

Recruiting and employing offenders

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1 Introduction

Background

Policy makers are increasingly recognising the importance of helping offenders back into work. Jack Straw, the former Home Secretary, for example, declared that ‘a job is the best help that any ex-offender can get to avoid returning to crime’ (quoted in NACRO, 1997) and made a commitment to double the number of prisoners gaining employment on release. The UK Government’s Social Exclusion Unit is making recommendations for reducing unemployment amongst prisoners on release. Similarly, ex-offenders are allowed early access to the New Deal. Moreover, the New Deal Task Force Working Group Report *Meeting the Needs of Disadvantaged Young People* argues that the New Deal will succeed only if it reaches the most disadvantaged and disaffected (Adebowale, 1998). The report identifies offenders as one such ‘severely disadvantaged’ group facing ‘multiple barriers’ to employment.

Offenders face a number of barriers that undermine their ability to find work. Many have individual attributes such as low self-esteem, poor basic skills and inadequate educational and vocational qualifications that damage their employment prospects. Drug and alcohol misuse may also mean that some find gaining and keeping a job more difficult. These attributes may be shared with other severely disadvantaged groups. It is, however, the problems caused by an offending background that are unique to offenders and constitute an extra dimension to the difficulties they face in the labour market.

Offenders are substantially more likely to be unemployed than the population as a whole. Association of Chief Officers of Probation (ACOP) surveys, for example, show that around

60 per cent of the people under the supervision of the Probation Services are unemployed. They are also much more likely to experience long-term unemployment. In 1993, for example, unemployed offenders were twice as likely to have been unemployed for more than one year than the general population (NAPO, 1993). This may have profound social consequences as the available evidence suggests that there is a link between offenders gaining stable employment and their likelihood of re-offending.

A growing body of evidence suggests that employer discrimination is a key barrier contributing to the marginalisation of offenders in the labour market (see Chapter 2). Despite this, most policy interventions focus on improving their skills. Research undertaken by Fletcher *et al.* (1998), for example, found that almost all (92 per cent) of local labour market initiatives for offenders in England and Wales were ‘supply-side’ responses to the problem, for example they provided help with vocational guidance and jobsearch or improved basic skills. Yet, it is likely that many offenders leaving such initiatives will remain unemployed as they continue to be confronted by employer discrimination.

Definitions

There are no commonly accepted definitions of the terms ‘offender’ and ‘ex-offender’. An offender is often the term given to a person who has been convicted of a criminal offence and has not completed their sentence; whereas an ex-offender is usually a person who has been convicted of a criminal offence and has completed their sentence. However, the present research is concerned with all those whose

contact with the criminal justice system acts as a barrier in the labour market. Consequently, the research team uses the term 'offender' to denote anyone with a criminal record.

The changing legislative environment

The current legislative framework for the recruitment of offenders is provided by the 1974 Rehabilitation of Offenders Act (ROA) which intends to 'strike a balance between giving reformed offenders the chance to reintegrate themselves into society and the need to protect society from those who might offend again' (Home Office, 1993, para. 97). The Act allows some to consider certain offences as 'spent' after a period of time. This 'rehabilitation period' varies according to the nature of the sentence given and the age of the offender at the time of conviction. The term spent means that offenders are not required to tell employers about their conviction. There are a number of jobs which are exempt from the Act and these are listed in the ROA (Exceptions) Order 1975.

It is important to recognise that the Act does not enforce the disclosure of criminal records. There is no legal requirement, for example, for the disclosure of unspent convictions if an employer does not seek this information. However, those deliberately hiding an unspent conviction may be legally dismissed if this is subsequently discovered. It is also illegal for an employer to discriminate against an offender on the grounds of a spent conviction.

Those working with offenders have made three main criticisms of the Act. First, many offenders are unaware of the provisions of the legislation and do not know when their

convictions are spent or when and how to disclose them to employers. Second, many rehabilitation periods are too long. A large majority of adults, for example, find that their convictions take at least five years to become spent. Finally, convictions leading to a prison sentence of 30 months or more can never become spent. This contrasts with practice in most other European countries where all criminal convictions can become spent after the relevant rehabilitation period (NIACRO, 1996). It is against this background that the UK Government has recently announced a review of the ROA.

The primary purpose of Part V of the Police Act (1997) is 'to facilitate safer recruitment decisions' (Criminal Records Bureau, 2001, p. 2). The new legislation retains the protection of individuals afforded by the ROA and introduces three levels of disclosure depending on the type of work sought (see below). A new body, the Criminal Records Bureau (CRB), will issue the disclosures. It is proposed that individual job applicants apply to the Bureau for a disclosure, which is expected to cost about £10. This cost will be borne by the individual applicant. The Government expects that the CRB will be fully operational by Autumn 2002.

- 1 *Enhanced disclosures* will become available for posts involving significant contact with children or vulnerable adults. All enhanced disclosures will involve an extra level of checking with local police force records in addition to checks with the Police National Computer and the lists held by the Department of Health and Department for Education and Employment, where appropriate.

- 2 *Standard disclosures* are primarily for positions that involve regular contact with children, or vulnerable adults. They will contain details of all convictions on record including 'spent' convictions and details of any cautions, reprimands or warnings.
 - 3 *Basic disclosures* are for all other types of occupation not covered by the higher-level disclosures. They will show all convictions held at national level that are not spent under the ROA. Any employer can ask a job applicant for a copy of their basic disclosure.
- identify how employers respond to job applications from offenders
 - highlight the potential impact of the Police Act on recruitment practice
 - recommend how the reluctance of employers to recruit offenders can be addressed
 - contribute to the development and promotion of fair and responsible recruitment practice for the employment of offenders.

The study was carried out over a 22-month period, from August 1999 to May 2001, and consisted of four distinct, but interrelated stages.

It was section 112 of the Act creating basic disclosures that attracted most parliamentary criticism, the introduction of which means that when fully implemented the Act will permit much broader, less restricted access to the criminal records of individuals. Although the legislation does not enforce the disclosure of criminal records, the pressure on job applicants to produce a basic disclosure may be considerable. Consequently, many fear that this will facilitate unrestricted vetting and discrimination. Tony Benn voiced these concerns when he said: 'We will create a new underclass of unemployable people with convictions' (quoted in Uglow and Telford, 1997, p. 93).

The aims of the study

It is in this context that the Joseph Rowntree Foundation commissioned the present research, the specific aims of which are to:

- 1 *Literature review*: at the outset, a literature review helped the study team to explore what is currently known about the recruitment policies and practices of employers regarding offenders; what governments have done to encourage employers to recruit offenders; and the strengths and weaknesses of the different approaches adopted.
- 2 *Examination of recruitment practice*: the core of the research is an in-depth examination of recruitment practice within 26 companies, of varying size, known to provide work in occupations traditionally sought by offenders, e.g. retail, hotel and leisure, and transport and distribution. The examination covered the employment policies of each company, their recruitment practice, use of different recruitment channels and selection

procedures, and the attitudes of trade unions towards the recruitment of offenders. Examinations involved documentary analysis of recruitment policies and face-to-face interviews with personnel officers, local managers and trade union representatives.

- 3 *Focus groups*: two focus groups were held which provided an opportunity to consider employer responses towards recruiting offenders in more detail as well as devising effective ways of developing a more responsible approach.
- 4 *Postal survey*: the results emerging from the research were tested by undertaking a postal survey of 400 employers, which explored the use of criminal records in recruitment; the implications of the Police Act; and key lessons for policy makers.

The structure of the report

The remainder of this report is structured as follows. Chapter 2 outlines the findings emerging from previous research and the response of policy makers in other countries. Chapter 3 examines the relevant policy framework within which recruiter behaviour towards offenders takes place. Chapter 4 examines the recruitment and selection procedures used by employers. Chapter 5 discusses the use of criminal records in the recruitment process. Chapter 6 explores recruiter attitudes towards offenders. Chapter 7 examines how employers treat offenders in the workforce. Chapter 8 investigates how employers are likely to make use of the Police Act. Finally, Chapter 9 presents the conclusions and recommendations emerging from the research.

2 Offenders and the recruitment process

Introduction

This chapter considers the findings of previous research that has explored how employers respond to job applications from offenders. It goes on to outline what policy makers in other countries have done to encourage employers to recruit offenders, and the strengths and weaknesses of the different approaches that have been adopted.

Table 1 presents some of the key features of the main surveys reviewed by the study team.

At the outset, it is important to appreciate that much of this research has been characterised by three key weaknesses:

- Many studies have not explored the behaviour of employers in actual recruitment exercises. Much of the data, for example, gives employers' responses to hypothetical questions. Such studies have, therefore, been unable to explore any possible tensions between corporate policy and local practice.

Table 1 Key UK and US surveys

Authors	Year	Method	Geographical focus	Achieved sample
Apex Trust	1991	Postal survey	England and Wales	600 (25% response rate)
Donlan and Withers	1991	Postal survey	Somerset	170 (35% response rate)
South Glamorgan Probation Service	1991	Telephone interviews	South Glamorgan	44 (20% response rate)
Apex Scotland	1992	Postal survey and interviews	Scotland	50
Albright and Denq	1996	Postal survey	Houston and Dallas	83 (28% response rate)
Holzer	1996	Postal survey	5 American cities	NA
Helfgott	1997	Telephone interviews	Seattle	156 (31% response rate)
Newsum-Brown	1996	Postal survey	Rotherham	155
Buffery	1998	Postal survey and interviews	Peterborough and Fenland	147 (64% response rate)
Conalty and Cox	1999	Postal survey	Hackney and Lambeth	81 (33% response rate)
McManus	1999	Postal survey	London and Leeds	200 schools (60% response rate)
Smith	1999	Interviews	England and Wales	64 Social Service Departments

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- Much of the data has been generated from a narrow range of research methods. Quantitative research methods, especially postal surveys, have been favoured.
- Most surveys have encountered problems with small and unrepresentative samples. Despite this, researchers have often treated the data as if it were a representative sample.

Recruitment policy

The way in which employers deal with groups like offenders will be partly determined by legislative requirements and company policy. Equal opportunity policies, for example, may be designed to counter discrimination against offenders. A few studies have sought to identify the existence of such policies and investigate the level of recruiter awareness of the relevant legislation.

The ROA is the main piece of legislation governing the recruitment of offenders in the UK. As previously noted, the Act allows some offenders to 'wipe the slate clean' and put their past behind them. Research exploring the awareness of employers to this important piece of legislation has been inconclusive. Almost 70 per cent of employers surveyed by Conalty and Cox (1999), for example, reported that they were aware of the provisions of the Act. In contrast, 40 per cent of private sector respondents to another study had never heard of it (Apex Trust, 1991). Similarly, Buffery (1998) found that almost half of those surveyed were not familiar with its key provisions.

The available evidence is that few employers include offenders in their equal opportunity policies. The Apex Trust (1991) study found that

only 4.4 per cent of private sector and 2.6 per cent of public sector employers had equal opportunities policies that included offenders. More recent studies undertaken by Buffery (1998) and Conalty and Cox (1999) found that the proportion was between 10 and 13 per cent. In contrast, a study undertaken by Apex Scotland (1992) found that 30 per cent of employers with a equal opportunities policy stated that it included offenders. However, in many such cases, their inclusion was implicitly rather than explicitly stated.

Attitudes towards criminal records

Previous research has identified a general reluctance to recruit offenders. A Scottish study, for example, found that the attitude of most employers to recruiting offenders was 'why take the risk?' (Apex Scotland, 1992). A major survey of employers in five large US cities found that 65 per cent would not knowingly recruit offenders to unskilled jobs, regardless of the offence (Holzer, 1996). In a much-cited American study, Schwartz and Skolnick (1962) circulated job applications for an unskilled post (dishwasher) that varied in that some of them contained information on an assault charge. The study found that the applications of convicted individuals faced a statistically significant lower probability of generating a positive response. However, a Canadian study conducted by Davis (1980) found that 92 per cent of employers were 'willing to consider' recruiting an offender.

A number of studies make particular reference to the type of offence as a key consideration. A survey of 600 employers found that sexual offences were viewed as most serious, followed by offences against property,

violence, fraud, forgery and robbery (Apex Trust, 1991). More recent research supports these findings. Conalty and Cox (1999), for example, found that employers were least willing to recruit those with convictions for violent and sexual offences. Buffery (1998) identifies sexual and violent offences, drug-related crimes and crimes against property as being viewed particularly seriously. In the American context, Albright and Denq (1996) found that between 76 and 88 per cent of respondents were unwilling to recruit those convicted of murder, robbery, arson and sexual offences. Similarly, 83 per cent of respondents to Helfgott's 1997 survey reported that violent crimes and property crimes such as theft and embezzlement would cause them to immediately reject an applicant.

Research has also identified offences which employers view as less serious. Donlan and Withers (1991) and Conalty and Cox (1999) both found that driving offences and those involving alcohol fell into this category. Buffery (1998) also found some evidence that most employers did not rate motoring offences as a crime. It was only a relevant consideration for posts requiring a clean driving licence.

The influence of offender behaviour on the recruitment process has been explored in a few studies. Buffery (1998), for example, found that most employers rated openness and genuine motivation to change past behaviour as being very important factors. Donlan and Withers (1991) found that explaining the circumstances of an offence at interview would improve an offender's chances of obtaining work. Similarly, American research undertaken by Albright and Denq (1996) indicated that the more information that employers received about an applicant, for

example the type of offence and its relation to the job, the more likely they would consider recruiting them.

Recruitment practice

Most employers seek criminal record information from job applicants. The Apex Trust (1991) study found that 83 per cent of private sector employers sought criminal record information from job applicants, but did not identify whether this was for some or all vacancies. A recent survey of London employers put the figure at 63 per cent (Conalty and Cox, 1999). Similarly, research undertaken by Helfgott (1997) in Seattle found that 62 per cent of employers surveyed inquired about criminal records, 95 per cent at the application form stage. In the latter, employers stressed the importance of company policy and the protection of employees and clients. In contrast, a Scottish study found that just 19 per cent of employers routinely sought criminal record information but a further 62 per cent would ask if they wanted to probe for reasons behind any gaps in employment histories (Apex Scotland, 1992).

Much of the available evidence suggests that relatively few employers knowingly recruit offenders, although much depends on the time period chosen. They are much less likely to have done so in the short term. A Scottish survey, for example, found that just 4 per cent had knowingly recruited someone with a criminal record in the previous 12 months (Apex, Scotland, 1992). Similarly, 12 per cent of private sector employers and 17 per cent of public sector employers in England and Wales had done so over a 12-month period (Apex Trust,

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1991). In contrast, Buffery (1998) found that 53 per cent of employers surveyed reported that they had never knowingly employed someone with a criminal record. However, just 23 per cent of Seattle's employers had done so (Helfgott, 1997).

The importance of recruiter behaviour has been highlighted in some studies. This research has suggested that personnel who are unfamiliar with the legislative environment, company policy or offender-specific guidance or training undertake much recruitment activity. Smith (1999), for example, found that Senior Nominated Officers made few decisions to appoint social workers seeking posts involving substantial, unsupervised access to children, as required by Home Office guidance. Furthermore, many decision makers commented on how much decisions relied on their own personal opinions and were made with reference to the name of the offence. In a similar vein, Buffery (1998) found that anxiety on the part of the recruiter that offenders could not be trusted was a significant factor hampering their recruitment. Another study found that no private sector and few public sector employers ensured that staff involved in recruitment had access to information about the ROA (Apex Trust, 1991).

Influencing recruiter behaviour

Labour market programmes for offenders can be either specially designed, targeted and funded or established within general strategies for disadvantaged groups. International experience is that targeted programmes for offenders are rare. This reflects two key factors.

First, policy makers have concluded that creating special programmes risks compounding the stigma that they face in the labour market. Second, offenders are a constituency with weak political influence and special treatment has not been socially acceptable or politically feasible.

Policy makers have sought to influence recruiter behaviour towards offenders in a variety of ways. Appendix 1 outlines some of the key strengths and weaknesses of the different approaches that have been adopted in the US, Germany, Holland, Spain and Australia. These programmes should not be seen as mutually exclusive. Strategies to help offenders back into work need to be broad based and multi-faceted. However, international experience strongly suggests the following:

- Policy makers need to guard against the inadvertent stigmatisation of offenders.
- Employers are critically important to the success of any initiative.
- Many are reluctant to provide placements or change recruitment practice. This often reflects concerns about the job-readiness and trustworthiness of offenders, and the imperative to recruit the 'right person' for the job.
- There is some evidence that employers are wary of recruiting offenders because of the extra supervision and support required.
- Furthermore, many need to be assured that recruiting offenders will not lead to further costs resulting from high turnover and high-risk behaviour.

- Both employers and offenders may need some form of post-placement support to help improve the sustainability of employment outcomes.

All of these factors underline the importance of policy makers reaching out to employers in ways that make business sense. Employers want recruits who are able to contribute to the key business goals of productivity and profitability. They are less keen to participate in programmes

that expect them to substitute their business goals for social ones. The use of labour market intermediaries serving both employers and disadvantaged jobseekers has been an integral part of such a 'demand-led' strategy in America. This has been facilitated by the increasingly tight national labour market which has forced employers to make use of different sources of labour, for example offenders, people with disabilities and older Americans.

3 Recruitment policy

Introduction

This chapter examines the policy framework within which recruiter behaviour towards offenders takes place. It is informed by the in-depth qualitative work with employers and the postal survey. The present study has identified the importance of four key facets of this policy framework which are discussed in turn:

- the Rehabilitation of Offenders Act
- equal opportunities policies
- organisational policies restricting the recruitment of offenders
- the role of trade unions.

The Rehabilitation of Offenders Act

The ROA is the main piece of legislation governing the recruitment of offenders in the UK. Almost all recruiters (94 per cent) responding to the postal survey had heard about the Act. However, less than half (47 per cent) felt that they fully understood its main provisions in relation to their recruitment practices (see Table 2). Awareness of the Act was

higher among public sector respondents (58 per cent fully understood its provisions compared to 30 per cent and 23 per cent in the private and voluntary sectors respectively). A typical response was:

I thought I was really well informed until the NACRO information showed me just how complex it is.

(Human Resource Manager, wholesaler)

Furthermore, many recruiters encounter particular problems establishing when the criminal record of persons with several convictions becomes spent. They were presented with the following 'pen portrait':

John is 24 and has three convictions. The first, a fine, was received on 1 January 1997. The second was a probation order received on 1 January 1999 and the third was a suspended one-year prison sentence which he received on 1 January 2000.

This exercise revealed that just 12 per cent felt very confident about working out when his criminal record would become spent.

Table 2 Recruiter understanding of the ROA

The extent to which recruiters feel that they understand the provisions of the Act

	Frequency	%
Fully	46	47
Partly	43	44
Not very well	8	8
Not at all	1	1
Total	98	100

Source: CRESR postal survey.

Equal opportunities policies

The need to formalise recruitment and to develop defensible procedures has intensified in recent years. The impetus for formalisation has come from a variety of sources including legislation, economic pressures requiring that organisations acquire the right people, the Chartered Institute of Personnel and Development’s Professional Code of Practice, the Commission for Racial Equality and the Equal Opportunities Commission.

Most employers have a formal written equal opportunity policy but few specifically mention offenders (see Table 3). Many feel that offenders should not be covered by such policies:

It is definitely not an equal opportunities issue. It is a societal issue.

(Human Resource Manager, train-operating company)

This position was often justified by making a distinction between ‘deserving’ and ‘undeserving’ groups. Offenders were felt to be undeserving because offending was deemed to be a choice rather than an innate characteristic. Some felt that policy was irrelevant because they did not discriminate against any applicant. Others left the selection of applicants to the

discretion of recruiters. A few felt that the issue was unimportant.

Organisational policies restricting the recruitment of offenders

Two-thirds (66 per cent) of employers responding to the postal survey had a formal or informal policy on recruiting people with criminal records. Many of these policies restrict the recruitment of offenders. One in 20 employers (5 per cent), for example, reported that they did not recruit offenders and a further 38 per cent restricted their recruitment to certain posts. Private sector employers were more likely to report that they did not recruit any offenders. One consultee reported that:

My Managing Director would not touch offenders with a bargepole.

(General Manager, bed manufacturer)

Furthermore, 91 per cent of recruiters were able to cite offences that would automatically bar or be a significant barrier to an individual’s employment within their organisation. Table 4 shows that sexual and violent offences and fraud were most commonly identified. The in-depth qualitative work with employers revealed five key justifications for their use:

Table 3 Equal opportunities policies and offenders

	Frequency	%
Equal opportunities policy but does not mention offenders	21	81
No policy	2	8
Equal opportunities policy mentions offenders	3	11
Total	26	100

Source: CRESR in-depth examinations.

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Table 4 Automatic bars to employment

Offence	Frequency	%
Sexual offences	83	92
Fraud	52	58
Violence, e.g. actual bodily harm (ABH), grievous bodily harm (GBH)	52	58
Theft	48	53
Offences involving drugs	40	44
Arson	38	42
Robbery	35	39
Burglary	34	38
Driving offences	20	22

n = 90.

Source: CRESR postal survey.

- *To protect the company from crime* particularly theft, fraud and arson. The General Manager at a clothing manufacturer commented: 'We have multiple exits to this warehouse, we can't have people walking off with suits.'
 - *To safeguard female workers* from those convicted of sexual and violent offences. The Assistant Manager of a large hotel reminded the team that: 'we have a lot of young girls working here'. Similarly, a Human Resource Manager in a mail order retailer justified the bar by saying: 'we have a 97 per cent female workforce and everyone works in close proximity with each other.'
 - *To protect children and vulnerable adults* from those convicted of sexual and violent offences. A recruiter with an organisation supporting young families noted that: 'Once volunteers enter family homes, management has no control over them.' Similarly, a manager in a landscape gardening company reported that: 'The nature of the work dictates who we can employ. We do a lot of work in schools and old folks' homes.'
 - *To maintain good client relationships.* The Managing Director of a recruitment agency said: 'Remember our employees are responsible for interviewing clients on a one-to-one basis.' In a different context, a Human Resource Manager representing a large retailer thought that: 'Shoppers don't expect to be confronted by people with past crimes.'
 - *To express their moral indignation* about certain crimes. The manager of a community recycling project, for example, reported that: 'I find these crimes [sexual offences] abhorrent.'
- The media and public opinion play an important role in determining how some employers treat the issue. The train driver

involved in the Ladbroke Grove accident, for instance, was subsequently found to have had an undisclosed conviction for actual bodily harm (ABH). The adverse publicity generated by this discovery has led many train-operating companies to introduce more restrictive policies. As a result, one company now requires that all successful jobseekers produce a police certificate that includes data on both spent and unspent convictions. Another has considered introducing retrospective checks on existing staff because:

The company would be pilloried if such a thing happened – it would be deeply, deeply damaging.
(Human Resource Manager, train-operating company)

Some employers take out fidelity guarantee insurance to safeguard themselves against theft or loss due to the actions of employees. However, it appears to be a relatively unimportant influence on policy and practice. Nearly a third of employers taking part in the in-depth qualitative work had posts covered by fidelity guarantee insurance. Yet, just one thought that the insurance barred the employment of offenders to some posts. In addition, only one believed that they had made a claim against the insurance.

The role of trade unions

Trade unions have a potentially important role to play in the development of organisational policies towards groups like offenders. The present study sought to examine the role of trade unions in this respect. Interviews were conducted with trade union representatives active in the employers taking part in the in-

depth examinations of recruitment practice. However, many of those taking part were not unionised and other employers discouraged the study team from interviewing trade union representatives. Nevertheless, this element of the research has highlighted three important issues.

First, most employers do not involve trade unions in the development of their policies affecting offenders. Only one of the three employers with equal opportunities policies specifically mentioning offenders, for example, appears to have consulted a trade union. The trade union was not involved in its drafting but was merely asked to comment.

Second, the recruitment and treatment of offenders in work are insignificant issues for trade unions. None of the union representatives interviewed was aware of any relevant union or company policy / position. This is because many trade unions have not hitherto considered it a priority. It can also be an unpopular issue with many trade unionists. In particular, protecting the rights of offenders can be misrepresented as rewarding them for their offending behaviour. Furthermore, the issue is largely hidden because many offenders fail to disclose their criminal records (see Chapter 5).

Finally, some trade unionists are hostile to the introduction of responsible policies for the recruitment of offenders. A trade union representative noted that: 'such a policy would be viewed dimly by the girls on the shop floor', especially if it included those convicted of sex offences. They went on to say that:

They wouldn't like it. They'd say, 'I'm not working next to so and so, he was sent down for this and that.'

(Union representative in a clothing manufacturer)

4 Recruitment procedures and selection criteria

Introduction

This chapter examines the recruitment and selection procedures used by employers. It is based on the findings of an in-depth examination of recruitment practice within 26 companies. The focus was on actual recruitment exercises that had taken place over the previous year. Consequently, the evidence presented is not hypothetical but relates to specific vacancies. The exercises studied generated approximately 22,500 applicants and led to the appointment of 3,591 people.

The types of posts recruiters were trying to fill were selected to ensure that they would be attractive to offenders. In particular, they were predominantly low paid; required few qualifications (96 per cent required no qualifications); and were mainly in the craft and related (28 per cent) and personal and protective (25 per cent) occupations. Furthermore, over half were described as being 'difficult to fill'.

Offenders may face barriers at two key stages in the recruitment process:

- attracting candidates (recruitment channels)
- selecting candidates (selection techniques).

Recruitment channels

Recruitment channels are used to attract suitable candidates. Formal channels include Jobcentres, the Careers Service, private agencies and open advertising, for example local and national newspapers and trade/specialist press.

Informal channels include personal recommendations, noticeboards and waiting lists. The latter tend to be both cheaper and faster than formal channels but are available to a smaller number of candidates. The recruitment channels used by employers will affect the type of people who apply for particular jobs.

Table 5 shows that most employers use a mix of formal and informal recruitment channels. The most commonly used are open advertising (69 per cent used this channel), Jobcentres (65 per cent), word of mouth (62 per cent) and noticeboards (50 per cent). The present research suggests that the way in which recruitment channels are used may disadvantage offenders in three main ways.

- 1 Informal channels are more likely to be used to fill low-paid and low-skilled vacancies. However, they may prove to be closed to offenders because they depend on personal recommendations and making contacts with those in employment. This problem may be even more acute for those leaving prison.
- 2 Some Jobcentres may occasionally screen offenders out of the recruitment process, although this contradicts official Employment Service (ES) policy and guidelines. A major transport employer in the South East of England, for example, routinely requires the ES to screen offenders with unspent convictions. Similarly, a major food processor in the North reported that the ES is aware of the company's needs and thus screens out 'unsuitable candidates'.

Table 5 The use of recruitment channels

Recruitment channel	Number	%
Open advertising (newspapers, journals)	18	69
Jobcentres	17	65
Word of mouth (personal recommendation)	16	62
Noticeboards	13	50
Private agencies	5	19
Waiting lists	5	19
Internet	4	15
Careers Service	4	15
Commercial radio	2	8

n = 26.

Source: CRESR in-depth examinations.

3 Interviews with private recruitment agencies suggested that many routinely screen offenders for their clients. Banks and building societies and those dealing with high-value goods/services are much more likely to request this service. However, screening is sometimes done without the employer’s knowledge to protect the agency’s relationship with a client.

Selection techniques

Once an appropriate number of candidates have been attracted, it is necessary to make a selection. A wide variety of techniques are available. Table 6 shows a reliance on the application form (92 per cent used this technique), the interview (100 per cent) and references (73 per cent) as the primary selection techniques. However, interviews are often based on intuition and subjective judgement, and may be susceptible to abuse. Those conducting

interviews are often line managers rather than personnel professionals and are much less likely to have received offender-specific guidance or training.

Recruiters were asked to rate the individual attributes that were most important in the particular recruitment exercise studied. The scale ranged from 0 (‘not at all important’) to 5 (‘vital’). Table 7 shows that the following selection criteria were the most highly rated: reliability/honesty (mean score of 4.5), motivation (4.2), employer references (3.6), previous experience in a similar job (3.6), stable job record (3.5), health and fitness (3.4) and basic skills (3.3). This pattern has both positive and negative implications for offenders.

Many offenders have poor educational qualifications and low levels of literacy. In 1985/86, a House of Commons Select Committee reported that, of 29,225 prisoners assessed for literacy, 6.2 per cent had a reading age of eight years or less. Similarly, a survey of 190 ex-offenders found that only a half had any

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Table 6 The use of selection techniques

Selection technique	Number	%
Formal face-to-face interview	26	100
Application form	24	92
References	19	73
Formal shortlisting	12	46
Trial period	12	46
Skill tests	8	31
Telephone screening	5	19
Personality / intelligence tests	3	12
Security checks	3	12
Employment agency screening	2	8
Assessment centre	2	8

n = 26.

Source: CRESR in-depth examinations.

Table 7 Relative importance of individual attributes in selecting candidates

	Mean score
Reliability / honesty	4.5
Motivation	4.2
References	3.6
Previous experience in a similar job	3.6
Stable job record	3.5
Health / fitness	3.4
Basic skills	3.3
Immediate / quick start	2.5
Technical competence	2.0
Vocational qualifications	1.6
Age	1.4
Educational qualifications	1.0

n = 26.

Source: CRESR in-depth examinations.

qualifications or exam passes (NACRO, 1997). On a positive note, most of the surveyed employers attach a low importance to criteria such as

educational qualifications (mean score 1) and vocational qualifications (1.6). However, basic skills are rated quite highly (mean score of 3.3).

On the negative side, traits such as honesty, reliability and motivation are examples of behavioural 'acceptability' criteria that rely on personal judgement. This suggests that the recruitment process may be open to bias and discriminatory judgements. This is important because our research strongly suggests that, where employers know about the criminal record of an applicant, they often interpret this as an indicator of a lack of reliability. This problem is more acute for those with more than one conviction even when they are not job relevant.

Many offenders do not have a stable job record. Yet, this selection criterion is also rated

quite highly (mean score of 3.5). Ex-prisoners may face particular problems in this respect because many recruiters are concerned that they have lost the habits of work during their incarceration. Furthermore, some indicated that they would need some evidence that ex-prisoners had been rehabilitated:

Once a perpetrator always a perpetrator. A recruiter would want to know if a prisoner had undergone a rehabilitation programme. Although this would not mean they had changed.
(Human Resource Manager, financial services company)

5 The use of criminal records in selection

Introduction

This chapter discusses the use of criminal records in the recruitment process. It primarily draws on data collected from the in-depth qualitative work with employers, which has been supplemented by the postal survey. This aspect of the research has focused on identifying:

- how recruiters gather information about convictions
- the extent to which offenders are identified in the recruitment process
- the consequences for selection.

Gathering information about convictions

Table 8 shows that 57 per cent of employers believe it is vital that they identify those with criminal records. Public sector employers attach greater importance to the issue (70 per cent described it as vital). Most (85 per cent) ask job applicants if they have a criminal record and three-quarters (72 per cent) of these seek information from all rather than some of the candidates. The differences between public and

private employers are again evident (98 per cent of public sector employers ask job applicants if they have a criminal record compared to just 63 per cent of those in the private sector).

However, the stage in the recruitment process when criminal record information is sought and the ways in which it is gathered vary widely. Recruiters may identify offenders in the recruitment process in a number of ways:

- by requesting details of criminal records on the application form
- by asking applicants at interview
- by applicants volunteering information unasked
- through the activities of ‘third parties’
- by checking.

Table 9 shows that most employers (71 per cent) reported using application forms to ask about criminal record information. Private sector employers are more likely to use application forms and less likely to seek this information at the job-offer stage than their counterparts in the public sector.

Table 8 Importance attached to identifying criminal records

	All (%) <i>n</i> = 99	Private (%) <i>n</i> = 26	Public (%) <i>n</i> = 56	Voluntary (%) <i>n</i> = 14
It is vital	57	27	70	64
It is important	34	58	27	15
It is unimportant	7	15	2	14
It is irrelevant	2	0	1	7
Total	100	100	100	100

Source: CRESR postal survey.

Table 9 Stage at which employers ask for criminal record information

Stage	All (%) n = 97	Private (%) n = 22	Public (%) n = 61	Voluntary (%) n = 12
Application form	71	77	67	75
Interview	16	9	18	8
Job offer	40	27	48	33

Note: Totals do not add to 100 per cent because respondents ticked more than one stage.

Source: CRESR postal survey.

Many gain criminal record information from a variety of other sources. Some applicants disclose this information unasked. Third parties, such as the Probation Service and Employment Service (ES), will sometimes make an employer aware of an applicant's criminal record. An individual's criminal record is sometimes common knowledge:

*We employ from the local area, so everyone knows everyone else's business anyway.
(Manager, charity)*

This might have been anticipated in rural areas. However, several employers based in

large cities reported that offenders were identified in this way.

Over two-thirds (71 per cent) reported that they checked whether applicants had criminal records. Again, just 19 per cent of private sector employers checked compared to 90 per cent in the public sector. Checks can be made against police records for posts that involve substantial access to young people or national security. They can also be made by using government lists or references, or by contacting former employers. The most frequently used are police checks and references, which are used by 89 and 29 per cent of recruiters respectively (see Table 10). However,

Table 10 The use of criminal record checks

Type of check	All (%) n = 75	Private (%) n = 5	Public (%) n = 56	Voluntary (%) n = 14
Check with police	89	80	89	100
Ask former employer	13	60	9	17
Check references	29	80	27	17
Government lists	1	0	2	0

Note: Totals do not add up to 100 per cent because respondents used more than one type of check.

Source: CRESR postal survey.

referees and previous employers may be unaware of an individual's criminal record. Furthermore, it may be difficult to gain an objective reference where an offence was committed against a previous employer. Employers often expressed some frustration with the time taken to receive police checks, although they are more reliable.

It is important to create an environment that will encourage an honest and open exchange of information about convictions between offenders and employers. However, the present research has shown that in six key respects the way in which many employers currently gather information about criminal records militates against this prerequisite.

- 1 Many employers do not have an employment policy for offenders that is incorporated into their equal opportunity policy. Consequently, they are unable to confirm their willingness to consider recruiting offenders on their merit.
- 2 Offenders should be assessed on their ability to do the job and on the relevance of their convictions. Convictions that are not relevant should not be taken into account. However, 61 per cent of employers (70 per cent of private sector respondents) reported that they sought information about all convictions regardless of their relevance. The need to 'start with a full picture' was often justified by pointing out that successful applicants could move to more sensitive posts within an organisation. However, it is also apparent that many encounter some difficulties determining relevance.
- 3 Many routinely ask for criminal record information even when the post involves no risk.
- 4 Some employers currently fail to state that spent convictions need not be disclosed for posts unless exempt under the ROA.
- 5 Few employers send out information about the ROA with the application form.
- 6 When spent convictions are highlighted, they are sometimes taken into account.

The extent to which offenders are identified

A criminal record can be a barrier to recruitment only if the recruiter establishes its existence. The present research strongly suggests that many offenders do not currently disclose their criminal records. A third of men by the age of 30 have criminal convictions, excluding motoring offences (Home Office, 1995); although it must be remembered that this figure is substantially lower for women. Yet, less than 1 per cent of applicants (less than 60 out of nearly 22,500) disclosed criminal record information. This suggests that offenders are entering employment without the knowledge of recruiters.

Many recruiters, especially those relying on the use of application forms to identify those with a criminal record, suspected that a large number of applicants failed to disclose. Most acknowledged the possibility that they had unknowingly recruited offenders. It can be very difficult to disclose a record in a way that is

acceptable to an employer. Offenders may face more rejections and so many fail to disclose. Consequently, a major retailer reported that, of 2,000 applicants for the post of departmental manager, no one had disclosed a criminal record. Similarly, a Human Resource Manager in a major food-processing company reported that, in 28 years, no one seeking managerial positions in the company had done so.

The consequences for selection

In 13 of the exercises studied, job applicants declared criminal records. Those working with offenders encourage them to provide employers with brief information about their convictions in a letter before giving more details at the interview stage. However, many employers reported that applicants avoid declaring criminal records prior to interview. On application forms, the question is often left blank. This may reflect a perceived lack of opportunity to explain the record or to provide supporting evidence. This omission is usually followed up at interview. In eight of the recruitment exercises where applicants declared criminal records they did so at interview:

*They leave the question blank. After a bit of eye-to-eye contact, it hesitantly comes out in the interview, 'Yes, I was a naughty boy'.
(General Manager, security company)*

The way that criminal record information enters the recruitment process may determine its effect. This point is underlined by the following figures. Approximately one in 20 respondents to the postal survey (5 per cent) felt that the disclosure of criminal record information at the application form stage or interview definitely reduced an individual's chances of being recruited. However, this figure rose to 34 per cent when a third party disclosed the information.

Personnel who are unfamiliar with the legislative environment, company policy or offender-specific guidance and training undertake much recruitment activity. Table 11 shows that just over half of the recruitment exercises studied involved just line managers in the interview. A further third included a combination of line manager and personnel professionals. However, line managers are much less likely to have received offender-specific guidance and training: 'There are a lot of people

Table 11: Staff carrying out interviews

	Number	%
Line / departmental manager	14	54
Both line manager and personnel representative	8	31
MD / proprietor / chief executive	2	8
Personnel / HR representative	2	8
Total	26	100

Note: Figures may not add up to 100% because of rounding.

Source: CRESR in-depth examinations.

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that get involved in recruitment who aren't trained' (Human Resource Manager, train service company). This point was underlined by the postal survey, which found that none of the private sector respondents reported that they provided offender-specific training of recruiters.

In four of the exercises where applicants had declared criminal records, disclosure was reported not to have adversely affected recruitment:

If someone tells us why they have a criminal record, I view this as a good sign. I suspect we already employ a lot of people with undeclared records so we view openness positively.
(Human Resource Manager, food-processing company)

Some offenders were rejected solely on the basis of their criminal record: 'inevitably having a conviction affects recruitment' (Human Resource Manager, motor manufacturing company). However, it is more common to cite a combination of both criminal records and other considerations, for example a lack of relevant skills or poor employment history.

6 Attitudes towards offenders

Introduction

Personal attitudes and beliefs influence the selection process. They are particularly important because previous chapters have shown that few employers have an employment policy for offenders that is incorporated into their equal opportunity policy and many of those conducting interviews have not received offender-specific guidance or training. This chapter probes the attitudes of recruiters towards offenders in actual recruitment exercises and focuses on:

- attitudes to different types of offence
- relevant considerations when deciding to employ an offender
- anxieties
- beliefs.

Attitudes to different types of offence

Throughout this chapter the team have compared the attitudes of all recruiters taking part in the in-depth examinations of recruitment practice with those:

- recruiting to posts involving daily contact with the general public
- reporting difficulties in recruiting to the posts discussed
- employing fewer than 250 employees.

Recruiters were asked to indicate their likelihood of recruiting someone who had committed particular types of crime. The scale ranges from 0 ('not at all likely') to 5 ('very likely'). Table 12 displays mean scores and

suggests that many recruiters base their decision on the name of the offence and that individual moral codes are particularly important. Those committing offences such as rape and other sex offences, for example, are most unlikely to be recruited. This reflects the recruiters' anger about these sorts of crime rather than concerns about the risks of re-offending.

Those recruiting to posts involving daily contact with the general public, for example cashiers in retail stores, rail customer service assistants, etc., are much less likely to employ those convicted of the following offences: shoplifting, other theft, robbery, burglary and handling stolen goods. Those experiencing recruitment difficulties are more likely to recruit those convicted of most offences with the exception of rape, other sex offences, burglary (non-dwelling) and assault. Similarly, small employers are more likely to recruit those convicted of most offences with the exception of driving whilst unfit and driving whilst disqualified.

Relevant considerations when deciding to employ an offender

Recruiters were asked to rate the significance of a number of different factors when deciding whether or not to employ an offender. Their response was recorded on a 0 to 5 scale (0 being 'insignificant') and 5 being ('very significant'). Table 13 presents mean scores and shows that the type of offence was the most significant factor.

Those recruiting to posts involving daily contact with the general public attach a slightly higher significance to the type of offence when deciding whether or not to employ an offender.

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Table 12 Likelihood of employing offenders by offence

Offence	All	Daily public contact	Recruitment difficulties	Employ <250
Sex offences	0.8	0.8	0.7	0.9
Rape	0.9	1.1	0.7	0.9
Possession of drugs with intent to supply	1.4	1.4	1.4	1.5
Robbery	1.6	1.1	1.6	1.7
Burglary (dwelling)	1.7	1.3	2.1	2.1
Assault	1.7	2.2	1.4	2.1
Manslaughter	1.8	2.1	2.2	2.9
Burglary (non-dwelling)	1.8	1.3	1.7	2.0
Possession of drugs	2.0	1.4	2.3	2.3
Handling stolen goods	2.1	1.7	2.6	2.8
Theft	2.2	1.4	2.5	3.0
Shoplifting	2.4	1.2	2.6	3.0
Taking a motor vehicle without owner's consent	2.4	2.0	3.3	2.9
Fraud/forgery	2.5	2.5	3.0	3.0
Reckless/dangerous driving	2.9	2.5	3.2	3.0
Driving whilst unfit/with excess alcohol	3.1	2.6	3.6	2.8
Driving whilst disqualified	3.1	2.9	3.7	2.7

n = 25.

Source: CRESR in-depth examinations.

Table 13 Relevant considerations when deciding to employ an offender

Consideration	All	Daily public contact	Recruitment difficulties	Employ <250
Type of offence	4.7	4.9	4.9	4.4
Time elapsed since last conviction	4.4	4.0	4.4	4.4
Applicant's openness about their offences	4.3	4.4	4.0	4.3
Age at which offences occurred	4.2	3.8	4.2	4.6
Applicant's motivation to change past behaviour	4.1	4.2	4.3	4.4
Number of convictions	4.1	3.6	4.4	4.2

n = 25.

Source: CRESR in-depth examinations.

They attach less significance to factors such as the age at which offence(s) occurred, the number of convictions and the time elapsed since last conviction. All of this suggests that they are less tolerant and less willing to recognise that most offences are old, one-off and occur during a brief phase in an offender’s life.

Employer anxieties about recruiting offenders

Over half (56 per cent) of respondents to the postal survey reported having anxieties about recruiting offenders. This figure rose to 81 per cent for private sector employers. Recruiters were asked to rate their anxieties about recruiting an offender. Their response was recorded on a 0 to 5 scale (0 being ‘insignificant’ and 5 being ‘very significant’). Table 14 displays mean scores and shows that the most significant

anxiety was that offenders would offend against the company or another employee. Employers responding to the postal survey reiterated this. They were least concerned that offenders will have a poor attitude towards their work.

Employers recruiting to posts involving daily contact with the general public are more anxious about re-offending and dishonesty. Those experiencing recruitment difficulties are more anxious about bad publicity and interruptions to employment. Small employers generally appear to have fewer anxieties about recruiting offenders.

Employer beliefs

Employers were asked how far they agreed or disagreed with eight statements about offenders and their suitability as recruits. A standard five-point scale was used to measure their response

Table 14 Employer anxieties about recruiting offenders

Anxiety	All	Daily public contact	Recruitment difficulties	Employ <250
They will offend against the company or employee	4.1	4.5	4.6	3.8
They will be dishonest and untrustworthy	3.0	3.7	3.3	2.8
They will offend interrupting their employment	2.8	3.1	3.7	2.7
They will bring bad publicity	2.5	2.8	3.2	2.0
They will have a bad influence on other employees	2.1	2.3	2.1	2.4
They will be difficult to manage	1.5	1.6	1.7	1.6
They will have a poor attitude towards their work	1.4	1.1	1.1	1.7

n = 25.

Source: CRESR in-depth examinations.

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(ranging from ‘strongly agree’ to ‘strongly disagree’). Tables 15 to 22 illustrate the results of this exercise. The key points to emerge are as follows:

- Just one in six believes that they receive enough job applicants so they can disregard offenders (Table 15). Those reporting recruitment difficulties and small employers are even less likely to take this view.
- Two-thirds believe that anyone can be an offender (Table 16).
- Nearly one in ten believes that offenders are unreliable and untrustworthy (Table 17). None of the small employers or those reporting recruitment difficulties thought that this was the case.
- Most cannot decide whether offenders want to put their past behind them and put their talents to constructive use (Table 18). Small employers and those reporting recruitment difficulties are more likely to believe that offenders want to put their past behind them.
- A third feel that recruiting offenders is more risky than recruiting non-offenders (Table 19). Small employers are more likely to play down the risks of recruiting offenders.
- Half cannot decide whether offenders offer the skills needed by employers (Table 20).
- One in 20 feels that offenders lack the skills, attitudes and disciplines which are needed at work (Table 21). Elsewhere in the research, however, employers have continually cited poor basic skills as a key labour market barrier.
- Four out of ten believe that offenders are more highly motivated than non-offenders (Table 22). Small employers are even more likely to believe that this is the case.

Table 15 ‘We get enough applicants so we don’t need to consider offenders’

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	4	0	0	0
Agree	12	0	0	22
Neither agree nor disagree	12	22	0	0
Disagree	44	33	66	33
Strongly disagree	28	44	33	44

n = 25.

Source: CRESR in-depth examinations.

Table 16 'Anybody can be an offender; it doesn't tell you anything about them'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	24	22	33	33
Agree	44	44	11	44
Neither agree nor disagree	20	11	44	22
Disagree	12	22	11	0
Strongly disagree	0	0	0	0

n = 25.

Source: CRESR in-depth examinations.

Table 17 'Offenders are unreliable and untrustworthy'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	0	0	0	0
Agree	8	11	0	0
Neither agree nor disagree	16	0	22	11
Disagree	56	66	56	66
Strongly disagree	20	22	22	22

n = 25.

Source: CRESR in-depth examinations.

Table 18 'Offenders want to put their past behind them and put their talents to constructive use'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	4	11	11	0
Agree	24	11	33	44
Neither agree nor disagree	72	77	56	56
Disagree	0	0	0	0
Strongly disagree	0	0	0	0

n = 25.

Source: CRESR in-depth examinations.

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Table 19 'Recruiting offenders is more risky than recruiting non-offenders'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	0	0	0	0
Agree	32	44	56	22
Neither agree nor disagree	32	22	33	22
Disagree	28	33	11	44
Strongly disagree	8	0	0	11

n = 25.

Source: CRESR in-depth examinations.

Table 20 'Offenders offer the skills which employers like us need'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	4	0	11	11
Agree	28	33	22	22
Neither agree nor disagree	56	55	44	66
Disagree	8	0	11	0
Strongly disagree	4	11	11	0

n = 25.

Source: CRESR in-depth examinations.

Table 21 'Offenders lack the skills, attitudes and disciplines which are needed at work'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	0	0	0	0
Agree	4	0	0	11
Neither agree nor disagree	20	11	11	11
Disagree	64	66	66	66
Strongly disagree	12	22	22	11

n = 25.

Source: CRESR in-depth examinations.

Table 22 'Offenders are more highly motivated than non-offenders'

	All (%)	Daily public contact (%)	Recruitment difficulties (%)	Employ <250 (%)
Strongly agree	16	11	33	22
Agree	24	22	11	33
Neither agree nor disagree	48	55	44	33
Disagree	12	11	11	11
Strongly disagree	0	0	0	0

n = 25.

Source: CRESR in-depth examinations.

Summary

Employer attitudes comprise varying proportions of fear, sympathy, ignorance, arrogance, caution and self-interest. They stem from a mixture of prejudice, experience and folklore, and often reflect individual moral codes but are also extremely complex and often contradictory. There is some evidence to suggest that those recruiting to posts involving daily contact with the general public are less likely to recruit offenders, and small employers and

those experiencing recruitment difficulties are more likely to do so. Employers are most concerned about re-offending, yet they are unwilling to recruit some of those least likely to re-offend. Although they feel that anyone can be an offender, many employers cannot decide whether offenders want to put their pasts behind them. Furthermore, most are unsure whether offenders offer the skills needed by employers but thought that they were more highly motivated than non-offenders.

7 The treatment of offenders in the workforce

Introduction

Recruitment has been the main focus of the preceding chapters. However, criminal convictions can also affect those in work. Employers may, for example, dismiss those who deliberately conceal unspent convictions. Employees may also be dismissed if they commit an offence whilst in employment and convictions may also adversely affect an individual's promotion prospects. This chapter focuses on how employers respond to:

- the discovery of deliberately concealed unspent convictions
- employees receiving convictions whilst in employment
- their experience of knowingly recruiting offenders.

The evidence is drawn from the in-depth qualitative work with employers. The approach taken was to ask employers whether they knew

of any such cases and, if so, to describe their response. The data provided is indicative of employer responses; it does not estimate the extent to which these events occur.

Response to the discovery of deliberately concealed unspent convictions

Almost half had subsequently found out that an appointment had deliberately concealed an unspent conviction. The offences included theft (five cases), shoplifting, deception, driving offences, assault, burglary, fraud and criminal damage. Table 23 shows that this information came to light in a variety of ways including the following:

- In five cases, fellow employees informed management. Some appear to be using this information to 'settle old scores'.
- On another occasion, an employee was found to be wearing an electronic security tag.

Table 23 How deliberately concealed unspent convictions are discovered

	Frequency	%
Other employees	5	42
Offender disclosed at a later date	1	8
Individual was wearing an electronic tag	1	8
Police	1	8
Employment Service contact	1	8
Don't know	3	25
Total	12	100

Note: Figures may not add up to 100% because of rounding.

Source: CRESR in-depth examinations.

- Another employee was arrested at his place of work on suspicion of committing burglary. His previous convictions then came to light.

The way that employers responded indicates the seriousness of such a discovery. Table 24 shows that in nearly half of cases the employee was dismissed. This was because the failure to disclose an unspent conviction was regarded as a serious breach of trust. Employers were, however, less likely to take this course of action when they ascertained the reasons behind non-disclosure, assessed the relevance of convictions to the work undertaken and took an individual’s good employment record into account. Hence: ‘It was irrelevant – he’d proved himself to be a good employee’ (Managing

Director, recruitment agency) and ‘There was no indication that anything was wrong at work’ (Human Resource Manager, food-processing company).

Response to employees receiving convictions whilst in employment

Approximately two-thirds knew of someone committing an offence whilst in work. The offences included GBH, ABH (three cases), manslaughter, driving offences (three cases), theft and the possession of drugs. Only one of the cases cited was for offences against the company.

Those who offend in employment are treated more leniently (see Table 25). The most common response was to take no action. As before, this

Table 24 Action taken where an employee was found to have deliberately concealed an unspent conviction

	Frequency	%
No action	6	50
Dismissed	5	42
Individual challenged then left	1	8
Total	12	100

Source: CRESR in-depth examinations.

Table 25 Action taken when an employee is convicted of an offence

	Frequency	%
No action	11	61
Employee left because they were jailed	3	17
Dismissed	4	22
Total	18	100

Source: CRESR in-depth examinations.

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was particularly the case if an employee performed well in their job: 'The conviction did not affect his work' (Human Resource Manager, food-processing company). Sometimes, employees were thought to have been harshly treated by the criminal justice process:

There was a strong case for mitigating circumstances. He'd proved it to me, if not the court.

(General Manager, security company)

Four cases resulted in dismissal. These included two drug-related cases including an individual under the influence of drugs at work:

He was off his head, on second thoughts we should have turned him over to the police.

(General Manager, clothing manufacturer)

Another case involved an individual caught stealing from the company:

You can never tell who you've got working for you. I dismissed one bloke. He'd been stealing stuff off us for donkey's years. Most people looked up to him as being a good lad and a good worker.

(General Manager, bed manufacturer)

The final case was of an employee receiving a conviction for manslaughter.

Employer responses appear to be based upon a number of considerations including the nature of the crime, the extent to which the offence is job-related, whether the individual can continue working and the potential for adverse publicity. A Human Resource Manager in a major transport and distribution company, for example, noted that:

Much as we may disapprove, what we do about it will mainly depend on the impact of the time out due to the offence.

Furthermore, in two of the three cases resulting in custodial sentences, the individual was re-employed on their release. This course of action was taken because the individual was regarded as a good worker or: 'He was incredibly unlucky to get sent down, and he was totally up-front with us' (Human Resource Manager, train operator). Both cases involved young men convicted of violent offences unconnected with the workplace.

Experience of knowingly employing offenders

Thirty-nine per cent of the employers responding to the postal survey reported that they had knowingly recruited an offender in the last 12 months, although only 23 per cent of private sector respondents had done so. Table 26 shows that a quarter of employers reported negative or mixed experiences of employing offenders: 'Some are a problem; others just want a second chance and are hard working and conscientious' (Managing Director, recruitment agency). Similarly, a Human Resource Manager in a food-processing company distinguished between individuals with one-off convictions who often made good workers and those for whom 'criminality has become a way of life'. In the latter case, drug and alcohol addictions were felt to be particular problems and many employers reported that these individuals found it impossible to settle into the routine of work.

Table 26 Experience of knowingly employing offenders

	Frequency	%
Don't know	12	46
Positive	7	27
Mixed	5	19
Negative	2	8
Total	26	100

Source: CRESR in-depth examinations.

Table 27 shows that a third would recommend offenders to other employers. The General Manager of a security company described them as 'quality people'. A Housing Manager in a local authority said: 'They are not a problem where their conviction is known; they

have something to prove.' Sometimes the recommendation was a qualified one:

I would only recommend the ones I've had personal knowledge of. I wouldn't necessarily recommend the practice.

(General Manager, bed manufacturer)

Table 27 Employer views on the general suitability of offenders

	Frequency	%
Don't know	14	54
Would recommend offenders to other employers	9	35
Would not recommend offenders to other employers	3	11
Total	26	100

Source: CRESR in-depth examinations.

8 Employers and the Police Act

Introduction

The implementation of the Police Act will enable employers to acquire reliable information about the criminal records of both job applicants and employees. This chapter examines how employers are likely to make use of the new legislation and focuses on basic disclosure certificates, which permit much broader, less restricted access to criminal record information. It draws upon evidence gained from the in-depth examinations of recruitment practice, two focus groups and the postal survey of employers. The focus is on the:

- expected use of basic disclosures in recruitment
- implications for existing employees.

Expected use in recruitment

At the outset, it is important to recognise the limitations of such an exercise. One in five employers (19 per cent) had not heard about the Police Act prior to our contact. Many were

unsure about its main provisions and unaware of its potential implications: ‘I know there is something out there, but it is not in our line of sight yet’ (Manager, brewery). Consequently, all employers were sent an A4 fact sheet describing the key points of the legislation in order to facilitate an informed discussion. In addition, the way that employers make use of the legislation may change over time as they become more familiar with the pros and cons of requesting basic disclosure certificates.

Awareness of the legislation varied from just 48 per cent of private sector respondents to the postal survey to 97 per cent of those in the public sector. Nevertheless, 41 per cent of employers reported that it was very likely that they would require applicants to provide basic disclosure certificates and a further 31 per cent thought that it was quite likely that they would do so (Table 28). A greater proportion of voluntary sector employers were very likely to use the basic disclosure certificate.

Two-thirds (68 per cent) thought they were likely to request basic disclosure certificates selectively from applicants to certain posts (this

Table 28 Expected use of the basic disclosure certificate in recruitment

	All (%) <i>n</i> = 106	Private (%) <i>n</i> = 27	Public (%) <i>n</i> = 62	Voluntary (%) <i>n</i> = 14
Very likely	41	33	40	50
Quite likely	31	44	28	22
Not very likely	17	15	19	14
Not at all likely	3	0	3	7
Don't know	8	8	10	7
Total	100	100	100	100

Source: CRESR postal survey.

varied from 33 per cent of voluntary sector respondents to 83 per cent in the public sector). Those seeking to use this information selectively often cited the following types of post: those involving access to children, the elderly and vulnerable adults; those with financial or audit remits; cashiers and security personnel.

Table 29 identifies the stage at which employers would seek basic disclosure certificates. A striking feature is that just one in four (25 per cent) of private sector respondents intended seeking this information at the job-offer stage compared to over 60 per cent of employers in the public and voluntary sectors.

The in-depth examinations of recruitment practice suggest that the new legislation will increase employers' awareness of criminal records as an issue, leading to more seeking this information. Almost two-thirds thought the Act would increase their likelihood of doing so. Several thought that requesting basic disclosures would become standard practice because it would provide independent and reliable information on unspent convictions:

If it can give extra confidence that details provided are true and accurate, it would allow us to make better judgements. At present, we are far too reliant on applicants being honest.
(Human Resource Manager, mail-order company)

Furthermore, the pressure on applicants to produce certificates may be considerable:

It's like asking for a reference; if they say no to us asking them to produce a certificate, we'd want to know why.
(Human Resource Manager, train operator)

The remainder believed that the Act would have little or no effect. Many employers already ask all job applicants for criminal record information. Some reported that:

If we had any suspicions beyond these, we wouldn't pursue them with a certificate, we just wouldn't employ them.
(Human Resource Manager, motor manufacturer)

Others felt that the legislation would force jobseekers to become more honest:

Table 29 The stage employers would ask to see a basic disclosure certificate

Stage	All (%) n = 89	Private (%) n = 24	Public (%) n = 51	Voluntary (%) n = 11
Application form	19	33	12	18
Interview	29	42	25	18
Job offer	52	25	63	64
Total	100	100	100	100

Source: CRESR postal survey.

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If the individual has half a brain, he or she realises I can check up. If I felt I had to ask for the certificate, I'd already be having second thoughts about employing them.

(Personnel Manager, food-processing company)

A few were principled objectors to the Act:

I am appalled by this Police Act. It seems to negate the previous Act and is synonymous with a growing paranoia about crime.

(Development worker, charity)

Furthermore, some employers felt that requesting certificates from all applicants is neither desirable nor practical. Some thought it unimportant: 'Criminal records have never been an issue up to now' (Manager, transport haulage company). Others undertaking large recruitment exercises pointed out that this would slow down the process too much. Once a need for new employees has been identified, many employers are keen to recruit as quickly as possible. A few voiced concerns about possible inaccuracies in disclosure information, which it is believed could lead to recruitment decisions being challenged in the courts. According to this standpoint, the legislation would represent 'just another stick to beat employers with' (Human Resource Manager, rail company). It is also not yet clear how long the information contained within basic disclosure certificates will remain valid. Although not specifically mentioned by employers, some feel that the implementation of the Police Act will inevitably lead to problems of counterfeiting certificates.

Approximately a quarter believed that, if employers had to pay for the certificate, this

would reduce their likelihood of asking for criminal record information. This was especially the case for voluntary sector employers and those undertaking large-scale recruitment exercises. Others would minimise costs by either focusing on a limited number of sensitive posts or restricting requests to those candidates receiving a job offer. However, most felt that:

Paying to view the certificates of successful applicants would be small beans compared to the costs involved in a recruitment drive.

(Human Resource Manager, mail-order company)

Similarly, it would be: 'a small price to pay for peace of mind' (General Manager, bed manufacturer). Several companies would consider reimbursing successful applicants.

Implications for existing employees

Less than one in seven (13 per cent) thought that it was either very likely or quite likely that they would use the Police Act to check the criminal records of all existing employees (Table 30). A greater proportion of voluntary sector employers were likely to use basic disclosure information in this way (31 per cent compared with 7 and 11 per cent in the private sector and public sectors respectively).

Tables 31 and 32 show that employers are more likely to use basic disclosures to check individuals in some jobs (59 per cent thought that this was very or quite likely) and some people (28 per cent reported that it was very or quite likely). Public sector employers are more likely to check individuals in some jobs (74 per cent thought it was likely compared to 38 per cent in the private sector).

Table 30 Expected use of the basic disclosures for all existing employees

	All (%) <i>n</i> = 105	Private (%) <i>n</i> = 27	Public (%) <i>n</i> = 62	Voluntary (%) <i>n</i> = 13
Very likely	7	0	8	23
Quite likely	6	7	3	8
Not very likely	35	41	39	16
Not at all likely	47	52	44	46
Don't know	5	0	6	7
Total	100	100	100	100

Source: CRESR postal survey.

Table 31 Expected use of the basic disclosures to check individuals in some jobs

	All (%) <i>n</i> = 85	Private (%) <i>n</i> = 24	Public (%) <i>n</i> = 51	Voluntary (%) <i>n</i> = 8
Very likely	32	4	49	12
Quite likely	27	34	25	12
Not very likely	23	29	20	38
Not at all likely	18	33	6	38
Total	100	100	100	100

Source: CRESR postal survey.

Table 32 Expected use of the basic disclosures to check some people

	All (%) <i>n</i> = 84	Private (%) <i>n</i> = 24	Public (%) <i>n</i> = 50	Voluntary (%) <i>n</i> = 8
Very likely	10	4	14	0
Quite likely	18	29	16	0
Not very likely	32	38	28	38
Not at all likely	34	29	34	50
Don't know	6	0	8	12
Total	100	100	100	100

Source: CRESR postal survey.

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Those intending to check existing employees have cited several justifications. Foremost among these have been the following:

- The special requirements of particular sectors: 'This industry has unique requirements' (General Manager of a security company).
- Fairness and consistency: 'If you are asking everyone else it is only fair to ask us' (volunteer recruiter, voluntary organisation).
- The requirements of suppliers or customers: 'If they asked us to check we would. For example, one of the companies we work with breathalyse their staff and asked us to do it' (Training and Recruitment Officer, distribution company).

They identified three particular benefits of checking existing employees. First, it could alert them to potential problems: 'This knowledge

would enable us to be vigilant if we knew someone had a criminal record' (General Manager, bed manufacturer). Second, it could be used to corroborate suspicions about particular employees: 'If someone had been working here, say, about 18 months and we suspected them of petty theft, then we might want to look at that individual's disclosure certificate' (Human Resource Manager, food-processing company). Finally, it could be used to screen those in sensitive posts. A major retailer, for example, noted that it might be used to check those staff who visit clients at home.

However, most employers believe that the use of the legislation to check existing employees is unnecessary, impractical and possibly unethical. In particular, they cited the impracticalities of checking large workforces and potential hostility from trade unions. They also expressed the view that existing employees had proved themselves: 'If they are doing a good job, what's the point' (Managing Director, recruitment company).

9 Conclusions and recommendations

Introduction

This final chapter highlights some of the conclusions emerging from the research in terms of the key determinants of employer behaviour towards offenders; the likely impact of the introduction of basic disclosure certificates; and the implications for policy makers. It goes on to present a series of key recommendations.

The key determinants of employer behaviour

Employer behaviour towards offenders in the recruitment process is diverse, complex and often contradictory. Despite this, it is possible to discern five key determinants:

- legislation
- corporate culture
- key individuals
- prevailing stereotypes and prejudice
- the labour market.

First, employers taking part in the research recognised the need to meet the requirements of legislation. Yet, many of those undertaking recruitment exercises were not fully aware of the implications of the ROA, which has been on the statute for over 25 years. This problem might have been anticipated in small employers. However, the low importance attached to the issue, the decentralised nature of much recruitment activity and difficulties maintaining effective communication meant that it also characterised many recruitment exercises undertaken by large national or multinational employers. This suggests that good practice guides or voluntary codes of practice may be relatively ineffective ways of

addressing the issues raised by the introduction of basic disclosure certificates.

Second, the research has identified the importance of corporate culture in determining employer responses to the issues raised by the recruitment of offenders. Significant differences in culture were identified between private sector employers. Most companies are primarily concerned with their bottom-line performance. They want recruits able to contribute to the key business goals of productivity and profitability. Many have particular concerns about the honesty and job-readiness of offenders. In contrast, a few believe that commercial success and social responsibility are inextricably linked. A large food manufacturer, for example, has developed a policy for employing offenders because it recognised that this would allow it to recruit from the largest possible pool of labour and so improve its bottom-line results.

Cultural differences were most pronounced between the private and public sectors. The latter, for example, attached greater importance to establishing the criminal records of job applicants. This may partly reflect the nature of its work, which allows access to vulnerable groups. However, the available evidence suggests that, although the public sector was more likely to make use of the Police Act to request basic disclosures, it may use this information in a more responsible way. It was, for example, much more likely to request this data at the job-offer stage and to have recruited an offender in the last 12 months.

Third, the judgement and attitudes of key individuals continue to play an important role in selection despite the formalisation of the recruitment process. Personal experiences can

be important in this respect. A Human Resource Director in a major retailer, for example, recalled that early in her career she had recruited someone who had lied about her criminal record. The employee then proceeded to steal goods worth at least £2,500 over a six-month period. This chastening experience had not been forgotten and was clearly affecting the Human Resource Director's behaviour towards offenders nearly 20 years later. In contrast, a few individuals behave in charitable or philanthropic ways towards offenders. A General Manager at a bed manufacturer, for example, was prepared to recruit offenders in defiance of his Managing Director because: 'As a Christian, I give people a chance.'

Fourth, many recruiters have stereotypical attitudes about offenders which serve as a source of prejudice and as a barrier to their effective recruitment. Offenders are often deemed to be unreliable, untrustworthy and a serious threat to employees, customers and clients. However, these attitudes are not confined to employers; they are a widespread and enduring feature of modern Britain. More recently, they have been strengthened by the increasingly punitive response of successive governments to those committing criminal acts and the sensationalist reporting of crime by the media.

Finally, many employers are experiencing problems recruiting to low-paid, low-skilled posts, particularly in the buoyant labour markets of London and the South East of England. Labour shortages are forcing them to look at labour pools that they might not have previously considered, for example older workers, people with disabilities and offenders.

We have encountered many companies that are now taking such an approach. Two major employers, for example, have recently begun to work with a voluntary organisation in London to attract job applicants from disadvantaged groups such as offenders and the homeless. An additional benefit of this approach is that the criminal records of job applicants are known and consequently employers are able to assess and manage the risks. However, the companies are extremely sensitive to the adverse publicity that this might generate and consequently are not publicising this initiative.

The likely impact of basic disclosure certificates

The Police Act permits broader, less restricted access to the criminal records of individuals. The way that employers make use of this information will vary enormously and will depend on a wide range of factors including their awareness of the legislation; corporate culture; the type of labour sought; the recruitment procedures and selection criteria employed; the extent to which recruiters are appropriately trained and supported; and the sort of labour markets that they are active in. Many will make inappropriate use of this information; 46 per cent reported that they needed some help with assessing and managing the risks of recruiting offenders. Moreover, the present research strongly suggests that the introduction of basic disclosures will heighten discrimination against offenders in the labour market. This conclusion is based on several interrelated findings:

- At present, many offenders are ‘hidden’ in the labour market because they are choosing not to disclose their criminal records. In some circumstances, this situation suits both parties because some employers would rather not confront the issue.
- Many employers will make extensive use of the Police Act to request basic disclosure certificates from job applicants. Consequently, offenders will become much more visible in the recruitment process.
- Most employers, particularly those in the private sector, lack the appropriate policy frameworks for dealing with the issues raised by the recruitment of offenders in a positive and responsible way. Equal opportunities policies, for example, are not seen as being directly relevant and few have policies that specifically mention offenders.
- Employers are not subject to any significant social pressure to develop appropriate policies. In particular, the recruitment and treatment of offenders appears to be an insignificant issue for trade unions.
- Many recruitment exercises are staffed by line managers who often have not received appropriate information or training to deal with the issue.

Implications of this research for policy makers

The task for policy makers is to ensure that the implementation of the Police Act facilitates safer recruitment decisions whilst ensuring that criminal record checks take into account the rights of the individual and that discriminatory behaviour is minimised. Section 122 of the Police Act places an obligation on the Secretary of State to publish a code of practice for employers seeking criminal record information. The White Paper suggested that employers adhere to a number of guiding principles. Table 33 shows the proportion reporting that it was very likely that they would do so. A key feature is the reluctance of private sector employers to follow such principles. Only about one in seven, for instance, are very likely to ensure that the possession of a conviction will not automatically debar a person from employment.

It is currently envisaged that the code of practice will relate to just those employers intending to request standard and enhanced disclosures. However, 76 per cent of respondents to the postal survey thought that this should be extended to include those requesting basic disclosure certificates. Furthermore, 62 per cent believed that the code of practice should be made mandatory for employers intending to request basic disclosure certificates; although just 44 per cent of private sector organisations felt that this was appropriate.

Effective policy must be capable of addressing the genuine concerns that many

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Table 33 The efficacy of codes of practice

Principle	All (%) n = 104	Private (%) n = 27	Public (%) n = 62	Voluntary (%) n = 14
We will have a written policy on the employment of offenders and a written strategy for implementing that policy	54	33	65	58
We will inform job applicants at the application form stage that a criminal record check will be made and they will be supplied with a copy of the organisation's policy on the employment of offenders	56	33	68	58
We will undertake criminal record checks only after a conditional offer of employment has been made	58	27	69	69
We will ensure that the possession of a conviction will not automatically debar a person from employment	55	15	71	69
We will ensure that all staff involved in recruitment are appropriately trained in areas relating to the employment of offenders including the Police Act and the 1974 ROA	58	48	63	54

Source: CRESR postal survey.

employers have about recruiting offenders. The present research has considered a range of possible policy responses. Table 34 shows the proportion of employers indicating that various initiatives would help overcome their anxieties about recruiting offenders.

The most popular initiatives – action to improve basic skills and intermediate labour market (ILM) programmes – both reflect concerns over the job readiness of offenders. Recent research has raised general anxieties over basic skill levels. A recent OECD survey, for example, ranked the UK in the lower half of the 20 nations being examined. The Skills Task Force has found that nearly one in five adults has lower levels of literacy than an average 11 year old. These problems are even more acute

for offenders. Employers taking part in this research have continually cited poor basic skills as a key labour market barrier, even in recruitment exercises for low-skilled and low-paid posts (see Chapter 4). However, the international review has suggested that it may be difficult to convince those with poor basic skills that it matters. In particular, many do not perceive it as a problem because they have needed to do little reading or writing in previous jobs. This may be exacerbated because many offenders have 'flat' aspirations in that they aim to return to the labour market at a similar occupational level to when they left it.

Similarly, the use of ILMs reflects concerns over the marginal position of most offenders in the mainstream labour market. There has been a

Table 34 Addressing the concerns of employers – possible initiatives

	All (%) <i>n</i> = 93	Private (%) <i>n</i> = 25	Public (%) <i>n</i> = 54	Voluntary (%) <i>n</i> = 11
Action to improve basic skills	66	56	76	27
Intermediate labour market programmes	57	64	56	46
Work trials	56	60	56	36
Specialist training for recruiters	47	36	54	46
Labour market intermediaries	46	44	46	46
Low-cost specialist insurance	34	44	33	18
Employment subsidies	33	40	30	27
Government-backed publicity campaign	32	32	35	27
Business register	16	16	15	27

Source: CRESR postal survey.

rapid growth in the use of ILM programmes throughout the UK and the government’s Employment Zone pilots all have an intermediate labour market component, referred to as ‘neighbourhood match’. They are also a feature of the American policy environment (see Appendix 1). The objective is to provide a parallel (intermediate) labour market where severely disadvantaged groups can gain the necessary motivation, skills and work experience. Properly managed, they can deliver more sustainable employment outcomes than other programmes (Marshall and Macfarlane, 2000).

Over half of the employers responding to the postal survey indicated that work trials may help to overcome their anxieties about recruiting offenders. International experience suggests that they may allow ‘job-ready’ offenders to demonstrate their value to an employer and be an effective way of breaking down the suspicions of both parties. The present

research suggests that employers are much more tolerant towards offenders once they have proved themselves to be valued employees. Previous experience, however, suggests substitution may be high. Substitution is where employers substitute new recruits for existing workers who lose their jobs or substitute new recruits for those who otherwise would have been recruited. Furthermore, both employers and offenders are likely to need some form of post-placement support (see Appendix 1).

A key finding of the present research is that many of those undertaking recruitment exercises have not undergone offender-specific training. There are two main aspects to this problem. First, none of the private sector respondents to the postal survey and only one in seven public sector employers reported that they provided such training. Second, many of those carrying out job interviews are line managers rather than personnel professionals. All of this suggests that the provision of

specialist training for recruiters could make a significant contribution to the development of fair and responsible recruitment practice for the employment of offenders.

The experience of the Apex Scotland Employers' Recruitment Training (ASERT) project is instructive in this respect. This innovative European-funded project has sought to work collaboratively with employers to develop effective recruitment strategy and practice in the employment of offenders. Training has been a key component of this work. The project has found that even the largest employers with sophisticated human resource processes are often unable to deal with the issues raised by the recruitment of offenders. Consequently, it has been very difficult to get many to prioritise offender-specific training. Yet, many of those becoming involved have identified a number of benefits including reduced risk and increased choice in the labour market. However, the project has not been able to reach small and medium-sized enterprises (SMEs). Most of those participating have been large national and multinational 'blue chip' companies and public sector organisations.

The use of labour market intermediaries serving both employers and disadvantaged jobseekers has been an integral part of welfare to work in America. An intermediary is an entity which acts as a broker between the employer and public sector to train, place and help retain and advance those moving from welfare to work. The main appeal of intermediaries to business is that they operate as an efficient link between employers and the public sector, relieving much of the administrative burden. American intermediaries often screen, train and place welfare recipients

into jobs and then undertake follow-up work to ensure that they succeed in their new positions. In the UK, however, few public, community or education institutions have the skills or experience to provide an effective service to local employers. Similarly, those with a focus on meeting the needs of business often have little credibility with offenders. Consequently, the development of intermediaries in the UK will require significant organisational development and capacity building. In addition, intermediaries are most effective in buoyant labour markets but many parts of the UK are still characterised by insufficient labour demand.

The provision of low-cost specialist insurance for offenders has been a key feature of the American policy environment for nearly 40 years. The Federal Bonding Programme provides an incentive for the recruitment of individuals who are an insurance 'risk' by reimbursing employers for financial loss when workers commit dishonest acts. However, this type of policy may be culturally specific, arising out of the litigious business culture of the US. At present, it appears to have limited relevance to the UK.

Recommendations

The present research identifies a series of key recommendations for policy makers, which fall into three main areas:

- 1 preparing offenders for the labour market
- 2 encouraging employers to adopt policies for the recruitment of offenders
- 3 stimulating a positive climate for the recruitment of offenders.

Preparing offenders for the labour market

- The New Deal must become more focused on helping severely disadvantaged groups facing multiple barriers to employment, for example offenders, the homeless and those with drug problems.
- The UK Government has recently announced that it will invest £15 million in new outreach for ethnic minorities over the next three years, through community and voluntary bodies (HM Treasury, 2001a). A similar initiative should be considered to help offenders currently excluded from the New Deal.
- The Department for Work and Pensions (formerly the DfEE) should recognise that offenders are a group with specific needs in the labour market and develop appropriate initiatives to help them secure employment.
- During Autumn 2001, the ES and Benefits Agency are to be merged. The resulting Agency is to be called 'Jobcentre Plus' and aims to provide a single integrated service to all benefit claimants of working age and to employers. The new agency will have a focus on parity targets across all areas of performance to help close the gap between unemployment rates for people from ethnic minorities and those who are white. The increased visibility of offenders in the labour market resulting from the Police Act and the problems that this is likely to generate strongly suggest that the new agency should be given parity targets for offenders.
- All Jobcentre Plus front-line staff should be able to provide appropriate advice and information to offenders. Specialist staff should be made available to assist those whose convictions make them particularly hard to employ.
- The Government should fund outreach work by Jobcentre Plus in prisons and probation centres to advise offenders about disclosure and appropriate employment and training opportunities.
- More should be done to preserve an offender's job on imprisonment. All prisons should undertake employment protection work with remand and short-term prisoners, by contacting their employers and encouraging them to keep their jobs open.
- The UK Government should fund a labour market pilot programme to test various approaches to getting offenders into work. This research has identified the potential usefulness of ILMs, work trials, offender-specific training for recruiters and specialist labour market intermediaries.
- Labour market intermediaries may be particularly useful in those areas characterised by buoyant labour markets. The task for Government is to reinforce the message that intermediaries have an important role to play in the next generation of active labour market policies. They then need to create an environment that stimulates and supports the growth of intermediaries; much of the work of which is concerned with building

and maintaining relationships with employers and disadvantaged groups. Policy makers will, therefore, need to formulate payment systems that are more compatible with these forms of activity.

- The barriers faced by offenders in depressed labour markets are compounded by low business creation rates and a lack of employment opportunities. There is a particular need to stimulate employment-intensive growth in occupational and skill categories accessible to offenders. The 'Enterprising communities: a tax incentive for community development' consultation document produced by the government on 1 March 2001 sets out proposals for a new community development tax break, aimed at creating £1 billion of private investment in disadvantaged communities. This is a welcome first step in addressing the lack of employment opportunities in deprived neighbourhoods.
- Offenders should be encouraged to acquire the necessary skills and build upon them through lifelong learning. This may enable those in low-paid, low-skilled jobs to move into secure and rewarding employment. This may generate wider social benefits because previous research has shown that stable employment is the single most important factor in reducing re-offending.

Encouraging employers to adopt policies for the recruitment of offenders

- Employers should be given access to disclosures only if they have appropriate recruitment policies and procedures for the recruitment of offenders.
- The Government should take the lead on implementing recruitment policies for offenders. All Government departments and agencies should be required to have such policies. Organisations either seeking to enter into a contractual relationship with Government or receiving public funding should also be required to adopt appropriate policies.
- A 'kite-mark' should be introduced and awarded to employers operating fair and responsible recruitment practices for the employment of disadvantaged groups, including offenders. In the case of the latter, employers should have written policies and procedures, and provide offender-specific training of recruiters.
- Jobcentre Plus staff should, where appropriate, encourage employers to consider the recruitment of offenders.
- The Government must fund a helpline for employers offering advice and information on matters relating to the recruitment and employment of offenders, including the development of appropriate policies and the ROA.

- The review of the ROA should focus on simplifying the present system and striking a better balance between reintegrating offenders and protecting society from those who might offend again. Particular attention should be given to reducing rehabilitation periods and ensuring that all sentences exceeding 30 months can become spent.
- The introduction of basic disclosures should be accompanied by a major campaign to help inform offenders of their rights and obligations.

Stimulating a positive climate for the recruitment of offenders

- The Government has a significant role to play in creating a climate in which the recruitment and rehabilitation of offenders are recognised as important activities that should be encouraged. It should do much more to inform the public that rehabilitation can work and that employers, as well as others, have an important contribution to make. This is a long-term process that will require major investment in education and public awareness-raising activities.

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Appendix 1

Labour market programmes for offenders – a review of international experience

Programme	Rationale	Strengths	Weaknesses
<p>1 Training</p> <p><i>Manpower Development Training Act (1962)</i> provided disadvantaged groups such as ex-offenders with the skills to compete in the US labour market. By 1968, 251 MDTA-sponsored projects were providing job training and vocational counselling to offenders and ex-offenders.</p> <p>A roustabout is the term given to a general offshore assistant in the Dutch oil industry. The <i>Junior Roustabout programme</i> was set up in 1991 and was a collaboration between the Amsterdam remand centre and a private sector offshore company. Offenders beginning the last six weeks of their sentence were eligible for a six-week training programme leading to an official qualification. Those passing the final examination received a job guarantee, which was particularly attractive because of the relatively high pay available as a roustabout. The programme helped over 30 offenders into work.</p>	<p>Offenders lack the skills to gain employment.</p>	<ul style="list-style-type: none"> • Poor basic skills and a lack of qualifications are particular problems for many offenders. • The labour market is witnessing a continuing decline of unskilled, manual jobs and the growth of new sectors of the economy which require good communication skills. • Improving skills may ensure that offenders are not consigned to the secondary labour market. Individuals in this market tend to suffer from recurrent spells of unemployment and their work histories are characterised by a series of horizontal moves from one type of unskilled job to another rather than a gradual increase in skills, responsibility and rewards. 	<ul style="list-style-type: none"> • Training may not ensure that offenders have a greater chance of being recruited or, if recruited, remaining in work. In the context of the MDTA, the US Department of Labor's Experimental Manpower Laboratory for Corrections identified numerous barriers faced by offenders including the unwillingness of employers 'to forgive the criminal act or to see beyond the criminal label' (Rovner-Piecznik, 1973, p. 11). • Many people with poor basic skills do not perceive it as a labour market barrier because they have needed to do little reading or writing in previous jobs. • Many offenders have 'flat' aspirations in that they aim to return to the labour market at a similar occupational level to when they left it.

Programme	Rationale	Strengths	Weaknesses
<p>2 Job placement</p> <p><i>MABiS: Model Project – Integration of Training and Employment for Ex-prisoners</i> is funded by INTEGRA and run by the Ministry of the Interior and Justice of North Rhine-Westphalia in co-operation with the German Ministry of Labour, Social Affairs and Urban Development, Cultural Affairs and Sports. The programme targets 1,300 young prisoners in five prisons, and aims to provide a link between vocational training in prisons and post-sentence employment. Placing ex-prisoners into real jobs is the core objective of MABiS. Previous German evaluations have shown that, while vocational training is necessary to improve most prisoners' poor vocational qualifications, it is not sufficient to reduce recidivism rates, unless it leads to post-sentence employment.</p> <p><i>Peirs</i> is a European-funded project in the Canary Islands, which targets prisoners in Tenerife Prison. Inmates undergo general education, vocational training and job placement. Key partners include the prison authorities, the Regional Government, trade unions, local authorities, the University of La Laguna and employers.</p>	<p>Employers harbour doubts about the value of recruiting offenders. Job placements are an opportunity to dispel such doubts by giving employers the chance to assess the value of employing such people.</p>	<ul style="list-style-type: none"> • Offenders may value the opportunity of gaining 'first-hand' experience and demonstrating their value to an employer. • Placements may lead to 'real' jobs in the longer term. • Programmes can focus on sectors where employers are likely to experience recruitment difficulties. 	<ul style="list-style-type: none"> • Offenders must be 'job-ready' otherwise there is a danger that relationships with employers will be undermined. • Substitution may be high. Substitution is where employers substitute new recruits for existing workers who lose their jobs or substitute new recruits for those who would otherwise have been recruited. • The process of liaising with employers and matching the needs of both offender and employer is resource intensive. • Both employers and offenders may need some form of post-placement support.

Programme	Rationale	Strengths	Weaknesses
<p>3 Employment subsidies</p> <p><i>The Targeted Jobs Tax Credit (1978) (TJTC)</i> provided financial incentives for the recruitment of the chronically unemployed, i.e. those groups whose unemployment problems were not responsive to macroeconomic growth or training. It gave US employers a federal tax credit of 50 per cent of first-year wages and 25 per cent of second-year wages, not to exceed \$6,000 per year, to recruit seven target groups including ex-offenders.</p> <p><i>The Federal Work Opportunity Tax Credit (WOTC)</i> provides a maximum tax credit of \$2,400 per year, per new recruit for eligible employees. There are eight eligibility criteria including 'a convicted felony offender who is released from jail within a year and comes from a low income family'. Employer awareness of the WOTC is apparently low.</p>	<p>The reluctance of employers to recruit offenders can be reduced by making their labour less expensive.</p>	<ul style="list-style-type: none"> • Subsidies may enhance the effective labour supply by keeping individuals in contact with the world of work. • For equity reasons, subsidies may provide offenders with jobs even if this happens at the expense of the short-term unemployed. • Inexpensive to administer. 	<ul style="list-style-type: none"> • Research suggests that most recruitment decisions are barely affected by employment subsidies. In the US, many employers made retroactive applications for the TJTC, i.e. after recruitment took place. This suggests that many disadvantaged persons would have been recruited without the TJTC (Radison, 1982). • The subsidy may not be large enough to induce many employers to overlook offender problems. This difficulty is heightened during times of high unemployment when offenders must compete with many other unskilled workers for a limited number of entry-level jobs. It is perhaps significant that offenders accounted for just 4 per cent of all TJTC placements between 1979 and 1982 (Jacobs <i>et al.</i>, 1984). • High subsidies may make some offenders economically attractive to some employers, unless other disadvantaged jobseekers are similarly subsidised. However, a subsidy for ex-offenders is politically inconceivable. • They may inadvertently stigmatise offenders. In the context of the TJTC, offenders were not required to reveal the basis of their eligibility but employers wanted to know why the job applicant was eligible for a tax credit, thus creating a pressure to reveal the criminal record. Jacobs <i>et al.</i> (1984, p. 498) concluded that 'Ironically, the effort to help ex-offenders through designation for a special tax credit may have hurt them by waving a red flag in front of employers.'

Programme	Rationale	Strengths	Weaknesses
<p>4 Specialist insurance for offenders</p> <p>Bonding is a form of business insurance that reimburses employers for financial loss when workers commit dishonest acts. Commercial insurers often refuse to bond high-risk groups such as offenders. <i>The Federal Bonding Programme (FBP)</i> insures employers for any type of stealing by theft, forgery, larceny or embezzlement. The bond is given to the employer free of charge, and serves as an incentive to recruit any person who is an insurance 'risk', for example ex-offender, ex-addict, those with a poor credit record, those dishonourably discharged from the military and persons lacking a work history.</p> <p>Initiated in 1966, the FBP was federally funded by the US Department of Labor and controlled by the State Employment Services. More recently, the programme has been cut back as part of a process called devolution, in which state and local government are expected to pick up responsibilities formerly met by federal government. Consequently, local employment and training organisations have been allowed to purchase their own bond package for use by their own clients. Bonds are available in packages of 25 to 100 units. Each unit provides \$5,000 coverage for six months.</p>	<p>Employers fear that job applicants who are not 'bondable' will be untrustworthy employees. The FBP can help to overcome employer anxieties by reducing the financial risks of recruiting groups like offenders.</p>	<ul style="list-style-type: none"> • Research published by the University of Texas indicates that the FBP may change employer attitudes towards offenders. Only 12 per cent of the employers surveyed were willing to recruit ex-offenders. However, 51 per cent said that they would recruit ex-offenders if they were bonded (Albright and Deng, 1996). • Over 40,000 bonds have been issued over the last 33 years by the FBP, with only a 1.23 per cent default rate. 	<ul style="list-style-type: none"> • This policy may be culturally specific, arising out of the litigious business culture of the US. The present research shows that insurance is a relatively unimportant factor in the recruitment of offenders in the UK. Employers in the UK often regard such risks as part and parcel of the problems in running a business.

Programme	Rationale	Strengths	Weaknesses
<p>5 Direct job creation</p> <p>The Centre for Employment Opportunities (CEO), based in New York, is a non-profit organisation providing employment and training for offenders. The CEO implements the <i>Neighbourhood Work Project (NWP)</i>, which offers short-term, minimum-waged work for newly released offenders. The NWP provides between 30 and 40 teams comprising offenders under a full-time field supervisor. The teams undertake general building repairs and maintenance, and painting for public sector bodies.</p> <p>The NWP field supervisors collaborate with training specialists to ensure that participants are acquiring marketable skills and that their progress is monitored.</p>	<p>The integration of offenders into the labour market is dependent on stimulating job growth and helping them attain the experience and skills that prospective employers want.</p>	<ul style="list-style-type: none"> • It provides a period of employment in its own right which helps to keep offenders in contact with the habits of work and closer to the labour market. • May help break the culture of training being viewed as a punishment for unemployment. In particular, the payment of wages may raise motivation and provide the right disciplinary framework for offenders. • Payment on a 'fee-for-service' basis undermines the argument that the NWP rewards ex-prisoners at the expense of other groups. • An evaluation carried out by the National Institute of Justice found that participants had significantly lower re-offending rates compared to similar groups of ex-offenders. 	<ul style="list-style-type: none"> • Displacement, where the provision of goods and services displaces other workers in the private and public sector, may be a particular problem. It can be minimised by choosing areas of activity that are commercially unattractive to existing enterprises. • Training is crucial so that participants are not merely used as a source of cheap labour.

Programme	Rationale	Strengths	Weaknesses
<p>6 Registers of 'offender-friendly' employers</p> <p>The <i>2nd Chance Business Register</i> was established in 1988 by Fabian Dattner, Inc. with funds from the Australian Department of Labour. The Register is a database of companies prepared to offer employment without prejudice to people with criminal records. In particular, it seeks to bring together referring organisations and prospective employers. Employers are interviewed by 2nd Chance and outline their own exclusions of particular types of offence depending on the nature of the work, the work environment and their own reservations.</p> <p>The Register is accessed by community organisations specialising in the resettlement of offenders. The agencies undertake prior screening and assessment of individuals, and are then linked via 2nd Chance to an employer in the appropriate area. The agency worker contacts the employer to find out if any work is available, provides details of client skills and experience, and arranges a possible interview. Offenders are obliged to disclose the nature of their criminal record. The Register does not take a moral stance as to which offenders deserve to be recruited. The final decision rests with the employer.</p>	<p>It is beneficial to both parties to establish an honest relationship from the start. This enables the employer to make an assessment of the person's ability to do a job. Offenders benefit because they know that they will not be discriminated against.</p>	<ul style="list-style-type: none"> • Helps to address employer discrimination which is a key labour market barrier. • The Register encourages an honest and open exchange of information about convictions between the applicant and employer. In contrast, many offenders in the UK do not presently disclose criminal record information because they fear that they will be discriminated against. This increases the risks of recruiting them. • Provides some official recognition of employers with a commitment to good employment practice. 	<ul style="list-style-type: none"> • Offenders face a range of labour market barriers typical of many other severely disadvantaged groups – poor basic skills, low self-esteem, sometimes behavioural and health problems. This is compounded by a lack of recent work experience for those leaving prison and employer discrimination. However, this type of provision is of relevance only to those who are relatively 'job-ready'. • Screening and assessment of people referred to 2nd Chance employers is done by the referring worker; 2nd Chance is reliant on external organisations to ensure that those referred to employers are 'job-ready' so that relationships with employers are not jeopardised. • It is important that offenders receive some form of post-placement support to help them develop the skills and attitudes which are needed at work and thus retain employment. Employers too may need post-placement support because of the extra supervision and support required by offenders.

Appendix 2:

Glossary of abbreviations

ABH	Actual bodily harm
ACOP	Association of Chief Officers of Probation
Apex Trust	A national voluntary organisation, which aims to promote employment opportunities for offenders
Apex Scotland	A voluntary organisation, which aims to promote employment opportunities for offenders in Scotland
CEO	Centre for Employment Opportunities
CRB	Criminal Records Bureau
CRESR	Centre for Regional Economic and Social Research
DfEE	Department for Education and Employment
ES	Employment Service
FBP	Federal Bonding Programme
GBH	Grievous bodily harm
HRM	Human resource manager
ILM	Intermediate labour market
MABIS	Model Project – Integration of Training and Employment for Ex-prisoners
MDTA	Manpower Development Training Act
NACRO	National Association for the Care and Resettlement of Offenders
NIACRO	Northern Ireland Association for the Care and Resettlement of Offenders
NAPO	National Association of Probation Officers
NWP	Neighbourhood Work Programme
ROA	Rehabilitation of Offenders Act
SOVA	Society of Voluntary Associates
TJTC	Targeted Jobs Tax Credit
TEC	Training and Enterprise Council
WOTC	Work Opportunity Tax Credit

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