted overseas?

The ROA applies to a person with a criminal record regardless of whether they have been convicted in the UK or overseas. If a person has been convicted of a criminal offence overseas which has an equivalent (or similar) offence in the UK, then they are still legally required to disclose their criminal record when applying for roles in the UK, if the employer requests applicants to disclose criminal records as part of the recruitment process.

If the person is applying for a role in the UK, the time it takes for their criminal record to become spent will be determined by the rehabilitation period for the equivalent sentence or disposal received according to the law as applicable in the UK, taking into account the regional differences highlighted earlier.

If an employer requests that applicants, contractors or existing members of staff disclose their criminal record it is important, in order to avoid risks of discrimination, for the employer to be able to demonstrate that they have applied a consistent approach towards applicants convicted overseas and applicants convicted in the UK.

Does the ROA apply to service personnel?

All service personnel in the military are subject to UK criminal law and will therefore be subject to the ROA regardless of whether they have been convicted in a civilian court in the UK or overseas.

Service personnel convicted of a criminal offence or recordable service offence within the service justice system through either Summary Hearing (an internal disciplinary proceeding which also handles minor criminal conduct offences that have equivalent offences in civilian law) or Court Martial will also be subject to the ROA. A court-martial is a military court (or a trial conducted in such a court). It has the power to determine the guilt of members of the armed forces subject to military law. Military offences are defined in the Armed Forces Act 2006 for members of the armed forces of the United Kingdom.

Comprehensive guidance on the ROA (which also covers military convictions) can be downloaded on the Nacro [website](#).

To work out when a caution or conviction may become 'spent' applicants can use the [Ministry of Justice \(MOJ\) Disclosure Checker](#).

Jobs in construction that are exempt from the ROA

The majority of jobs in the construction industry are covered by the ROA, however there are a number of roles that are exempt. In the past, these roles required the applicant to disclose all cautions and convictions, even those considered spent.

However, in 2013, there were changes to the legislation in England and Wales (i.e. the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 and Part V of the Police Act 1997) that allowed for full disclosure of spent cautions and convictions through standard and enhanced Disclosure and Barring Service (DBS) checks.

As a result of these changes, certain minor cautions and convictions could be become protected after a period of time, meaning the individual no longer needs to disclose protected cautions or convictions when applying for jobs that are exempt from the ROA. The DBS introduced a system that automatically removes protected cautions and convictions from standard or enhanced criminal record certificates at the time they are issued. This system is commonly known as the 'DBS filtering rules'.

The changes in legislation make it unlawful for an employer to take into account a protected caution or conviction that would not be disclosed on a standard or enhanced DBS check (i.e. cautions or convictions that are subject to filtering), when making a decision to employ a person or dismiss an existing employee.

The legislation also makes it a criminal offence for an employer to carry out, or enable another person to obtain, a standard or enhanced DBS check on a person if the role applied for is not exempt from the ROA and so not eligible for this level of check (see eligibility section).

Employers that supply staff or contractors who are subject to certain [government vetting](#) should note that the changes to Part V of the Police Act 1997 mean that the DBS filtering rules relating to protected cautions and convictions also apply to certain non-police personnel roles.

Employers that need further information on the changes to certain government vetting should first review the [APP Vetting guidance 2017](#), as it is likely they will need to adapt their recruitment policies to reflect the recent changes. Employers that need further support can also get in touch with the College of Policing at contactus@college.pnn.police.uk.

The DBS filtering rules were subject to further changes in 2020 and 2023.

Comprehensive guidance on the DBS filtering rules can be found on the Nacro [website](#). There is also useful information on the DBS [website](#).

For further advice, support or training on the relevant legislation contact Nacro's Employer Advice Service on 0845 600 3194 or employeradvice@nacro.org.uk.

Criminal record checks

Does a criminal record check need to be carried out?

There is no legal requirement to carry out criminal record checks, but it may be a requirement stipulated in a commissioned contract or a contract agreed with a client. As highlighted earlier in this guide, an employer needs to first consider whether the advertised role has particular or significant risks involved relating to the business, clients, customers or others that may warrant carrying out a criminal record check. Where possible, an employer may consider that an applicant's self-declaration is a less intrusive and reasonably practicable alternative.

What level of check can be carried out?

If an employer determines (or is required as condition of their contract) that it is necessary to conduct criminal record checks, it is important to first determine the level of check that the role is eligible for. Some employers (or their clients or commissioners) wrongly deem jobs where their employees (or contractors) go into people's homes, or have only incidental contact with the public (e.g. visiting public areas in NHS Trusts or escorted visitors to schools), to be exempt from the ROA and therefore eligible for standard or enhanced DBS checks.

Employers should note that it is a criminal offence to carry out a standard or enhanced DBS check if the role is not eligible. The employer is legally responsible for ensuring that they are entitled to receive a standard or enhanced DBS check before submitting an application to the DBS. It is also important that the employer can demonstrate to the applicant (or existing employee) how the role or post is exempt from the ROA.

Employers that carry out illegal checks are in breach of Part V of the Police Act 1997, the ROA and data protection laws which requires that data be processed fairly and lawfully. An applicant (or existing employee or contractor) may pursue legal recourse in a civil court against an employer who has requested an unlawful check.

The table below shows the main types of disclosure available:

	Type of disclosure certificate			
	Basic	Standard	Enhanced	Enhanced + Barred
Unspent cautions and convictions	✓	✓	✓	✓
Adult cautions that are not filtered	x	✓	✓	✓
Spent convictions that are not filtered	x	✓	✓	✓
Police intelligence	x	x	✓	✓
Inclusion on the children's barred list	x	x	x	✓
Inclusion on the adults' barred list	x	x	x	✓

Basic disclosures (basic DBS checks) can be carried out for any role, including those that are covered by the ROA. Basic DBS checks only contain details of unspent cautions or convictions that are recorded on the Police National Computer (PNC) in the UK. They are available from [DBS](#) for employers in England and Wales. With the individual's consent, an employer can apply for a basic DBS check with the DBS through a Responsible Organisation registered to submit them. Individuals are also able to apply directly for a basic DBS check.

A basic DBS check should not be confused with a standard DBS check, which can only be carried out on exempt roles.

Standard disclosures (standard DBS checks) contain details of all unspent cautions (including diversionary cautions, conditional cautions and youth conditional cautions) and convictions; and also adult cautions and spent convictions that are not protected. Standard DBS checks are available for jobs and activities listed in the ROA Exceptions Order.

Enhanced disclosures (enhanced DBS checks) contain the same criminal record information as the Standard DBS check and may also include other relevant information. Other relevant information may be disclosed at the discretion of the chief police officer of the force that holds the information if they reasonably believe it to be relevant to the role. Enhanced DBS checks are only available for certain jobs and activities listed in both the ROA Exceptions Order and also the Police Act 1997 (Criminal Records) Regulations.

Enhanced disclosures with children's and/or the adult's barred list check(s) Enhanced DBS with barred list checks include the same criminal record information as enhanced DBS checks, but also detail whether the person is barred from working in regulated activity with children, adults or both. To be eligible to request a check of the children's or adults' barred list, the position must be eligible for an enhanced DBS check and also specifically listed in the Police Act 1997 (Criminal Records) Regulations as eligible to check against the appropriate barred list(s).

Applications for standard and enhanced DBS checks have to be made by the employer either directly, if they are a registered body, or through an umbrella body. The disclosure certificate is sent directly to the individual who must then hand it to the employer.

What is an enforced subject access request?

Section 184 of the Data Protection Act (DPA) 2018 makes it a criminal offence for an organisation to require an applicant (or existing member of staff or contractor) to apply for copies of their own police, probation, prison or court records from the relevant statutory authority and then share this information with the organisation. This practice is called an enforced subject access request. Any organisation that compels an individual to carry out an enforced subject access request may face prosecution by the Information Commissioner's Office (ICO).

Determining eligibility

In order to establish whether a role is eligible for a standard or enhanced DBS check, which is determined by whether the role is included in the ROA Exceptions Order, employers should first use the [DBS eligibility tool](#) and [eligibility guidance](#). Employers that supply staff to work in NHS roles can also use the [NHS DBS eligibility tool](#) and the NHS [criminal record checks standard guidance](#).

After using these tools, if an employer is unsure about whether or not a role is eligible for a standard or enhanced DBS check, they should contact DBS customer services on 03000 200 190 or email customerservices@dbs.gov.uk. Alternatively, they can contact Nacro's Employer Advice Service on 0845 600 3194 or email employeradvice@nacro.org.uk

Eligibility scenarios

Michael is employed for a local authority through an external contractor as a heating engineer. His role mainly involves repairing and installing heating systems. He visits the properties on the estates managed by the local authority and occasionally visits care homes.

Michael is eligible for a **basic DBS check**.

Fred works as a heating engineer for the same company as Michael. He also repairs and installs heating systems and visits properties on the estates managed by the local authority.

However, Fred's role, unlike Michael's, requires him to carry out work in care homes in residents' rooms and in the communal room where there is the opportunity for contact with the adults being cared for there; **AND**

1. the adults reside at the care home due to the care or nursing they require; **AND**
2. Fred carries out this work for four or more days in any 30-day period; or overnight between 2am and 6am with the opportunity for face-to-face contact with the adults residing there; or at least once a week on an ongoing basis across one (or several) care home(s).

Due to fulfilling **all of the above criteria**, Fred's role may be eligible for an **enhanced DBS check, but without barred list check**.

Sean is applying for the role as a gardener at the local NHS Trust. His role includes making sure the grounds and car park are well tended. Any contact he may have with patients is incidental.

Sean is eligible for a **basic DBS check**.

Daniel provides services to the local NHS Trust as an electrician working closely with the estates team. His role involves fixing electrical faults and installing and maintaining wiring, control and lighting systems to ensure the safety and wellbeing of staff and patients. His duties can take place in ward areas and other locations in the hospital where he is likely to have contact with patients.

Daniel may be eligible for a **standard DBS check**.

NB. If Daniel's duties were solely in other locations of the hospital such as offices or public access areas with no access to patients, he would only be eligible for a **basic DBS check**.

Martin is employed through an external contractor as an electrician working in a range of environments including schools. When attending schools, he is not left unattended where children are present.

Martin is only eligible for a **basic DBS check**.

Important note

Some organisations consider that all staff and contractors that visit schools are eligible for an enhanced DBS check with children's barred list.

However, in order to be eligible for this level check which is considered regulated activity, the member of staff or contractor visiting the school must fulfil all of the following criteria:

- > They work at the school on four or more days in a 30-day period or overnight between 2am and
- > 6am with the opportunity for face-to-face contact with the children; and
- > They have the opportunity, because of their job, to have contact with the children in the establishment; and
- > They work there for the purpose of the establishment; and
- > It is not temporary or occasional work; and
- > It is not a [supervised volunteer role](#)

Only if all of the above criteria are met would the person be eligible for an enhanced DBS check with children's barred list. However, they would not need to be in the same school each time in order to meet the frequency requirement.

Employers have a legal responsibility to ensure that the positions they are recruiting for are eligible for DBS checks at standard or enhanced level. The scenarios detailed above demonstrate that having incidental contact or access to children or vulnerable groups does not in itself automatically establish eligibility for a higher-level DBS check.

For further advice, support or training on DBS eligibility contact Nacro's Employer Advice Service on 0845 600 3194 or employeradvice@nacro.org.uk.

Overseas criminal record checks

It is important to note that, while the criminal records checks listed above might list criminal convictions of UK nationals convicted overseas, they will not necessarily detail criminal convictions of non-UK nationals convicted overseas. Employers that carry out criminal record checks should review their vetting policies and procedures to ensure they are applying as constant an approach as possible to all applicants when assessing risk, as well as to avoid risk of discrimination. Employers may need to consider requiring applicants from overseas to conduct criminal record checks or 'Certificates of Good Character' in the countries where they have been residing or visiting.

The application process for criminal records checks or 'Certificates of Good Character' for someone from overseas varies from country to country. The Home Office provides useful guidance on obtaining checks from overseas, which can be accessed [here](#).

Asking about criminal records

The below case study serves to highlight the ways in which unspent convictions and recruitment procedures relating to them can have a negative impact on applicants, employers and the community. In this case, the applicant has gone through difficult circumstances, turned his life around with support from the justice system, and yet still faces barriers to moving forward with his life on release. Even when the State has invested time and money into helping Robert become an asset, barriers to recruitment mean that employers cannot fill vacancies he is qualified for, and he is prevented from moving on to a positive future free from offending.

CASE STUDY: Robert

Robert is 21 years old. He experienced horrific abuse during his childhood which led to him entering the care system. He struggled with mainstream education and often ran away from his foster placements. He was exploited by 'county lines' (urban) gangs into supplying drugs in suburban and rural locations, including towns and cities. As a result, he received a number of convictions for supplying Class A and B drugs and eventually served a two-year sentence in a young offenders' institution. His convictions are currently unspent.

Robert managed to turn his life around. After gaining a CSCS card and relevant training while in custody he worked for a local firm removing asbestos from commercial premises. However, this work has now ended, and he has been looking for new opportunities.

He has applied for work at several recruitment agencies, all of which have a large number of suitable vacancies in asbestos removal, but he has been turned away by all of them due to having unspent convictions.

He has recently seen an advert for a local authority project in the city centre. The project requires a number of people to assist with asbestos removal. The appointed contractor has been advertising these roles for several months but has struggled to fill their vacancies. The application form for the position requires Robert to disclose all unspent convictions. It also states that the role is subject to a satisfactory basic DBS check. Robert decides not to apply for the position.

Ban the Box

At a time when employers are competing to fill their skills gaps, employers and recruiters should ensure that they are doing everything possible to fill their vacancies.

Employers that require applicants to disclose their criminal record at the initial application stage should consider changing their policies and processes to ensure they do not inadvertently put off otherwise suitable candidates with the right skills and ability to do the job. They also need to ensure that their policies comply with new data protection laws and minimise risks of discrimination.

In Robert's case, his criminal record may be irrelevant to the role he was applying for as he acquired his convictions due to being coerced into selling drugs as a child.

As a result of recent changes to data protection laws, it may be harder for an employer to justify obtaining data about an applicant's criminal record ([criminal offence data](#)) at the initial application stage. It may be viewed as unduly intrusive.

Employers should also ensure that at the point of time they do ask about an applicant's criminal record, they do so in a way that encourages honesty, providing the applicant adequate opportunity to explain the context and any mitigation surrounding their criminal record, and apply a consistent approach to applicants who may have been convicted overseas to avoid risks of discrimination.

Nacro recommends that employers adopt a [Ban the Box](#) approach. They should adapt their application forms, online portals and recruitment policies and procedures to move any questions about criminal records to a later, more appropriate, stage in the recruitment process; in many cases this will be at the stage where candidates have been shortlisted for interview.

Adopting the Ban the Box approach will ensure that applicants are first assessed on their skills, qualifications and ability to do the job, and also gives applicants the opportunity to provide a written disclosure statement. Employers should signpost applicants to Nacro for guidance on how to disclose their criminal record in a way which may better inform the employer's risk assessment.

The Ban the Box approach also ensures that employers are more likely to be compliant with UKGDPR/DPA 2018 requirements and have minimised any risk of inadvertently discriminating against people with criminal records that may have experienced disadvantage in their lives.

Applicants should be informed at the outset exactly what information will be requested from them and why, and at which stage of the recruitment process this information will be requested.

This will provide a basis for the applicant to decide whether or not to apply for the post.

Employers should emphasise that this information will be used only to assess the applicant's suitability for employment where it is relevant. Employers that carry out standard or enhanced DBS checks should also ensure that they have a recruitment of people with convictions policy which can be shared with applicants upon request. This is a requirement stipulated in the [DBS Code of Practice](#).

CASE STUDY: Tideway

Tideway launched in August 2015 with one task: delivering a new tunnel to protect the River Thames from the tens of millions of tonnes of sewage pollution discharged into it every year via the capital's overstretched Victorian sewer network. The Thames Tideway Tunnel is one of the largest construction projects of its type in Europe. Main construction work started in 2016 and the project will take up to seven years to complete.

As a Ban the Box employer and socially responsible project, Tideway aims to give new chances to those, including people with convictions, who may have been marginalised by society and are struggling to gain new skills. Tideway understands that breaking the cycle of crime for people with convictions determined to put their past behind them benefits the individual and society. Tideway has been working with Nacro and invested time in training their managers in a 'business as usual' approach to safer recruitment which has enabled them to implement Ban the Box with confidence. They are also working with various charities in order to ensure that they employ at least one person with conviction for every 100 employees on the project.

Julie Thornton, Tideway's Human Resources Director, said, "As one of the biggest infrastructure projects in Europe, we have a duty not just to help clean up the River Thames but also to leave a skills and employment legacy for all Londoners, and for the construction industry. By removing the criminal convictions question from our application forms, we are ensuring a fair and equal opportunity for anyone who applies for a job at Tideway. We are confident this will encourage more people with the right skills and ability to consider how they could get involved in the hugely important work we're doing for London."

Amey, Costain, Interserve, ISS UK Ltd, Kier Group and Landsec are just a few of the other leading employers in the sector that have also implemented Ban the Box policies.



Asking the correct questions for the role

Appendix A is designed for roles that are covered by the ROA. It is suitable for use if the employer requires a self-declaration and also circumstances which require a basic DBS check.

The criminal record declaration asks the question:

Do you have any unspent cautions or convictions?

NB: An employer may be entitled to know about pending prosecutions.

Appendix B is designed for roles that are exempt from the ROA, and therefore eligible for either a standard or enhanced DBS check and certain roles subject to government vetting. The criminal record declaration form takes into account the filtering requirements and current data protection laws. It asks both the following questions:

1. Do you have any unspent cautions or convictions?
2. Do you have any adult cautions or spent convictions that are not 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended)?

Dealing with criminal record disclosures

If a shortlisted applicant has disclosed cautions or convictions that are not deemed relevant to the role, then the recruitment process should proceed as usual.

In other cases, before making a final decision, the employer should conduct a risk assessment, if necessary, giving the applicant a meaningful opportunity to address their concerns. The employer should gather any relevant information (e.g. disclosure statement, references, supporting statement from probation officer) that they may need to inform their risk assessment.

If the employer has carried out a criminal record check and the certificate confirms the information disclosed by the applicant which the employer has already taken into account, then the employer can confirm appointment.

If there are significant discrepancies between the information on the certificate and that provided by the applicant, further consideration is necessary. It is best practice to give the applicant the opportunity to address any new concerns before a final decision is made.

It is not unusual for discrepancies to occur. Quite often this is not because the individual is trying to deceive, but simply because he or she has a limited understanding of how the criminal justice system works, or for how long the disclosure of convictions is needed. The changes to disclosure legislation are extremely complex and individuals are often not given accurate advice about their rights and responsibilities to disclose.

In addition, while the DBS makes every effort to ensure that disclosure certificates are accurate, mistakes can occur. If the discrepancy arising from an apparent mistake on a disclosure is serious enough to end the recruitment process, then the decision should be deferred until the applicant has had an opportunity to dispute the information through the DBS disputes channel.

Assessing the risk and relevance of criminal records

There is a wide variety of roles across the whole construction sector. As such, it is not practicable for an employer to apply a one-size-fits-all approach when determining the suitability of an applicant with a criminal record. Often, a person's criminal record may be entirely irrelevant. Disclosure laws do allow for an employer to take into account an applicant's criminal record when determining suitability; however, recent cases in the courts highlight employers' duty to apply a reasonable consideration of the applicant's criminal record rather than using an arbitrary approach.

The applicant's skills, qualifications, experience and circumstances surrounding their criminal record should be weighed up against any actual risks or hazards associated with the role they will be doing (e.g. theft or fraud, violence, health and safety, reputational risks), as well as the responsibilities the individual will have, the environment they will be working in and any opportunities to offend in the workplace. Once an employer has established the risk assessment criteria for a particular role or environment, they should then assess whether these risks can be managed. They may already have a policy or process for mitigating such risks in place or they may need to create one. These policies and processes should be documented on a risk hazard form. If adequate safeguards are in place that reduce the opportunity to reoffend in the workplace an employer may have more confidence when considering the applicant's criminal record.

When considering the applicant's criminal record, employers will need to take into account the criteria below.

Nature of offence(s)

What type of offence or offences did the individual commit i.e. theft, fraud, violence, possession of drugs, supply of drugs, sexual offences, public order or other offences? Did the person commit one type of offence or a range of different offences?

Relevance

Employers should consider whether the offence(s) disclosed are relevant to the position applied for. Serious violent or sexual offences may be relevant to public facing roles. Offences relating to theft of fraud may be relevant to roles with responsibility for finance or items of value. Recent offences for possession of drugs or alcohol related offences may be relevant to operating machinery on a site.

However, drink-driving offences are not generally considered relevant unless the job itself involves driving e.g. HGV driver. A conviction for a serious violent or sexual offence may not be particularly relevant if the position applied for does not involve contact with people in the normal course of duties.

Seriousness

Employers should consider the seriousness of any offence disclosed, rather than just the title of the offence (offence code). Offence codes cover a very wide range of offences that vary in terms of seriousness. A sexual offence, for instance, covers everything from a young adult engaging in a sexual relationship/activity with an underage young person to indecent assault and rape.

Violence covers everything from slaps and smacks, often recorded as battery or common assault, to grievous bodily harm and murder. Drug offences cover everything from possession of small amounts of cannabis for personal use to possession of Class A drugs with intent to supply. Burglary covers everything from taking goods from shop storerooms to entering the homes of elderly people, leaving them in fear. Arson ranges from a person setting fire to litter bins to a person destroying property and endangering lives. Offence codes can often make the incident sound more serious, which is why it is extremely important to gain further details of what actually took place. A Crown Court would normally deal with more serious offences than a magistrates' court, but some individuals elect for their case to be heard in a Crown Court if it is a triable either way offence.

Offence circumstances

Who was involved? What happened? Where did it happen? When did it happen? Why did it happen? How did it happen?

Employers should look at the applicant's circumstances at the time of offending, including whether they had any previous issues with accommodation, education, employment, management of finances and income, lifestyle and associates, relationships, drugs and alcohol, emotional wellbeing or health.

They should consider whether there were any aggravating or mitigating circumstances. What was the applicant's attitude to their offending? Did they show any remorse or take responsibility for their actions? Did the applicant try to make reparation to any victim?

Employers should look for openness and honesty, rather than denial and minimisation. They should consider the applicants' insight into their own behaviour, any indication of changed thinking, changes in their circumstances and, where relevant, victim empathy, not victim blame or shared responsibility.

An explanation of the circumstances surrounding an offence will often be plausible and reassuring. For instance, the person who explains that, in fear and panic, they ended up assaulting someone who was threatening them during a bar fight, may not be as culpable as an individual who caused serious injury with intent during an armed robbery. It is important to bear in mind that only a small minority of offences take place in a work setting. It is also important to consider that a person convicted of a serious offence may have completely turned their life around for the better.

Age of offences

Employers should consider the age of the individual at the time they committed the offence(s) and the length of time that has passed since the offence(s). Convictions can be disclosed on a standard or enhanced DBS check from when an applicant is 10 years old and – if the offences have not qualified for filtering – they would continue to be disclosed until the person reaches 100 years of age. Employers should be mindful that the information contained on a criminal record certificate often occurs due to the extreme complexities of the criminal record disclosure regime, rather than any adequate assessment of risk or relevance. In many instances, applicants may have put their past behind them. Therefore, employers should consider how the applicant may have matured and/or how their circumstances may have changed since their offending.

Pattern of offending

Employers should consider whether the applicant committed a single offence or whether there has been a pattern of offending behaviour. Is there a large gap between offences or is there a string of similar offences? People who have a pattern of offending right up to the present day may not have put their offending behind them. Those people with a number of theft, drink or drug-related convictions, in particular, may remain a risk unless there is evidence of a clear break in the pattern of their offending. Nevertheless, many offenders, including repeat offenders, do eventually move away from crime and often there will be clear evidence demonstrated in the other aspects of the recruitment process to aid the risk assessment.

Changed circumstances

Employers should consider whether the applicant's circumstances have changed since the offending took place. For instance, those convicted as juveniles often do not reoffend once they mature and have family or accommodation (rent or mortgage) responsibilities because they have too much to lose by getting into trouble. As previously mentioned, many offenders, even those with long and serious records, can eventually change, as they simply grow out of a period of offending or seek help to address related problems. Obtaining a home and a job have been established as the two of the most significant factors in reducing the likelihood of person reoffending.

As part of the risk assessment process, an employer should try to establish the applicant's attitude at the time of the offence. What is their attitude now? How do they now feel about what happened? How do they feel about their part in what happened? Do they show remorse? Do they blame others? Do they feel a victim of injustice? How genuine is their expression? What efforts have they made not to reoffend? Have they taken part in any remedial programmes? If they have one, can a reference be sought from their probation/responsible officer or support worker?

Having reviewed the circumstances at the time of the offence, the employer should then compare the applicant's circumstances at the time of them applying for the role. It may be that the applicant can provide the necessary reassurance that past issues have been resolved. However, many people with more recent convictions will also have reached the point where they want to put their offending behind them and put their talents to constructive use. If the offence is not work-related or if the post is at a level of responsibility which means that the applicant does not pose a risk, the employer could consider recruiting them if, in all other respects, they are suitable for the job.

The risk assessment interview

The employer should conduct any interview with the applicant with sensitivity and empathy, as discussing past convictions is likely to be a great source of anxiety and embarrassment for the person concerned. The employer should think carefully about the questions to ask and keep the discussion focused on the individual, their feelings and their attitudes. If possible, it is best not to conduct the meeting alone; instead invite a colleague who was involved in the recruitment process to provide support and take notes. It is also important to remember it is not the employer's responsibility to decide whether the court's decision or police course of action was the right or fair one. The purpose of the interview is to help the employer to gather the necessary information to assess whether the individual may pose a risk in the position applied for. In addition to the interviews with the applicants, and other pre-employment checks, employers should consider whether they need to obtain any other information, e.g. a reference from probation, to inform their risk assessment decision.

How to manage criminal record information

The UK General Data Protection Regulation (UKGDPR) and the Data Protection Act 2018 (DPA 2018) gives extra protection to [criminal offence data](#) which includes cautions, convictions, and allegations relating to criminal conduct/behaviour. This type of data is likely to be high risk to individuals, and so the organisation should have in place an appropriate policy document, [identify a lawful basis](#), and complete a data protection impact assessment (DPIA) when processing this information.

An applicant's criminal record information mustn't be shared with anyone in the organisation apart from those who have a genuine 'need to know' as part of their duties; to do so is a criminal offence. This may include people directly responsible for making the final recruitment decision or the applicant's line manager, but only if the offence is relevant to the applicant's role.

The applicant should also be told who in the organisation knows about their record, as they need to feel confident that their personal and sensitive information will not be disclosed to anyone unless there is a specific reason for doing so.

The reasons for the final decision should be based on an objective, common-sense and rational approach. It is best to have a formal record, which is kept securely, of the decision and to provide clear reasons to appoint or reject the applicant. The decision will then need to be communicated to the applicant.

Appendix C contains a template criminal record check risk assessment form which can be adapted to an employer's needs.

Dealing with convictions relating to existing staff

Employers should have regard for the Acas [code of practice](#) on discipline and grievance when dealing with an existing member of staff who has been charged or convicted during the employment relationship.

Paragraph 31 of the code of practice states:

“If an employee is charged with, or convicted of a criminal offence this is not normally in itself a reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee’s suitability to do the job and their relationship with their employer, work colleagues and customers.”

An employer that has concerns about an existing member of staff failing to disclose that they have been charged or convicted of an offence – acquired either before employment commenced or during the employment relationship – should first review their disciplinary or code of conduct policy to ascertain whether a requirement to disclose a charge or conviction is contained within the policy.

If there is no provision requiring disclosure contained in the policy, in most instances, there is no legal obligation for the member of staff to disclose.

If there is a requirement to disclose contained within the policy, then an employer can consider the steps outlined below in the flowchart as long as they regard the code of practice.

What to do if a conviction or allegation concerning an existing member of staff comes to light

Seek disclosure information in relation to an existing employee who has failed to disclose a caution or conviction that is not spent, or not protected (if role is exempt from the

Establish whether the caution/conviction and new information is relevant to the job

If relevant or serious, consider:
Dismissal or movement to another job and/or the introduction of safeguards

Do not use information as an excuse to dismiss poor performance

For further information, advice, operational support or training on safer recruitment, assessing and managing risk contact Nacro's Employer Advice on 0845 600 3194 or email employeradvice@nacro.org.uk.

Right to work checks

What is a right to work check?

A right to work check determines whether an applicant has the legal right and permission to work in the UK. Employers must conduct right to work checks on all successful applicants before they commence work. It is unlawful for an employer to employ someone who does not have a right to reside and appropriate right to work permission to work in the UK, or is working in breach of their conditions of stay.

Before allowing an individual to start work, an employer must:

- > Ask to see their original documents
- > Verify all documents are valid with the individual present
- > Make and retain copies of all documents presented
- > Record the date they made the check

What are the consequences of getting right to work checks wrong?

Not unlike criminal record disclosure rules, UK immigration rules and guidance are extremely complex and constantly changing. Some employers that are reluctant to consider people with criminal records may cite 'potential reputational damage' as one of their key concerns. However, employers in the construction industry are more likely to be exposed to reputational damage and other significant implications due to a failure to understand and apply immigration rules correctly.

At the very least, they may face significant delays in the recruitment process. At the other end of the spectrum, they may face a civil penalty of up to £20,000 per employee, details of the civil penalty being published by the Home Office on a public register and a downgrading of a sponsor licence to B-rating.

An employer that has reasonable cause to believe an employee is disqualified from working as a result of their immigration status, but allows them to continue working, may be guilty of a criminal offence and face an unlimited fine or maximum of five years imprisonment. The [Immigration Act 2016](#) also introduced a new offence of illegal working which enables earnings of illegal workers to be seized under the Proceeds of Crime Act 2002.

How to carry out right to work checks

The Home Office has published comprehensive guidance for employers on how to carry out right to work checks effectively which can be found [here](#).

It includes practical tips on [how to check right to work documents](#) as well as a useful tool to [check if a document allows someone to work in the UK](#).

Employer Checking Service

If an applicant or existing employee cannot show the employer their documents, then the employer may need to verify their immigration status using the [Employer Checking Service](#), this could be for example if:

- > They have an outstanding appeal, administrative review or application with the Home Office
- > arrived in the UK before 1989 and do not have documents to prove their immigration status or right to work

You must also ask the Home Office to check their status if they have:

- > a digital or non-digital Certificate of Application that says you need to ask the Home Office to check their right to work
- > an Application Registration Card

When carrying out immigration checks, employers must ensure that they comply with data protection laws. To avoid risks of discrimination, they also need to apply a consistent approach to all applicants and avoid making assumptions about a person's immigration status.

NB: Right to work checks do not detail whether or not an applicant from overseas has a criminal record. To ensure a consistent approach to all applicants is maintained and to reduce discrimination risks, an employer that carries out criminal record checks on applicants via the DBS should also consider conducting [overseas criminal record checks](#) on applicants from overseas.

For further help contact the Home Office Employer Enquiry helpline on: 0300 123 5434.

Drug and alcohol policies

The legal position

The Spotlight on Drugs and Alcohol [campaign](#) led by the Considerate Constructors Scheme (CCS) carried out a survey in which 59% of respondents were worried about the increasing injury and fatality impact of drug and alcohol abuse on and around UK construction sites. Due to the large machinery and tools used on construction projects, there are few industries where health and safety is more important. If effective methods for addressing drugs or alcohol misuse are not implemented and an accident occurs, an employer could face substantial fines or even risk prosecution.

The [Health and Safety at Work Act 1974](#) places a duty on an employer to ensure, as far as is reasonably practicable, the health, safety and welfare of its employees. If an employer knowingly allows an employee under the influence of drugs or excess alcohol to continue working and this places the employee or others at risk, the employer could be prosecuted. Equally, employees are also required to take reasonable care of themselves and others who could be affected by what they do.

When dealing with drugs or alcohol concerns in the workplace, employers may also need to take into account some of the legislation detailed below:

- > [Misuse of Drugs Act 1971](#)
- > [Transport and Works Act 1992](#)
- > [Road Traffic Act 1988](#)
- > [Management of Health and Safety at Work Regulations 1999](#)
- > [Provision and Use of Work Equipment Regulations 1998](#)

Many employers in the industry have undertaken a range of rigorous and regular measures, including random drugs and alcohol testing, to tackle this issue. Some employers even operate a zero tolerance to drugs and alcohol throughout the whole of their workforce, including staff that do not work in safety critical roles.

However, care is needed when taking disciplinary action against someone on the grounds of drug or alcohol misuse, as employers still have legal obligations towards their staff in this respect. Employment tribunals have, in the past, viewed this as a medical issue rather than one of conduct. This will normally depend on the exact circumstances and nature of the employee's work – for example, whether potential harm to others is involved.

Without adequate policies and training, organisations are more vulnerable to employment tribunal claims (for unfair dismissal, for example) and less likely to be able to help workers suffering from addiction or substance misuse seek or find help.

CCS have developed a sample drugs and alcohol policy template which can be downloaded [here](#).

Employers should also consider the See Potential [campaign](#) cited earlier in this guidance. People from disadvantaged backgrounds may not fit into just one category. As such, employers need to strike the tricky balance between mitigating the risks that substance misuse presents in certain environments, while also ensuring their recruitment policies do not implicitly or inadvertently exclude applicants affected by substance misuse issues from roles which are not safety critical (e.g. admin, finance, office). Employers that do so could face discrimination risks.

Further information on drugs and alcohol policies can be obtained from [Acas](#).

CASE STUDY: Calico Group

One company working hard to achieve this balance is The Calico Group, an award-winning organisation that has grown over the last decade from being a small housing association in Burnley to a large group of innovative companies and charities providing high quality services across the North West.

Calico owns and manages approximately 4,600 homes in Lancashire and provides a full construction service developing new and affordable homes across the region. Calico also has a range of programmes in place such as Acorn Recovery and Delphi Medical which enable people affected by substance misuse to get support either prior to employment or while in employment.



The **calico** Group

JCP: Supporting employers in the community

The government is committed to supporting all people back into work. The Mind the Gap project has worked closely with Jobcentre Plus (JCP) who become key stakeholders. JCP is the high street brand of DWP (Department of Work and Pensions) and has around 700 offices across England, Scotland and Wales.

Some of the services and support that JCP can offer to help construction employers fill their vacancies and attract new talent into the sector are detailed below.

Voluntary Work Experience – a placement with an employer for a jobseeker to gain invaluable experience of the world of work. This offers valuable insight for prospective employees into the work ethos and skills a potential employer would look for but a job does not need to be provided at the end of the experience. The criteria are as follows:

- > Lasts between two and eight weeks (potential for up to 12 weeks for some customers in some areas)
- > This can be extended for up to four weeks if the claimant moves into an apprenticeship. On average, employees complete between 25 and 30 hours of work experience per week
- > Jobseeker's Allowance remains in place for the duration of the placement.

Sector-based work academies – a short sharp training intervention:

- > Designed with the employer to upskill potential recruits
- > Three elements of training, work experience and a guaranteed interview
- > Lasts between one and six weeks

Work trials – this is where an employer has advertised and interviewed for a job. If the employer is considering offering it to an unemployed jobseeker but wants to make sure the fit is right for themselves and the candidate, they can use a work trial to do this.

- > It's an opportunity for the employer and a perspective candidate to try the job.
- > Lasts up to four weeks (the norm is around two weeks)
- > Jobseeker's Allowance remains in place for the duration of the work trial.

JCP can also support other government department's initiatives, for example apprenticeships, traineeships etc.

This list above is not exhaustive; innovative and bespoke support can be designed and implemented locally through discussion and working with an employer's local JCP office. Working locally with employers, JCP can shape the support required to fill jobs and apprenticeships. This service is free to employers where they want to work with JCP to support unemployed people, including people with convictions, back into work.

Working with prisons

Many employers in the construction industry have been working successfully with the prison and probation service for a number of years. There are countless ways in which an employer can access the huge pool of talent within the custodial environment including working with the [New Futures Network](#).

Mind the Gap partners play a crucial role in supporting employers to work proactively with prisons, as well as facilitating skill assessments, training programmes and employment pathways for individuals while in custody and on release. The partners aim to complement the great work already being delivered in custody and use innovation and partnership working to fill any gaps in provision.



A Fairer Chance: finding the right candidates

Mind the Gap partner, [A Fairer Chance](#) (AFC), provides specialist employment and skills interventions for people with convictions. They have successfully placed more than 1,000 people into meaningful jobs at all levels, from labourer to site manager and from administrative assistant to compliance manager.

AFC has been working with prisons for many years, making a positive business case to employers for taking on people with convictions both while in custody and on release into the community. They act as a broker, holding the hand of the employer and supporting applicants to prepare for the interview process. They provide the necessary support that enables an individual to get a job and keep it.

AFC has provided the following tips for employers when recruiting a candidate with a criminal record:

- > There should be a tangible, achievable job opportunity – What is the salary? What are the hours? What are the prospects and opportunities for advancement?
- > Wherever possible, avoid zero hours contracts.
- > Where release on temporary licence (ROTL) opportunities are available in prisons, employers should go into the prison and meet the candidates in a professional but relaxed atmosphere.
- > Talk to the candidates about the opportunity and then conduct the interviews.
- > Make it clear in your recruitment brief what skills are required for the job.
- > Look at how the candidate already meets those requirements or what steps need to be put in place (e.g. training) in order to meet them.

AFC conduct Mind the Gap skills assessments and training plans for some of the candidates involved in the project. They ensure that only candidates who have the right attitude and motivation to work are put forward to a potential employer.

They also assess some of the practical barriers – such as lack of suitable identification, having somewhere to live upon release, having a bank account in their own name, a CV that outlines their personal qualities and a positive disclosure statement – that could have an impact on the person securing work on release.

Mite Foundation: business challenge days

The Mitie Foundation run Mind the Gap business challenge days across a number of prisons that are involved with the project. These highly participative employer engagement events, delivered inside the prison, give employers a unique opportunity to meet with a group of enthusiastic serving prisoners who are near to their release date and wishing to find work on their release. The employers work in teams with the prisoners throughout the day, facilitating a series of motivational activities that develop their entrepreneurial and communication skills and enhance their employment prospects on release. The prisoners taking part are offered guaranteed job interviews when they leave custody.



Using innovation in custody to meet skills gaps

Mind the Gap partners work closely with some of the Prison Education providers that are responsible for delivering the education and training in prisons throughout England, giving prisoners the skills and qualifications they need to find sustainable employment upon release. A number of these providers already deliver training in construction-related skills.

CASE STUDY: Novus and NW prisons employment passport

As part of their work engaging with partners, employers and agencies within the area, Novus worked with the North-West prisons head of learning and skills to develop a model called the Employment Passport, which can be used to put people onto a pathway into full-time employment, apprenticeships or training on release.

The Employment Passport ensures that prisoners are supported in the following key areas:

Developing essential functional skills (i.e. English, maths, ICT)

Vocational training qualifications (e.g. bricklaying, painting and decorating, fitted interiors, site joinery, bench joinery, plastering, dry lining, wall and floor tiling, groundwork)

Support with developing key employability skills and knowledge that ensure they are 'work ready'

Suitable candidates can be introduced to employers via employment brokers

One recent success story is [Osco Homes](#) (a wholly owned subsidiary of Procure Plus) which delivered affordable houses constructed offsite at a production workshop based in HM Prison Hindley, Wigan. A number of serving prisoners in the final year of their sentence were trained as construction workers to build external walls and floor and ceiling cassettes of panellised homes. Novus provided the prisoners with construction training in plastering, joinery, kitchen and bathroom fitting. Each prisoner was paid a salary for their work by Osco and offered full-time employment with them after their release.



CASE STUDY: Milton Keynes College Employment Academy

The Milton Keynes College Employment Academy model was developed with input from employers in order to understand their recruitment needs and address the challenges they face recruiting and retaining staff. The Employment Academy model ensures prison learners obtain the relevant qualifications as well as the hard and soft skills they need to get and keep a job. They ensure the education delivered in custody matches employers' needs and provides the person with routes into sustainable employment.

The Academy enables businesses to influence the skills and attributes developed while in prison. Employers engaged in the Academy help to develop the prison education curriculum and often support delivery alongside the education provision. Through the Academy process, employers are able to assess a candidate's suitability for positions, without the costly expenses which traditional recruitment processes incur.

One recent success story relates to an individual who began working for [RMF Construction](#) following his release from HMP Oakwood. He completed the RMF Employment Academy showing enthusiasm with a positive attitude and great work ethic. His previous experience as an electrician saw him join the rail academy as a way of building his transferable skills for future employment. Upon release, the Employment Academy team arranged for him to attend RMF to collect his certificates, arrange his Personal Track Safety, register with them and complete his e-learning and ICI training.

The Employment Academy team and RMF has worked with his probation officer to arrange shifts for him, ensuring they have updates on his planned work.

“The success of our company will come down to working very closely with MK College, which is helping us get that full stream of qualified and reliable staff which every company needs as its back bone.” Dara McCarthy, RMF Construction Services Ltd.

The way that education services are delivered in custody now gives prison governors more control and responsibility for contracting the education and training provision within their prisons. Some prisons have already started to utilise this extra flexibility to deliver bespoke interventions, equipping prisoners near to release with the relevant skills and 'tickets' that meet the local market demands.

Recent prison education reforms include the introduction of a Dynamic Purchasing System (DPS), a digital framework agreement that will work separately from the Prison Education Framework (PEF) provision, providing a route for prisons to commission smaller and more bespoke education services. The DPS provides a great opportunity to get more

local or third sector training providers working in partnership with the prisons, using innovation to address local employer's recruitment needs.



Mainstream Group working in partnership with Kent prisons

Mainstream Group are a key logistics training provider and staff supply business operating throughout Kent. They are also an accredited centre, training LGV driving instructors, under the NRLI.

Flexible education provision arrangements have enabled Mainstream Group to work as a subcontractor in prisons in Kent and the South East for a number of years. As a result, Mainstream has trained more than 350 serving prisoners in some of the following areas:

- > Fork lift truck (reach and counterbalance)
- > Street works
- > Large goods vehicles Cat C and Cat CE
- > Telescopic handler
- > 360° excavator
- > Forward tipping dumper
- > Manual handling
- > Side loader
- > Electric pallet truck
- > Construction machinery

In the last two years, Mainstream has employed more than 25 serving prisoners and recently released offenders on licence in their Recruitment Divisions.

With the full support of the prisons, Mainstream’s Kent-based training facility demonstrated a 90% success rate of individuals trained and placed into permanent employment in the first six months.



**bounce
back.**



Bounce Back and Landsec: corporate and voluntary sector innovation in prison training and education

Bounce Back is a charity that trains in construction skills – such as painting and decorating, dry lining and scaffolding – and CSCS training in a number of London prisons, including HMP Brixton. It is social enterprise that employs people with convictions as professional decorators on release. It also employs through partner construction companies including [Landsec](#) (formerly Land Securities), the largest commercial property development and investment company in the UK.

Landsec have been one of Bounce Back’s key partners since it opened its painting and decorating training centre in HMP Brixton. They also take up managed referrals from the Bounce Back centre into the Landsec Skills Based Work Academy and provide employment with their supply chain.

Bounce Back’s dry lining training centre opened first in HMP Brixton, in June 2015, and shortly after in HMP Wandsworth. This was sponsored by Landsec, Lend Lease, Knauff, Encon and Nevill Long, all of which provided employment for participants once they had completed the training.

In June 2016, recognising the huge demand for scaffolding in the sector, Landsec brought Alandale Scaffolding into the prison and they sponsored the setup of the Bounce Back scaffolding training centre. This project also leads to employment for participants who successfully complete their training.

Bounce Back continues to work with Landsec to bring innovation into prisons. Together, they are introducing the first aerial and vertical window cleaning training centre into HMP Isis and are launching a training Academy in HMP Leeds.



Release on temporary licence (ROTL)

What is ROTL?

ROTL is the process which enables serving prisoners coming to the end of their sentence to be released into the community for rehabilitative purposes that support their reintegration into society. In some prisons, this allows for prisoners to take up paid or unpaid work placements, volunteering or specific training opportunities with local employers. A prisoner working under ROTL conditions will generally leave prison each morning, complete a day's work with the employer, and then return to the prison at the end of their working day. This is also referred to as Resettlement Day Release (RDR).

For many construction industry employers, ROTL has proved to be a huge success and an excellent recruitment avenue. However, ROTL opportunities are extremely limited (from closed prisons, but more available from open prisons), which has led to a growing number of employers and stakeholders lobbying government for the initiative to be expanded.

Managing ROTL

All prisoners who are eligible for ROTL are very carefully risk-assessed and managed by the prison to ensure the safety of the public. Nonetheless, Nacro believes it is equally important for the employer to ensure that any potential applicant is a good fit for their business, just as they would any other applicant. They should still obtain a criminal record self-declaration from the applicant and still carry out their own risk assessment using the guidance detailed earlier.

ROTL top tips

- > The employer should provide the prison with a clear job description and person specification for the role or work with the prison to develop these. They should also detail what skills are required and work with the prison to look at what steps can be put in place to help applicants acquire these skills.
- > A risk assessment will be carried out by the prison, with the final review and recommendation being carried out by the prison governor.
- > Suitable ROTL applicants should be identified and/or approved by the prison and then referred for an initial meeting and/or interview with the employer at the prison.
- > A review of the interview should be carried out by the interviewers and an update given to the prison as to the success of applicants.
- > A disclosure statement should be provided to the employer by the ROTL applicant accepted onto the work placement.
- > A reference for the ROTL applicants should be written by the Head of Resettlement at the prison.

- > A site visit should be carried out by someone from the prison to confirm that it is suitable.
- > This should include a risk assessment for public and prisoner safety.
- > A separate risk assessment should be carried out by the employer on the ROTL applicant, in line with their own policies and procedures. They should assess the environment and role to be undertaken, the risk and relevance of the applicant's criminal record and any support needs they may have. They should put any necessary safeguards in place.
- > A professional boundaries agreement should be completed between the employer and the new ROTL member of staff. A sample agreement is contained in Appendix D.
- > Details of the ROTL member of staff's criminal record should only be shared with those who have a need to know. All information should be stored securely in compliance with data protection laws.
- > The ROTL member of staff's line manager should be responsible for any training and induction and supervision at the start of the placement.
- > Risk assessments should be reviewed every few weeks for the ROTL member of staff by the employer.
- > Where an incident of any type occurs, the risk assessment must be reviewed immediately by the employer.
- > Once every couple of weeks the employer should speak to the designated person at the prison to talk through any issues, concerns and success. Visits to the placement are likely to be carried-out by prison staff from time-to-time.
- > Any serious concerns need to be raised immediately by the employer (depending on the nature and severity) with the ROTL member of staff, with the potential for the placement to end with immediate effect.
- > In addition, the prison should be informed of the serious concerns and the outcome that is desired by the employer.

Appendix E contains a Model MoU for a paid ROTL placement.

To find out more about ROTL, contact the head of employment, training and skills at your local [prison](#).



Tideway – developing effective ROTL programmes

For more than two years, Tideway has provided ROTL opportunities in Catering and Hospitality for training and paid work placements. Their Main Works Contractors (MWCs) have also provided ROTL placements for Cleaning Operatives and Traffic Marshalls. It has been a learning curve for the whole organisation, and they have recognised that there is no one size fits all solution beyond the parameters of the licence conditions as each placement is individual and has their own personal and professional support needs.

It has been essential to have the necessary knowledge and understanding of how to navigate the prison system to run the programme successfully. Tideway believes it is also incredibly important to ensure that the organisation has a shared understanding of ROTL, including the process, the daily checks, the licence conditions covering how to deal with absence/sickness, out of hours events and lunch breaks. If things go wrong, which they can do at times, there is a need to have clear leadership, guidance and an understanding of the process, the risks and the situations that can be out of an employer's control.

Tideway believes that is important that any organisation that is considering developing a ROTL programme operates within a supported and decent working environment to enable the very best outcomes to be achieved for all.

Appendix F contains a New Employee Induction Checklist.



CASE STUDY: Recycling Lives

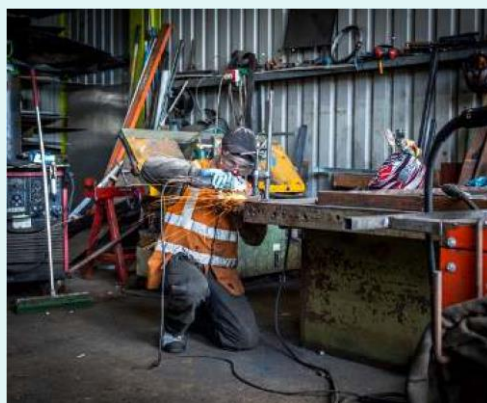
Recycling Lives is a successful business working for social good. Its national recycling and waste management operations directly supports and sustains a food redistribution charity, as well as a number of social programmes that offer training and work opportunities for participants from all walks of life.

Their HMP Academies are operational in nine prisons across the North and Midlands. These prison-based workshops see men and women undertake recycling or welding work, developing skills, achieving qualifications and earning an enhanced wage.

Their Release Potential team work with prisoners ahead of and on release. It supports individuals to enjoy stability and independence via work placements, meaningful employment and essential support to secure stable housing and rebuild family relationships.

For those facing homelessness, Recycling Lives residential facilities provide a base from which they can regain their independence and self-worth. Within supportive, stable accommodation, residents undertake a six-stage programme to develop life and work skills with the goal of moving into a permanent job and a home of their own.

In 2016/17 Recycling Lives' programmes resulted in the rehabilitation of 36 out of 37 people leaving prison, with only one reoffending and returning to custody.



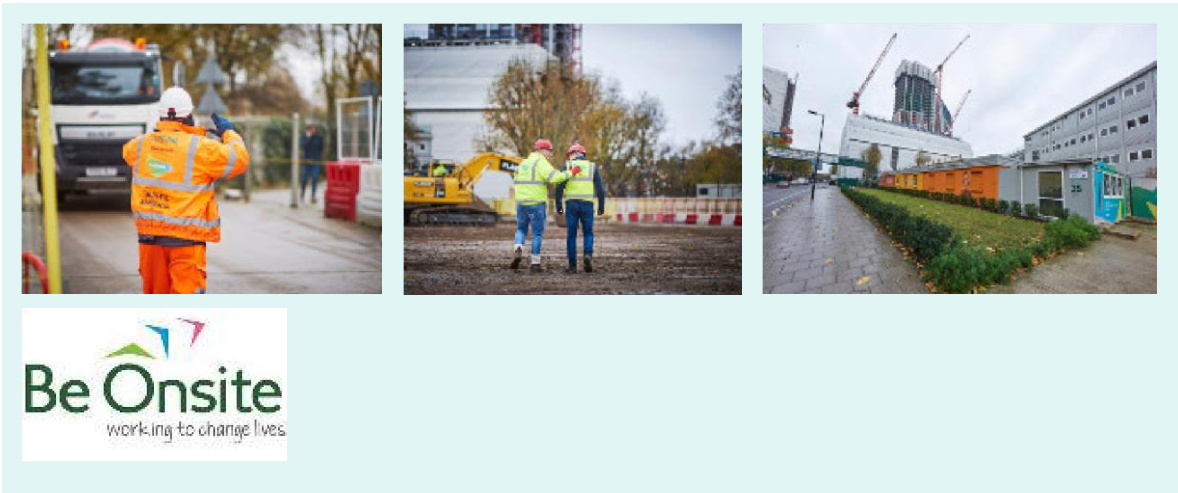
ROTL CASE STUDY: BeOnsite

BeOnsite's creation is a direct result of its founder's work employing serving prisoners on the construction of Bluewater Shopping Centre, Lendlease's first UK project in the 1990s. BeOnsite has built upon the strong legacy of the Bluewater project to grow and develop as its own award-winning not-for-profit company specialising in supporting people who are furthest from the labour market. BeOnsite's years of experience have ably demonstrated to employers in the construction industry the many benefits and advantages of working with this underutilised cohort.

When BeOnsite started operating many years ago, its first paid employee was a serving female prisoner. The job on offer was as a trainee dry liner on a Lendlease site in central London. Their employee travelled from HMP East Sutton Park in Kent to central London every day working from 8am-5pm in a role that would traditionally be associated with men. She went on to gain formal qualifications and maintained her job upon her release from custody. This was not only the beginning of her journey, but that of BeOnsite's too. They have since successfully employed and supported more than 100 people with criminal backgrounds to turn their lives around.

One of BeOnsite's best success story dates back to 2014. An individual was given the opportunity to come out from HMP Brixton on day release to work on site as a labourer. Armed only with a CSCS card, this was his first and only real job. He was serving an Imprisonment for Public Protection (IPP) sentence and had served well over his original tariff and could only hope for success at his next parole hearing. He worked for over a year on ROTL and during that time BeOnsite witnessed his personal growth and commitment as he became a valued member of their construction workforce. His genuine desire to learn earned him the tangible support and investment he needed from his host contractor to gain a Level One qualification in Scaffolding. With the support of BeOnsite, who provided a letter of reference to his Probation Officer, he successfully gained parole in 2015. However, as is common in real life, it was not all plain sailing and some weeks after release he found himself homeless. Despite it being late on a Saturday night, he was able to contact BeOnsite who helped him secure emergency housing. This in turn enabled him to continue in his job. With support from BeOnsite he went on to live independently in rented accommodation, sustaining his job and gaining a Level Two Scaffolding qualification. Three years on he remains with the same contractor; he has become a skilled worker earning a significant wage. He now has a young family and in 2016 won a major award at the Lendlease Employee Excellence Awards.

You can register your interest to work with prisons with the [New Futures Network](#).



Mind the Gap partners

Nacro Employer Advice Service

Walkden House, 16-17 Devonshire Square, London, EC2M 4SQ

Tel: 0845 600 3194

Email: employeradvice@nacro.org.uk

www.nacro.org.uk

Mind the Gap consultant

Dominic Headley

Mobile: 07739 814 199

Email: info@dominicheadleyassociates.co.uk

www.dominicheadleyassociates.co.uk

BeOnsite

Level 9, 5 Merchant Square, London, W2 1BQ,

Email: info@beonsite.org.uk

www.beonsite.org.uk

Bounce Back Foundation

32 Southwark Bridge Rd, London SE1 9EU, United Kingdom

Tel: 020 7735 1256

Email: info@bouncebackproject.com

www.bouncebackproject.com

A Fairer Chance

Unit 418 The Archives

Unit 10 High Cross Centre, Fountayne Road, London N15 4BE

Tel: 07903 386 922

Email: info@afairerchance.co.uk

www.afairerchance.co.uk

Mitie Foundation

Level 12, The Shard, 32 London Bridge Street, London SE1 9SG, UK

Tel: 0203 123 8700

Email: foundation@mitie.com.

www.mitiefoundation.com

Appendix A: Criminal record declaration form for jobs covered by the ROA

You have been asked to complete this form because the role you have applied for is covered by the Rehabilitation of Offenders Act 1974. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

This post is covered by the Rehabilitation of Offenders Act 1974 and therefore applicants are required to declare:

- > All unspent cautions and/or unspent convictions

For further information on how long it takes for cautions and convictions cautions to become spent, please refer to our guide on the [Rehabilitation of Offenders Act 1974](#).

We recognise the contribution that people with criminal records can make as employees and volunteers and welcome applications from them. A person's criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

All cases will be examined on an individual basis and will take the following into consideration:

- > Whether the caution or conviction is relevant to the position applied for.
- > The seriousness of any offence revealed.
- > The age of applicant at the time of the offence(s).
- > The length of time since the offence(s) occurred.
- > Whether the applicant has a pattern of offending behaviour.
- > The circumstances surrounding the offence(s), and the explanation(s) provided.
- > Whether the applicant's circumstances have changed since the offending behaviour.

It's important that applicants understand that failure to disclose all **unspent cautions or convictions** - regardless of whether they're convicted in the UK or abroad; and/or unspent criminal convictions or relevant service discipline convictions received within the Service Justice System (e.g. through Summary Hearing or Court Martial) - could result in disciplinary proceedings or dismissal.

You can use the MoJ Disclosure Checker www.gov.uk/tell-employer-or-college-about-criminal-record/check-your-conviction-caution to find out whether your caution(s) and/or convictions are spent.

Further advice and guidance on disclosing criminal records can be obtained from [Nacro's Criminal Record Support Service](#).

If you are unsure about how to answer the questions on this form, please contact Nacro's Criminal Record Support Service on 0300 123 1999 or helpline@nacro.org.uk. You can also use [MoJ Disclosure Checker](#).

Surname:	First name:
<p>Do you have any unspent cautions or convictions?</p> <p>Yes No</p> <p>If you have answered yes, you now have two options for disclosing your criminal record.</p> <p>Option 1: You can disclose your criminal record on a separate sheet provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked CONFIDENTIAL and state your name and details of the post.</p> <p>I have attached details of my conviction separately _____ (please mark with an X if appropriate.)</p> <p>Option 2: Please provide details in the space below.</p>	
<p>DECLARATION</p> <p>I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at_____.</p> <p>Signed: _____ Date: _____</p>	

Please return this form to:

Appendix B: Criminal record declaration form for jobs exempt from the ROA

You have been asked to complete this form because the role you have applied for is exempt from the Rehabilitation of Offenders Act 1974. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

This post is exempt from the Rehabilitation of Offenders Act 1974 and therefore applicants are required to declare:

- > All unspent cautions and convictions
- > All adult cautions and spent convictions that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2020).

For further information on filtering please refer to [Nacro guidance](#), the [Disclosure and Barring Service \(DBS\) guidance](#) or [Ministry of Justice \(MOJ\) guidance](#) (see, in particular, the section titled ‘Exceptions Order’).

We recognise the contribution that people with criminal records can make as employees and volunteers and welcome applications from them. A person’s criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

All cases will be examined on an individual basis and will take the following into consideration:

- > Whether the caution or conviction is relevant to the position applied for.
- > The seriousness of any offence revealed.
- > The age of applicant at the time of the offence(s).
- > The length of time since the offence(s) occurred.
- > Whether the applicant has a pattern of offending behaviour.
- > The circumstances surrounding the offence(s), and the explanation(s) provided.
- > Whether the applicant’s circumstances have changed since the offending behaviour.

It is important that applicants understand that failure to disclose all unspent cautions and convictions; and also, any adult cautions and spent convictions that are not protected - regardless of whether they're convicted in the UK or abroad; and/or relevant service discipline convictions received within the Service Justice System (e.g., through Summary Hearing or Court Martial) - could result in disciplinary proceedings or dismissal.

You can use the [self-disclosure rules flowchart](#) to work out which offences you may need to disclose.

Further advice and guidance on disclosing criminal records can be obtained from [Nacro's Criminal Record Support Service](#)

Surname:	First name:
<p>Do you have any unspent cautions or convictions?</p> <p>Yes No</p> <p>Do you have any adult cautions or spent convictions that are not ‘protected’ as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended)?</p> <p>Yes No</p> <p>If you are not sure whether your caution(s) or conviction(s), should be disclosed please use the self-disclosure rules flowchart and/or contact Nacro for further advice. If you have answered yes to either question, you now have two options for disclosing your criminal record.</p> <p>Option 1: You can disclose your criminal record on a separate sheet provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked CONFIDENTIAL and state your name and details of the post.</p> <p>I have attached details of my conviction separately _____ (please mark with an X if appropriate.)</p> <p>Option 2: Please provide details in the space below.</p>	
<p>DECLARATION</p> <p>I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at_____.</p> <p>Signed: _____ Date: _____</p>	

Please return this form to:

Appendix C: Pre-employment checks and criminal record risk assessment form

Section A:

To be completed by the relevant Line Manager/Hiring Manager and Human Resources

Please complete in full:

Name of applicant:

Post applied for/current post:

Level of disclosure required	Enhanced and barred	Enhanced	Standard	Basic
Division/Department:				
Date of assessment:				
Name of assessor one (HR Team):				
Name of assessor two (Line Manager):				

Section B:

Pre-employment checks for new applicants (not applicable to existing employees)

Nature of check	Yes	No	Pending	N/A
Full identity checks completed				
Right to work check completed				
Overseas criminal record check				
Reference requests and employment history has been completed with all gaps accounted for				
Occupational health check completed				
Evidence of professional registration received and validated (if applicable)				
Has the applicant declared any criminal convictions or cautions in the UK or any other country, or are they under police investigation? If 'Yes', completed Sections C, D, E & F				
Any other relevant pre-employment check questions (please state)				

Section C:

Nature of convictions or police intelligence disclosed – (to be completed by the Hiring Manager/Line Manager and Human Resources during risk assessment meeting)

Question	Yes/No	Please provide details
Nature of caution(s) conviction(s) and other relevant information (Continue on separate sheet if necessary)		
Offence: Date of caution:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Offence: Date of conviction: Sentence:		
Has any other relevant information been disclosed by the police which causes concern? (if applicable)		
Is the person barred from working in regulated activity? (if applicable)		
Age at time of offence(s)		

Length of time since offence(s)		
Seriousness of offence(s)		
Does the person have a pattern of offending or other relevant behaviour?		
Are the offences relevant to the role applied for?		
What were the circumstances surrounding the offence(s)?		
Attitude to the offence(s)		
Efforts made to not reoffend		
Is the applicant taking part in a specific remedial/action programme?		
Have the individual's circumstances changed since the offence(s)? If so, how?		
Does the nature of the job present any opportunities for the post holder to re-offend in the place of work?		
Does the post involve regular one-to-one unsupervised contact with vulnerable people?		
Does the post involve direct contact with the public?		
What level of supervision does the post holder receive?		

Does the position involve direct responsibility for finance or items of value?		
Does the position involve a significant level of trust?		
Were suitable references obtained and ID checked?		
If references gave cause for concern, please state details		
Are there any potential risks to the reputation of the organisation?		
Enter below any further questions you may feel relevant to the post in respect of criminal offences if necessary		

Section D:

To be completed by line manager after risk assessment meeting has taken place

Please enter below any precautionary measures recommended in the light of the above questions to ensure that the risk of any reoccurrence of any potential criminal activity or associated behaviour is avoided. In order to be more specific this can be expanded on as necessary for the particular role as required.

1.	
2.	
3.	

Section E:

Criminal record risk hazard form

Please record below any organisational risk of harm. This should relate specifically to the impact on the organisation and not the individual.

Nature of hazard? e.g. reputational risk, risk of sexual harm, risk of theft
Who might be harmed?
What is already/will be done to minimise risk?
Likelihood of hazard/risk occurring? Please select from: 1 = Very unlikely 2 = Fairly unlikely 3 = Fairly likely 4 = Very likely

Impact of hazard/risk? Please select from:

1 = Minor impact 2 = Fairly serious impact 3 = Very serious impact

**What is the remaining risk based on likelihood and impact? e.g.
low/medium/high**

What further action is required?

Who is responsible for taking this action and by when?

Section F:

To be completed by all parties carrying out the assessment

Declaration by HR Team and Relevant Manager. (Tick as appropriate)

The information below has been fully considered and we are satisfied that it is safe to allow the named individual to commence/continue work.

Detail action to be taken below

The information has been considered above and we are/are not* satisfied that it is safe to allow the named individual to commence/continue work.

*Delete as appropriate

HR Team	Relevant Manager
Signed	Signed
Print name	Print name
Date	Date

Appendix D: Release on temporary licence (ROTL) Best practice

- > The employer should provide the prison with a clear job description and person specification for the role or work with the prison to develop these. They should also detail what skills are required and work with the prison to look at what steps can be put in place to help applicants acquire these skills.
- > A risk assessment will be carried out by the prison, with the final review and recommendation being carried out by the prison governor.
- > Suitable ROTL applicants should be identified and/or approved by the prison and then referred for an initial meeting and/or interview with the employer at the prison.
- > A review of the interview should be carried out by the interviewers and an update given to the prison as to the success of applicants.
- > A disclosure statement should be provided to the employer by the ROTL applicant accepted onto the work placement. **Very important:** the statement should include details of [all unspent convictions](#) – not just the details of the offence(s) for the sentence the prisoner is currently serving.
- > A reference for the ROTL applicants should be written by the Head of Resettlement at the prison.
- > A site visit should be carried out by someone from the prison to confirm that it is suitable. This should include a risk assessment for public and prisoner safety.
- > A separate risk assessment should be carried out by the employer on the ROTL applicant, in line with their own policies and procedures. They should assess the environment and role to be undertaken, the risk and relevance of the applicant's criminal record and any support needs they may have. They should put any necessary safeguards in place.
- > A professional boundaries agreement should be completed between the employer and the new ROTL member of staff. A sample agreement is contained in Appendix F.
- > Details of the ROTL member of staff's criminal record should only be shared with those who have a need to know. All information should be stored securely in compliance with data protection laws.
- > The ROTL member of staff's line manager should be responsible for any training and induction and supervision at the start of the placement.
- > Risk assessments should be reviewed every few weeks for the ROTL member of staff by the employer.
- > Where an incident of any type occurs, the risk assessment must be reviewed immediately by the employer.

- > Once every couple of weeks the employer should speak to the designated person at the prison to talk through any issues, concerns and success. Visits to the placement are likely to be carried-out by prison staff from time-to-time.
- > Any serious concerns need to be raised immediately by the employer (depending on the nature and severity) with the ROTL member of staff, with the potential for the placement to end with immediate effect.
- > In addition, the prison should be informed of the serious concerns and the outcome that is desired by the employer.

Appendix E: Model Memorandum of Understanding – Paid Placement

(This model placement Memorandum of Understanding is designed to cover situations in which an offender undertakes any paid external placement. A separate model Memorandum of Understanding covers unpaid external placements).

MEMORANDUM OF UNDERSTANDING

(PAID EXTERNAL PLACEMENT)

Introduction

3. The purpose of this Memorandum of Understanding is to ensure that all those who are party to it (the Offender, the Placement Provider and the Establishment) are aware of the arrangements under which the placement will take place.
4. The purpose of the placement is to progress the offender's rehabilitation and nothing in this Memorandum of Understanding shall create or shall be deemed to create a contract of employment, a contract for services or a partnership between any of the parties hereto, nor any rights or obligations that are legally enforceable.
5. Nothing in this memorandum should be taken to prevent the Placement Provider separately entering into a written contract of employment with the offender where the contract comes into effect once the offender has been released after serving the custodial element of the sentence.

The offender

6. [Name of offender] is reminded that:
 - i. As a serving offender, he/she will be subject to Prison Rules throughout the duration of the placement. Payments for work will, if above the specified threshold, be subject to a levy under the Prisoners' Earnings Act 1996. For further details, please [see PSI 76/2011](#).
 - ii. He/She will be released on Resettlement Day Release (RDR) to undertake the placement. The RDR licence will specify the time, location and purpose of the release. The terms of the RDR licence may be varied only on the authority of the governor.

- iii. A copy of the RDR licence will be given to the Placement Provider by the establishment at the start of the placement.
 - iv. He/She must comply fully with the terms of the RDR licence and that any breach of the terms of the licence may lead to disciplinary action and the cancellation of the placement.
 - v. He/she is not employed by the Placement Provider. In the event that the Placement is terminated that does not constitute a dismissal for the purposes of the Employment Rights Act 1996.
7. [Name of offender] agrees to the disclosure of previous convictions, that are not prohibited by the Rehabilitation of Offenders Act, to specified persons within [name of Placement Provider] for use solely by [name of Placement Provider] in the management of the placement, including checks on [name of offender] behaviour by persons authorised to act on behalf of [name of establishment].

The placement provider

8. [Name of Placement Provider] is reminded that:
- i. They will ensure that the placement complies with all relevant health and safety and equal opportunities legislation.
 - ii. They will be clear about the range of work activities entailed in the placement, and engage with [name of establishment] about any proposed changes to those activities before they occur.
 - iii. They will monitor the timekeeping, performance and general conduct of [name of offender] and provide [name of establishment] with reports at intervals of [] weeks or as required.
 - iv. They will facilitate a programme of checks by staff from [name of establishment] to check on [name of offender]'s adherence to the terms and conditions of their temporary release
 - v. They will participate in meetings (on a timescale to be agreed with [name of establishment]) to review the progress of the placement.
 - vi. In the event of any breach or suspected breach of the terms of his/her RDR licence by [name of offender] or any breach of the Placement Provider's own rules governing the conduct of its employees, [name of Placement Provider] will inform [name of establishment] immediately.

- vii. They will not ask [name of offender] to do or not to do anything which might constitute a breach of any condition(s) of his/her RDR licence.
 - viii. They must not divulge to a third party any information about [name of offender], and must immediately report any approaches from a third party. They must comply in all respects with the provisions of the Data Protection Act 2018 and the two organisations will agree in writing the names/positions of [name of Placement Provider]’s staff who will have access to confidential information about [name of offender] who must in turn have a copy of these details.
9. [Name of Placement Provider] certifies that serving offenders do not constitute a majority of its workforce and that its business is not dependent on offender labour.
 10. The amount of remuneration agreed between the governor and [the Placement Provider] is [insert amount per hour].
 11. When setting the rate it is critical that due consideration is afforded to the risk of the perception of under cutting the local workforce. Accordingly, there is an explicit expectation that the level of remuneration is no lower than the level which a member of the public would be expected to receive for the same task. Where a wage lower than the National Minimum Wage is considered appropriate in the initial stages of a placement, there should be a clear path towards paying the National Minimum Wage by the three month point of any placement or, if appropriate, at an earlier stage.
 12. [Name of Placement Provider] agrees to apply, so far as is possible and subject to licence conditions, similar terms and conditions relating to pay, holiday entitlement, sickness and other benefits, grievance and disciplinary rules and procedures, and notice periods as apply to others doing the same work.
 13. Where the Placement Provider is providing meals or transport or other expenses which an employee would normally be expected to fund themselves, the Placement Provider may make appropriate deductions for these costs where these costs are agreed with both the prison and the offender.
 14. [Name of Placement Provider] further confirms that gross pay less the deductions which they make, such as income tax and National Insurance, to [name of offender] will be made into HMPPS Bank Account, details of which are set out below:

BACS PAYMENTS	
Sort code	60-70-80
Account Number	10030123
Account Name	HM Prison and Probation Service
Bank	NatWest

Please note the same information applies if cheque or cash payments are required.

Payments must not be made direct to the offender

15. [Name of Placement Provider] should provide the following information when making payment which will enable Shared Services staff to identify the relevant offender:

Name of offender

Prison number (if available)

Name of Placement Provider

16. [Name of Placement Provider] will provide pay advice direct to the offender

The establishment

17. [Name of establishment] is reminded that it will:

- i. Agree with the Placement Provider the criteria of offender with regards to current and previous offences. Due consideration must be given to the suitability of engagement in the activity, e.g. sector, interface either directly or indirectly with children or other vulnerable groups etc.
- ii. Risk assess [name of offender] in relation to the nature of the placement before RDR can be approved.

- iii. Monitor [name of offender] compliance with the terms and objectives of his/her RDR licence by means of site visits and telephone checks.
- iv. Inform [name of Placement Provider] if [name of offender's RDR licence is suspended or withdrawn. This information will be provided as soon as possible and, in the case of a suspension, information on the reinstatement of the RDR licence will be supplied.
- v. Provide information on [name of offender's] criminal record to [name of Placement Provider] in confidence. (See paragraphs 4 and 5 viii, above).

(points vi to ix are applicable to Public Sector Prisons only)

- vi. Provide the following information to the Shared Services:

- Offender Name
- Offender Number
- Offender Release Date
- Establishment
- Placement Provider
- Value of payment to offender (net of PAYE)
- Frequency - Weekly/monthly
- Date Paid
- Period Worked

- vii. Ensure offenders have completed personal bank account details and submit to the Shared Services.

- viii. Ensure deduction statements prepared by the Shared Services are issued to offenders. ix. Act as an intermediary between offender/Placement Provider and the Shared Services.

General

18. [Name of offender] will commence his/her placement at [] on [date].
19. His/Her hours of attendance will be [].
20. His/Her supervisor will be [].
21. His/Her main duties will be [], and he/she will receive appropriate training before undertaking these tasks.
22. No special clothing/equipment will be required / the following special clothing/equipment will be required. [Identify whether special clothing/equipment will be provided by the placement organisation, the establishment or the offender].
23. In the event of a dispute about the terms of this Memorandum of Understanding, any resolution or variation of the terms must involve all those who are party to it.
24. The placement defined by this Memorandum of Understanding may be terminated at any time by anyone who is a party to it.

Contact points

25. For the Establishment:

[Name]

[Position/Role]

[Telephone number]

[e-mail address]

26. For the Placement Provider:

[Name]

[Position/Role]

[Telephone number]

[e-mail address]

Signatories to the agreement

27. For the Establishment:

[Signature]

[Name]

[Position/Role]

[Date]

28. For the Placement Provider:

[Signature]

[Name]

[Position/Role]

[Date]

29. Offender:

[Signature]

[Name]

[Date]

Appendix F: New Employee Induction Checklist

Name of Employee:			
Job title:			
Employee Start date:		Date of Induction:	
Welcomed By:			
Inductee Signature:			

Introduction to the organisation	Completed ✓
Show new employee where they will be working. Work Area/Desk/Locker/Office etc	
Introduce them to their line manager, colleagues, senior managers, including their 'buddy' and their Mentor	
Show new employee building layout/facilities including access/egress, fire assembly points, evacuation, fire toilets, rest areas etc	
Deal with any key matters such as their P45, National Insurance number and security ID	
Outline key health & safety requirements, safe systems of work, first aid, manual handling etc. Detailing H&S training in the organisation	
Who's who (People), our Purpose (Mission), What we do, How, we do it and our outcomes	
Organisation future plans (Vision) and developments	
Brief history of organisation	

New Employee's Job	Completed ✓
Explain new job role fully, how it fits in the organisation & work practices	
Outline expected performance and how it will be assessed	
Job specific training and development that will be given	
Possible opportunities for future development and career progression	
New employee's terms and conditions of employment (using Job Description) Run through...	
T&Cs to ensure they are understood and give them a copy of the Job Description	
Details of any probationary/trial period	
Work hours, breaks, holidays and when they will get paid	
Pension information	
The organisation's important rules on: <ul style="list-style-type: none"> > job performance > discipline > absence, including because of illness and sick pay > complaints against staff, such as bullying and harassment > where more details can be found 	
Other important rules such as use of the company internet, email and phones etc	
Periods of notice to be given	
Maternity/paternity/ parental leave/shared parental provisions	

Details such as dress code, parking, no smoking policy, and rest room, kitchen, refreshment/restaurant/canteen facilities	
Complete documentation on new employee's appointment for their personnel file to be kept securely	
Our commitment to being an equal opportunities employer	
Details of any employee representation, including any trade union membership	

Induction Given By:	
Inductee Signature:	

REVIEWS Completed ✓

At Four/Six Weeks	Date:
Line Manager or Mentor to hold an informal meeting with new employee to assess how they are adjusting to their role and whether they have any training needs or other concerns	

Given By:	
Inductee Signature:	

At Three Months	Date:
<p>Line Manager or Mentor to review with the new employee, how they are settling in and performing</p> <p>This is also an opportunity to pinpoint any training/ development needs, set timescales for achieving them and adjust work targets if required</p>	

Given By:	
Inductee Signature:	

At Six Months	Date:
<p>If the new employee is on trial/probation, then it's decision time – will they stay or go?</p> <p>If they're staying, it's time for the line manager to look to the next six months, to consider setting any new/revised work objectives, training or development needs for the individual.</p>	

Given By:	
Inductee Signature:	

At 12 Months	Date:	
<p>Ask the employee for give feedback on how useful and relevant they found their induction.</p> <p>What worked well?</p> <p>What could be improved?</p>		

Given By:	
Inductee Signature:	

NOTES

Resources and Signposting

Most people will deal with personal issues/crisis at some point in their life. Being aware that an employee is handling a personal issue means that you may be able to signpost/direct them to the correct help and support, during a challenging time.

The following is a list of non-work-related issues, which can adversely impact on an employee's performance at work. If we 'signpost' employees facing challenges to good sources of advice, information, and guidance, this can help them to better manage these issues, get their lives back on track and more effectively re-integrate into a new work role/job, their family life, their local community and wider society too.

Areas/Issues to be aware of are:		✓
1.	Interview/CV preparation (pre-employment)	
2.	Creating a Professional Email (pre-employment)	
3.	Obtaining ID (pre-employment)	
4.	Opening a Bank Account (pre-employment)	
5.	Signing up to GP/Dentist/Optician (pre-employment)	
6.	DBS Checks (only if applicable for the job/contract)	
7.	Accommodation/Housing	
8.	In-work Benefits	
9.	Travel arrangements	
10.	Obtaining a Driving Licence	
11.	Childcare considerations/arrangements (if applicable)	
12.	Induction (Local and Organisational)	

13.	Having a Mentor	
14.	Support for workers with disabilities	
15.	Mental Health Support	
16.	Substance Misuse Support - Alcohol/Drugs	
17.	Gambling Support	
18.	Managing Personal Finances	
19.	Debt/Tax Advice	
20.	Health - Fitness and Exercise	
21.	Healthy Eating	
22.	Complying with Licence Conditions/Outstanding Fines (if applicable)	
23.	Insurances - Car, Home etc	
24.	Re-building Family Relationships	
25.	Support Hubs - on-going support	
26.	Jobs Skills/Vocational Training	
27.	IT/Web/Social Media Literacy and Safeguarding Awareness Training	

NOTES

Need more help?

Contact our Employer Advice Service

Telephone: 0845 600 3194

(Monday–Thursday, 9am–5pm and Friday 1pm–5pm)

Email: employeradvice@nacro.org.uk

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