

Guide  
April 2024

Guide to **recruiting,**  
**employing** and  
**retaining** people  
with **convictions**

The CIPD has been championing better work and working lives for over 100 years. It helps organisations thrive by focusing on their people, supporting our economies and societies. It's the professional body for HR, L&D, OD and all people professionals – experts in people, work and change. With over 160,000 members globally – and a growing community using its research, insights and learning – it gives trusted advice and offers independent thought leadership. It's a leading voice in the call for good work that creates value for everyone.

*Our people professionals have a critical role to play in supporting people with convictions to get back into the workplace. With around one in four of the UK working population having a conviction and with many industries experiencing skills gaps and recruitment challenges, the CIPD Trust is joining up the dots by providing mentoring support to equip those facing barriers to get into work, get on in work and develop in their roles.*



*Alongside this, we are here to drive systematic change by fostering fairer and more accessible workplaces. This is why we are delighted to launch our new guide which provides organisations with practical advice and support around how they too can break down barriers and become part of the solution by creating more inclusive and diverse workforces.*

**Sally Eley, Head of CIPD Trust**

*More and more employers are offering opportunities to people with convictions, including those who have spent time in prison. Employers are doing this because they recognise the business benefits of offering people second chances. These include finding talent, benefitting from the loyalty of new recruits and motivating their wider staff and customers, by making a difference to society as a whole. This practical guide from the CIPD will be very valuable to all those considering recruiting this way.*



**Duncan O'Leary, CEO, New Futures Network**

Guide

# Guide to recruiting, employing and retaining people with convictions

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This guide supports organisations and their leaders and HR professionals when recruiting, employing and retaining employees with convictions or lived experience of the criminal justice system. It aims to provide practical recommendations and information, and can be used by organisations of any size, whether you are thinking about simply changing some of your hiring practices or making recruiting people with convictions a key part of your talent acquisition or social responsibility strategies.

# 1 Why employ people with convictions?

Around one in four people of working age have a conviction. Organisations see potential benefits to employing people with convictions, such as addressing skills gaps, as people with convictions often possess valuable talents and experience that can contribute positively to the workplace.

Employing people with convictions can also support an organisation's social responsibility. By providing employment opportunities, organisations play a role in reducing the stigma associated with past convictions and can help reduce re-offending by providing critical opportunities for people to have a fresh start.

Research also suggests that former offenders have high levels of loyalty and retention, often exceeding the expectation of their employers. According to UK Government research, 86% of employers of people with convictions rate them as good at their job and 92% of employers say diverse recruitment has enhanced their reputation, helping them win new business.

Finally, recruiting and employing people with convictions can also form part of a commitment to equality, diversity and inclusion; a diverse workforce can bring many benefits for organisations, including innovation and creativity and better decision-making.

If your organisation wishes to begin employing people with convictions, a good starting point is to identify your primary goals for doing so. For example, what are your overall aims and benefits? Set some goals to achieve them.

It can be helpful to communicate, both internally and externally, about plans to hire people with convictions. You should also consider your duty of care to existing employees. For example, how will you respect and address any concerns they may have (see Communicating your approach)?

## Case study: Working with prison leavers at Murphy

J Murphy & Sons is an international specialist engineering and construction company, founded in 1951, with a purpose to improve life by delivering world-class infrastructure. It operates in the UK, Ireland and Canada and employs 3,800 engineers, professional managers and skilled operatives around the world.

Murphy is taking the lead on a national offender employment programme in conjunction with the largest prison in the UK. It is also a signatory to Business in the Community's 'Ban the Box' campaign that aims to reduce barriers to employment for people with criminal records, removing the tick box from job applications that asks about criminal convictions. It has made over 100 offers of employment to prison leavers in the last two years, and has experienced high levels of retention.

Working with prisons helps to provide Murphy with skilled talent: many people in prisons have previous relevant experience or core skills that can easily transfer to the industry. However, rather than simply advertising jobs to prison leavers, or not asking about previous convictions, it has chosen to get involved early in the process, working directly with prisons and putting into place the vital support that prison leavers need to transition successfully to the workplace.

Dawn Moore, Group People and Communications Director, highlights the importance of holistic support, such as working with the prison leaver's probation officer where they have one, to confirm that the new employee has accommodation, knows how to get to work, and has all the documentation that they need. "We found that some of the barriers to employment are not what you might expect. The individual might not be used to managing their own time and need some help with structure; they might not have access to transport or suffer from a lack of confidence, or simply might not have a bank account for their wages. If these practical issues aren't addressed well before they leave prison, they may not be able to start work with you." Dawn Moore acknowledges this can take a little time and effort, but Murphy believes that the business benefits outweigh the resource required.

Working directly with prisons and getting involved with their advisory boards has other benefits too: organisations can influence the skills that their potential talent pool are gaining whilst in prison.

Dawn Moore also suggests that organisations that want to employ people with convictions should have a clear communication plan for employees, setting out the business benefits and how it will help address any current business challenges. They should engage directly with the local prison or support agencies and take time to ensure that job requirements are clear.

For Murphy, every prison leaver is treated just like any other employee. But it is aware that for them, it is not just starting a new job; they are being given an opportunity to make a fresh start. Its prison leaver programme is not simply a project or part of its talent strategy, but a core part of what Murphy does.

## 2 The law: What you need to know when recruiting people with convictions

This section provides an overview of the law relating to the recruitment of people with convictions. Organisations should consider taking additional advice on their specific circumstances where appropriate.

### **The Rehabilitation of Offenders Act 1974**

This Act sets out 'rehabilitation periods' after which a conviction is considered 'spent'. An individual does not need to disclose a 'spent' conviction to a potential employer, even if they are asked to do so. The length of the rehabilitation period is set out in the Act, and depends on the original sentence and the age of the individual. When a conviction is spent, an employer should treat the job applicant as if the conviction had never happened.

However, there are some exceptions to this general rule. Some convictions, such as serious violent, sexual and terrorist offences are excluded and will never be considered spent. There are also some jobs (such as police officers), known as 'regulated roles', where it is lawful to ask job applicants about spent convictions and refuse to employ someone on the basis of an otherwise spent conviction.

There may be some circumstances where an organisation cannot legally employ someone in a specific role, for example if they have, as a result of their conviction, been barred from working with children or adults – this is usually known as a 'regulated activity'.

Detailed [guidance](#) on the Rehabilitation of Offenders Act is available from the government.

### **General data protection regulations (GDPR)/The Data Protection Act 2018**

Data protection laws protect individuals from the misuse of information about them. Under this legislation, data (including data about job applicants and employees) should only be processed when there is a legitimate reason for doing so, and there are specific rules about how that data must be handled, stored and retained. Details on criminal records are considered 'sensitive data' and, as such, a higher standard of care must be taken in relation to it – you must only process data where necessary to carry out an obligation. Personal data, including information on criminal records, should not be held any longer than necessary for the purposes for which it is processed. Organisations should therefore consider establishing a process for deleting or destroying data when it is no longer required.

More information about [data protection in employment](#) is available from the Information Commissioner's Office.

### **Criminal records checks (DBS checks)**

In some circumstances you may be able (or may be required) to undertake criminal records checks of employees or job applicants. These are known as DBS checks and are undertaken by the Disclosure and Barring Service in England and Wales, Disclosure Scotland in Scotland and Access NI in Northern Ireland. It is unlawful to request a check if it is not necessary or required.

There are four types of check:

- basic disclosure
- standard disclosure
- enhanced disclosure
- enhanced disclosure with barred lists check.

The nature of the job determines the check that can be undertaken and organisations should determine on a role-by-role basis if a check is required.

Criminal records checks provide information on an individual's conviction at the time of the check – they cannot tell you whether or not you should employ someone (unless they are on a barred list).

More information about [criminal records checks](#) is available from the government website, along with [details on eligibility](#). If unsure about checks, please take additional advice from a specialist organisation.

### **Recommendations**

- Check how your organisation records and stores any information provided by job applicants or employees about previous convictions. Check that data is not being retained longer than necessary, such as when the offences become spent, and is restricted only to authorised individuals who have a specific need to have this information.
- Review your organisation's requirements in relation to specific roles: which roles, if any, require disclosure of convictions, spent convictions or a criminal records check?
- Consider whether there is sufficient knowledge of relevant legislation amongst relevant individuals and if any training is required.

# 3 How to recruit people with convictions

Effective, fair and transparent practices are essential to recruiting people with convictions.

Consideration should be given to every stage of the recruitment process, including advertising vacancies, deciding who to interview, selection activity, decision-making and any offer of employment.

## **Advertising vacancies**

To help attract applicants, you may wish to state in your job adverts that your organisation welcomes applications from people with convictions or lived experience of the criminal justice system, and will not discriminate against them when making decisions about recruitment and selection.

If you will ask about previous convictions, perhaps because the role requires it, state this in the job advert so that the applicant is aware in advance. Similarly, state clearly if a role requires a criminal records check, and which level of check applies.

## **Shortlisting**

Ensure that fair and inclusive shortlisting is taking place in your recruitment and selection procedures.

If you *do* ask about convictions (see [more information](#) later in this guide), such as in an application form or online recruitment portal, consider holding this information apart from the information that is provided to the person reviewing the applications. This will help to ensure that applicants are not rejected as a result of their disclosure. Decisions about who to interview should be made on the basis of the applicant's skills, experience and knowledge.

Fair shortlisting should:

- involve more than one person in the decision of who to interview
- be based on the established skills, experience and knowledge required for the role
- follow the same criteria for all applicants
- be undertaken by trained individuals
- be anonymous where possible, meaning that the shortlisting panel do not have access to irrelevant personal data including conviction information
- be properly recorded, with notes retained.



### **Asking about convictions**

Employers do not have to ask job applicants about previous convictions unless it is a specific role that requires disclosure. It is up to each organisation, considering the industry, the roles and any legal or regulatory requirements, whether – or when – to ask about previous convictions. If you decide you *do* need to know some information about convictions, you can legally ask for a basic DBS check for any role. Our [Greene King case study](#) explains how it approaches this conversation during the recruitment process.

Remember, a DBS check is not a pass or fail; it is information to make an employment decision. It is not a pass or fail but it is, however, illegal for someone on the barred list to apply for certain roles and for employers to offer them a job.

In its guide '[Hiring With Conviction](#)', Working Chance sets out the different options about when to ask about previous convictions in the recruitment and the implications – including benefits – of this decision.

### **Dealing with disclosure of a conviction during the recruitment process**

Any disclosure must be kept confidential in accordance with data protection regulations. Only those who need to know, in order to undertake the above assessment, should be notified.

There are different stages of the recruitment process where a job applicant may share that they have a previous conviction. This could be a direct question on a form, or shared in an interview when asked about a gap on a CV.

Wherever possible, ensure that the candidate can provide additional information about the context of their conviction before the decision-making process takes place. Ideally, each situation should be considered on a case-by-case basis.

If a job applicant discloses a conviction at any stage, you will need to consider your response and assess the potential risks or implications. The 'Ban the Box' campaign recommends that this assessment should include:

- the seriousness of the offence and any relevant circumstances (and whether these circumstances have changed)
- the age of the applicant at the time of the offence and if there has been any pattern of offending
- the relevance of the conviction to the work the applicant is applying for
- any explanation that the applicant has provided for the offence
- whether the role applied for could put them at risk of re-offending.

Nacro also provides [guidance](#) on undertaking risk assessments relating to job applicants with convictions.

### **Making a recruitment decision**

There may be situations when you are not sure if you can offer someone a role, based on a particular disclosure or conviction. You may decide to ask the candidate some questions about their conviction, a sensitive activity which will require careful management. Some people with convictions might find them difficult to talk about. Think carefully about what you will ask, and only ask relevant questions; for example, you don't necessarily need to know the full details of the crime. Be guided by the recommended considerations in the '[Dealing with disclosure of a conviction](#)' section.

If your process requires you to request references prior to confirming a job offer, remember that people with convictions, especially recent prison leavers, might find it more difficult to provide these. You may need to adjust your processes and take references from a wider range of people, such as those who can vouch for the applicant's character, including a probation officer or a case worker for example.

If you decide to offer a role to an individual who has disclosed a previous conviction, consider the following:

- How to support the new starter when they join the organisation (see the [Onboarding](#) section). Let them know about any opportunities you have in place to help them in their new role.
- Reassure the new starter about confidentiality and make sure that they are aware that they do not have to tell their colleagues or manager about their previous conviction. If there are people that do have a genuine need to know about an individual's conviction, advise the new starter accordingly.

If you are unable to offer a role to a job applicant with a conviction, because of their conviction or for some other reason, provide them with as much feedback as possible to help with any future job application, or work on any areas for improvement. If the decision relates to their conviction, let them know why it influenced your decision or prevented them from working for you.

If you don't offer a job applicant a role, you must not retain any details of their conviction. All information about the recruitment process, including your decision-making, should be held confidentially and securely destroyed or deleted when no longer required. Check if your organisation has a policy on document retention for recruitment records.

### **Recommendations**

- Determine your overall policy on recruiting people with previous convictions, in accordance with your specific organisational requirements and the kind of work that you do. If you don't have a policy, consider developing one and making it easily accessible to employees and potential job applicants.
- Decide at what stage and for what jobs, if any, you need to ask job applicants about previous convictions. If you intend to undertake criminal records checks, ensure that these are appropriate for the job role.

- Identify who has access to information on convictions in the recruitment process, and how this is informing decision-making.
- Set out guidance on decision-making when a job applicant discloses a conviction.
- Explain your approach to job applicants with convictions, and criminal records checks if you undertake them, on your careers website or job adverts.
- Consider engaging with the 'Ban the Box' campaign and commit to only asking questions about previous convictions if necessary in your recruitment processes.
- Make sure that recruiting managers know what they can and cannot ask, and how to respond to a disclosure. You may find it helpful to set this out in a policy or guidance document, or even offer formal training.

## Case study: Recruiting people with convictions at Greene King

Greene King is a pub company and brewer, operating around 2,600 pubs, restaurants and hotels across the UK and two breweries. It has been operating for more than 200 years and employs more than 38,000 team members.

Through its EDI strategy, Greene King is committed to creating an inclusive workplace. Its strategic drivers around inclusion and diversity include a commitment to help job seekers from any background build a career at their local pub.

It also manages a Releasing Potential programme, working directly with prisons to support people into work on their release. The hospitality industry is facing a talent shortage and Greene King recognises that, within prisons, there are individuals with highly relevant and transferable skills. Some of these skills relate directly to roles that Greene King can find it difficult to recruit for. It focuses on hiring for behaviours and attitudes, providing training to address any additional skills gaps.

Greene King believes in looking beyond an individual's conviction and considering the circumstances in which it occurred. During recruitment, hiring managers focus their questions about convictions on context and circumstances at the time the offence was committed, rather than the offence in isolation. They prefer to ask "What happened?" rather than "What did you do?", allowing them to learn, understand the whole individual and context of their situation as well as their work readiness. When an individual is hired, they will get support in settling into their new role and team by their general manager.

Lynne Kennedy, Talent Development Manager at Greene King, recommends engaging with relevant charities and organisations to support efforts in recruiting people with convictions. These organisations can help HR and recruitment teams provide vital support to employees, especially in relation to practical issues such as right to work documentation, housing and banking. They can also help connect organisations with employers who are already working with people with convictions and lived experience of the criminal justice system, who can share their own experiences. To support the programme, Greene King works with several partners including the New Futures Network, a specialist part of HM Prisons and Probation Service, Novus, Recruitment Junction and Only a Pavement Away, a hospitality sector charity that helps prison leavers find employment in the hospitality sector.

Through its Releasing Potential programme, Greene King committed in 2022 to recruit 300 more prison leavers into roles by 2025 and has also worked with HMP Thameside and HMP Grampian to develop bespoke programmes for inmates to train in the kitchen, receive qualifications and be ready to work in hospitality on their release.

## 4 Onboarding and retaining people with convictions

Many people with convictions will not require any special support or adjustments to the onboarding process when they join your organisation, and should normally be onboarded like every other employee. However, if you employ people who have been out of the workplace for some time, or who have recently left prison, or if you employ people on day release from prison, there may be a requirement to provide some additional support to help ensure their success. This can vary depending on the type of work or industry, but might include practical or technical skills, or 'soft' skills like building confidence at work.

### **Disclosure made by existing employees**

This guide mainly focuses on recruiting people with convictions. However, it is possible that an existing employee is also convicted of an offence whilst working for you and will disclose this to you during their employment.

In these circumstances, you should follow a similar assessment process, focused on the nature of the work that the individual does and any associated risks (see the [Making a recruitment decision](#) section). In particular, consider whether the conviction impacts the employee's ability to do their work.

If the circumstance of the offence means that continued employment may not be possible, you should follow any existing HR policies and procedures and relevant employment legislation. Always consider alternatives to dismissal, such as moving the employee to another job, where possible. You may wish to take legal advice before making a final decision on next steps.

### Recommendations

- Considering your organisation and the individuals you might be recruiting, think about what specific support might be required and how this can be provided.
- Depending on the individual you are recruiting and their personal circumstances (for example, recent prison leavers or employees on temporary licence from prison), check if they have any conditions they need to meet, and any adjustments or particular arrangements.
- Make sure new starters know that it is not a requirement to tell anyone at work about their previous convictions if they do not wish to do so.
- Consider providing a mentor or a named contact for the new starter to ask questions. For help on providing mentors, please contact [info@cipdtrust.org](mailto:info@cipdtrust.org).
- Don't make assumptions about what people will need – engage with them directly and ask how they can be supported to ensure that they are successful in their new role.
- If a new starter experiences initial difficulties, consider adapting standard approaches to managing performance or probation periods to provide time to improve.
- Take feedback from people with convictions after their induction period; seek their ideas on how you can continue to improve your processes.

## 5

# Overcoming barriers

There may be barriers to overcome before an organisation can tap into the skills of some of the 12 million people in the UK who have a conviction.

Barriers to recruitment and employment can include the recruitment process itself (such as an early request to disclose convictions or a requirement to explain a gap in a CV), job applicants with non-typical work histories who find it difficult to perform well in traditional selection processes, concerns from employers about the suitability of applicants or the reaction from existing employees, or issues relating to prejudice and bias.

There are a range of organisations that can provide specialist help and support on any specific challenges you might experience. (See the [Further resources](#) section.)

### Recommendations

- Review your standard recruitment and selection processes to identify where they might present any barriers specific to people with convictions. Consider how your processes could be adjusted accordingly.
- Consider some internal 'myth busting' to allay any potential concerns or misconceptions. For example, there is no evidence that people with convictions will be a risk in the workplace or that their involvement will harm the business.

- Train people managers on fair and inclusive hiring, including the potential for unconscious bias.
- Consider positioning your work to recruit, employ and retain people with convictions within your wider organisational policies on equality, diversity and inclusion. Make sure that everyone in the organisation knows that there will be no discrimination or harassment towards people with convictions.
- Share success stories: some people with convictions may be willing to share their own stories. Although no one should ever be compelled to do so, this can be a powerful challenge to prejudice and bias.

## 6 Communicating your approach to employing people with convictions

Some organisations make recruiting and employing people with convictions a central part of their talent acquisition and corporate responsibility strategies. The case studies contained within this guide are examples of such organisations. Whether or not you choose to do this, some internal and external communication about your plans can be helpful. Exactly what you need to communicate will depend on your overall strategy and approach.

Communicating your overall approach, as well as your aims and objectives, can help raise your profile as a prospective employer and increase awareness with your existing employees and address any concerns. A good communication strategy will include some of the following:

- an overall statement of commitment to recruiting and employing people with convictions, setting out how your strategy will benefit the organisation
- internal communication to existing employees and external communication to customers, stakeholders and prospective job applicants
- a mix of communication methods, such as through your website, messages from senior leaders and your internal intranet, with press releases, social media and blogs if appropriate at any time
- clear goals for communicating to specific audiences; for example, some communications might be simply providing information, but others might be more targeted towards influencing action or changing people's perceptions
- follow up: communication should not be a one-off activity but should be ongoing, sharing changes, challenges and success.

### Recommendations

- Communicate your plans to your employees, explaining why you have taken the decision, the benefits you hope to realise and how they can help make the workplace inclusive for people with convictions.
- Include information on your job adverts for applicants: expressly state that you are open to employing people with convictions.
- Tell your employees how they can help support people with convictions joining your organisation.
- People with convictions can experience stigma or be stereotyped: you may want to consider challenging common misconceptions and addressing myths in your internal communications.
- Consider if it is appropriate for you to approach or work with any specialist charities or agencies that work directly with people with convictions as part of your talent acquisition strategy.

## 7

# Top tips for recruiting and employing people with convictions

Here is a summary of the key recommendations contained within this guide:

- 1 Set out your organisational approach to recruiting people with convictions within a policy, including any key decisions and roles and responsibilities. Consider an overarching statement setting out your goals and aims.
- 2 Review your recruitment and selection processes to identify any areas where adjustments or changes could be made to ensure effective recruitment of people with convictions.
- 3 Highlight your approach to recruiting people with convictions in your job advertisements and career pages on your website. Let people know that you do not discriminate against people with convictions.
- 4 Consider how to make your organisational culture fully inclusive for people with convictions, while ensuring your existing workforce is comfortable. Engage both your existing employees and people with convictions in conversations. Make sure to address any concerns in the workforce – people with convictions will have the best chance of succeeding in their new role in a supportive and welcoming environment.
- 5 Train recruiting managers on your policy and any relevant legislation relating to recruiting and managing employees with convictions, as well as fair and inclusive recruitment practices.

- 6 Establish procedures to ensure that any disclosure of a conviction is handled sensitively and in confidence, and in accordance with data protection requirements.
- 7 Detail how you will make a decision during recruitment and selection processes where a conviction is disclosed; consider how you will assess the applicant's suitability for the job.
- 8 Review your onboarding processes to identify where additional support or development could help to ensure the success of people with convictions joining your organisation.
- 9 Where appropriate, seek out suitably qualified mentors or champions who would be willing to support people with convictions joining the organisation, as allies can play a powerful role in creating an inclusive culture and help to provide valuable support.
- 10 Communicate your strategy for employing prison leavers: this will highlight your organisation's social responsibility goals, help reduce stigmas and drive candidates to your vacancies. Share successes widely. Include internal communication to explain why you are doing this and how it can contribute to the organisation.

Finally, monitor your progress. Successfully recruiting and employing people with convictions will require ongoing commitment and development of approach. Track the success of your efforts to employ people with convictions, measuring the effectiveness of your policies and approach, and make adjustments as needed.

## 8 Further resources

Business in the Community: Ban the Box Campaign encouraging employers to remove tick box questions about criminal records from their job application processes.

Gov.uk: Guidance on what criminal records checks can be undertaken for employees.

Offploy: An organisation supporting people with convictions into employment.

Nacro: Advice and guidance for employers on employing and recruiting people with convictions.

New Futures Network: A specialist part of HM Prison and Probation Service (HMPPS) which attracts and supports employers to work with prisons in England and Wales.

Rehabilitation periods: The time periods under the Rehabilitation of Offenders Act that set out when a conviction can be considered 'spent'.

St Giles Trust: An organisation supporting prison leavers.

Working Chance: A charity that works with women with convictions to help them find jobs and build careers.

### **CIPD resources on fair selection**

Fair selection: An evidence review: Evidence-based insight and practical recommendations for ensuring fair selection in recruitment and promotion practices.

Unconscious bias: A podcast about unconscious bias in the recruitment process and how to address it.



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