Mind the Gap

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

Main contributor to this guidance: Dominic Headley, Consultant, Nacro

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Nacro, First Floor, 46 Loman St, London SE1 0EH

nacro.org.uk
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Forewords

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

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

David Watson
Director of Justice & Health, Nacro

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

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

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

Jessica Mellor-Clark
Head of Be Onsite, Lendlease
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Mind the Gap

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

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

Introduction

Unemployment in the UK is at near record lows with more than 32 million people (75.3% of the population) in work. Employers across many sectors including the construction industry are now competing in a tightening labour market. Many in the industry report that they are struggling to fill their vacancies due to labour, skill and talent shortages. Some also report that they struggle to achieve their section 106 or social value obligations.

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

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

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

There are also vast societal implications. Reoffending costs the UK up £15 billion a year (Home Office, 2016) – a figure that does not take into account the other social and economic costs of restricting people with criminal records from gaining employment. In addition to stable accommodation, having a job is known to be the most important factor in reducing reoffending.

There are more than 11 million people recorded as having a criminal record on the Police National Computer (PNC) (Home Office, 2017). This equates to more than 20% of the working-age population.
Many of these individuals may have committed relatively minor offences and have a wide-range of skills and abilities, yet they face unnecessary barriers to working in the construction industry due to the fact some employers and recruiters refuse to take on someone who has an ‘unspent’ conviction, or a criminal record certificate that is not clean. Consequently, many of these individuals are not in a position to provide for their families, pay taxes and contribute positively to society. Some face being confined to a life on benefits and a burden to the taxpayer.

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

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

**Pre-employment checks**

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

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

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

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

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

When conducting pre-employment checks, employers should follow the Information Commissioners Office (ICO) good practice recommendations detailed in the Employment Practice Code:
• Make it clear early in recruitment process that vetting will take place and how it will be conducted
• Carry out vetting at as late a stage as practicable
• Use vetting to obtain specific information, not for general intelligence gathering
• Seek information from reliable sources only, from which it is likely relevant information will be revealed
• Allow applicant to make representations about accuracy of information obtained

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

The Rehabilitation of Offenders Act 1974

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

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

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

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

Further details on the different rehabilitation periods in Scotland or Northern Ireland can be found on the Nacro website.
Does the ROA apply to people convicted overseas?
The ROA applies to a person with a criminal record regardless of whether they have been convicted in the UK or overseas. If a person has been convicted of a criminal offence overseas which has an equivalent (or similar) offence in the UK, then they are still legally required to disclose their criminal record when applying for roles in the UK, if the employer requests applicants to disclose criminal records as part of the recruitment process.

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

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

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

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

Appendix A details common rehabilitation periods for sentences and out-of-court disposals for the ROA as applicable in England and Wales. A comprehensive guide to the ROA which also covers military convictions can be downloaded here.

Further information on the ROA is contained on the Nacro website.

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

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

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

The changes in legislation make it unlawful for an employer to take into account a protected caution or conviction that would not be disclosed on a standard or enhanced DBS check (i.e. cautions or convictions that are subject to filtering), when making a decision to employ a person or dismiss an existing employee.
The legislation also makes it a criminal offence for an employer to carry out, or enable another person to obtain, a standard or enhanced DBS check on a person if the role applied for is not exempt from the ROA and so not eligible for this level of check (see eligibility section).

Employers that supply staff or contractors who are subject to certain government vetting should note that the changes to Part V of the Police Act 1997 in 2013 mean that the DBS filtering rules relating to protected cautions and convictions also apply to certain non-police personnel roles.

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

The DBS filtering rules are extremely complex and may be subject to change as a result of a legal challenge which is due to be heard in the Supreme Court in 2018.

Appendix B details the current filtering rules as applicable in England and Wales. Scotland and Northern Ireland have their own arrangements.

Comprehensive guidance on the current DBS filtering arrangements can be found on the Nacro website. There is also useful information on the DBS website.

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

Criminal record checks

Does a criminal record check need to be carried out?

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

What level of check can be carried out?

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

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

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

<table>
<thead>
<tr>
<th>Type of disclosure certificate</th>
<th>Basic</th>
<th>Standard</th>
<th>Enhanced</th>
<th>Enhanced + Barred</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unspent convictions</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Spent convictions (not filtered)</td>
<td>×</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Cautions (not filtered)</td>
<td>×</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Police intelligence</td>
<td>×</td>
<td>×</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Inclusion on the children’s barred list</td>
<td>×</td>
<td>×</td>
<td>×</td>
<td>✓</td>
</tr>
<tr>
<td>Inclusion on the adult’s barred list</td>
<td>×</td>
<td>×</td>
<td>×</td>
<td>✓</td>
</tr>
</tbody>
</table>

**Basic disclosures** (basic DBS checks) can be carried out for any role, including those that are covered by the ROA. Basic DBS checks only contain details of unspent cautions or convictions that are recorded on the Police National Computer (PNC) in the UK. Since January 2018, they are now available from DBS for employers in England and Wales. With the individual’s consent, an employer can apply for a basic DBS check with the DBS through a Responsible Organisation registered to submit them. Individuals are also able to apply directly for a basic DBS check.

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

**Standard disclosures** (standard DBS checks) contain details of all cautions, convictions, reprimands and final warnings that are not protected. See Appendix B which contains detailed guidance on filtering. Standard DBS checks are available for jobs and activities listed in the ROA Exceptions Order.

**Enhanced disclosures** (enhanced DBS checks) contain details of all cautions, convictions, reprimands and final warnings which are not protected, and may also include other relevant information. Other relevant information may be disclosed at the discretion of the chief police officer of the force that holds the information if they reasonably believe it to be relevant to the role. Enhanced DBS checks are only available for certain jobs and activities listed in both the ROA Exceptions Order and also the Police Act 1997 (Criminal Records) Regulations.

**Enhanced disclosures with children’s and/or the adult’s barred list check(s)** Enhanced DBS with barred list checks include the same criminal record information as enhanced DBS checks, but also detail whether the person is barred from working in regulated activity with children, adults or both. To be eligible to request a check of the children’s or adults’ barred list, the position must be eligible for an enhanced DBS check and also specifically listed in the Police Act 1997 (Criminal Records) Regulations as eligible to check against the appropriate barred list(s).
Applications for standard and enhanced DBS checks have to be made by the employer either directly, if they are a registered body, or through an umbrella body. The disclosure certificate is sent directly to the individual who must then hand it to the employer.

**What is an enforced subject access request?**
On 10 March 2015, Section 56 of the Data Protection Act (DPA) 1998 was fully implemented. This law makes it a criminal offence for an organisation to require an applicant (or existing member of staff or contractor) to apply for copies of their own police, probation, prison or court records from the relevant statutory authority and then share this information with the organisation. This practice is called an enforced subject access request. Any organisation that compels an individual to carry out an enforced subject access request may face prosecution by the Information Commissioner’s Office (ICO).

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

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

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

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

Fred works as a heating engineer for the same company as Michael. He also repairs and installs heating systems and visits properties on the estates managed by the local authority. However, Fred’s role, unlike Michael’s, requires him to carry out work in care homes in residents’ rooms and in the communal room where there is the opportunity for contact with the adults being cared for there; **AND**

i. the adults reside at the care home due to the care or nursing they require; **AND**

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

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

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

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

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

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

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

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

**Important note**

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

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

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

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

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

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

**Overseas criminal record checks**

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

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

**Asking about criminal records**

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

**CASE STUDY: Robert**

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

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

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

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

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

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

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

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

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

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

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

The Ban the Box approach also ensures that employers are more likely to be compliant with new data protection laws and have minimised any risk of inadvertently discriminating against people with criminal records that may have experienced disadvantage in their lives.

Applicants should be informed at the outset exactly what information will be requested from them and why, and at which stage of the recruitment process this information will be requested. This will provide a basis for the applicant to decide whether or not to apply for the post.

Employers should emphasise that this information will be used only to assess the applicant’s suitability for employment where it is relevant. Employers that carry out standard or enhanced DBS checks should also ensure that they have a recruitment of ex-offenders policy which can be shared with applicants upon request. This is a requirement stipulated in the DBS Code of Practice.
CASE STUDY: Tideway

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

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

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

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

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

The criminal record declaration asks the question:

Do you have any unspent convictions?

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

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

Do you have any cautions, convictions, reprimands or final warnings which are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)?

Dealing with criminal record disclosures

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

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

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

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

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

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

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

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

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

Nature of offence(s)

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

Relevance

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

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

Seriousness

Employers should consider the seriousness of any offence disclosed, rather than just the title of the offence (offence code). Offence codes cover a very wide range of offences that vary in terms of seriousness. A sexual offence, for instance, covers everything from young men sleeping with their underage girlfriends to indecent assault and rape.
Violence covers everything from slaps and smacks, often recorded as battery or common assault, to grievous bodily harm and murder. Drug offences cover everything from possession of small amounts of cannabis for personal use to possession of Class A drugs with intent to supply. Burglary covers everything from taking goods from shop storerooms to entering the homes of elderly people, leaving them in fear. Arson ranges from a person setting fire to litter bins to a person destroying property and endangering lives. Offence codes can often make the incident sound more serious, which is why it is extremely important to gain further details of what actually took place. A Crown Court would normally deal with more serious offences than a magistrates’ court, but some individuals elect for their case to be heard in a Crown Court if it is a triable either way offence.

Offence circumstances

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

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

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

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

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

Age of offences

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

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

Changed circumstances

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

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

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

The risk assessment interview

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

**How to manage sensitive information**

Information about an applicant’s criminal record should not be disclosed to anyone in the organisation apart from those who have a genuine need to know. This may include people directly responsible for the recruitment decision or the applicant’s line manager, but only if the offence is relevant to the applicant’s role. For further information on data protection contact the ICO.

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

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

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

**Dealing with convictions relating to existing staff**

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

Paragraph 31 of the code of practice states:

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

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

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

If there is a requirement to disclose contained within the policy, then an employer can consider the steps outlined below in the flowchart as long as they regard the code of practice.
What to do if a conviction or allegation concerning an existing member of staff comes to light

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

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

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

Do not use information as an excuse to dismiss a poor performance

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

Right to work checks

What is a right to work check?

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

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

- Ask to see their original documents
- Verify all documents are valid with the individual present
- Make and retain copies of all documents presented
- Record the date they made the check
**What are the consequences of getting right to work checks wrong?**

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

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

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

**How to carry out right to work checks**

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

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

**Employer Checking Service**

If an applicant or existing employee cannot show the employer their documents, then the employer may need to verify their immigration status using the Employer Checking Service, but only if:

- They have an outstanding appeal, administrative review or application with the Home Office
- They have an Application Registration Card (it evidences an individual has made an application for asylum)
- They have a Certificate of Application that is less than six months old (this is issued following receipt of a valid application for an EEA residence card)

Application registration cards and certificates of application must state that the work the employer is offering is permitted. Many of these documents don’t allow the person to work.

The Home Office will send the employer a Positive Verification Notice which must be kept. This document will confirm if the applicant has the right to work.

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

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

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

The legal position

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

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

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

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

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

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

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

CCS have developed a sample drugs and alcohol policy template which can be downloaded here.

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

Further information on drugs and alcohol policies can be obtained from Acas.
CASE STUDY: Calico Group

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

Calico owns and manages approximately 4,600 homes in Lancashire and provides a full construction service developing new and affordable homes across the region. Calico also has a range of programmes in place such as Acorn Recovery and Delphi Medical which enable people affected by substance misuse to get support either prior to employment or while in employment.
• This can be extended for up to four weeks if the claimant moves into an apprenticeship
• On average, employees complete between 25 and 30 hours of work experience per week
• Jobseeker’s Allowance remains in place for the duration of the placement.

Sector-based work academies – a short sharp training intervention:
• Designed with the employer to upskill potential recruits
• Three elements of training, work experience and a guaranteed interview
• Lasts between one and six weeks

Work trials – this is where an employer has advertised and interviewed for a job. If the employer is considering offering it to an unemployed jobseeker but wants to make sure the fit is right for themselves and the candidate they can use a work trial to do this.
• It’s an opportunity for the employer and a perspective candidate to try the job.
• Lasts up to four weeks (the norm is around two weeks)
• Jobseeker’s Allowance remains in place for the duration of the work trial.

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

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

How can employers working with JCP get involved?

Employers that already have a relationship with JCP can be linked into the Mind the Gap project team by their local/regional/national contact.

Employers that do not work with JCP can email: employer.advice@dwp.gsi.gov.uk who will fast track them to their local JCP contact and the Mind the Gap project team.

The Mind the Gap project team will inform the JCP of the outcome of their contact with the employer and explore where JCP can support further through its partner network, if appropriate.

JCP and the Mind the Gap project team also work in collaboration with other key stakeholders and partners from the public, private and voluntary sectors to drive forward the supporting people with convictions into employment agenda through steering groups and regional network meetings.

For further information contact Nacro’s Employer Advice on 0845 600 3194 or email employeradvice@nacro.org.uk.

Working with prisons

Many employers in the construction industry have been working successfully with the prison and probation service for a number of years. There are countless ways in which an employer can access the huge pool of talent within the custodial environment.
Mind the Gap partners play a crucial role in supporting employers to work proactively with prisons, as well as facilitating skill assessments, training programmes and employment pathways for individuals while in custody and on release. The partners aim to complement the great work already being delivered in custody and use innovation and partnership working to fill any gaps in provision.

A Fairer Chance: finding the right candidates

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

AFC has been working with prisons for more than 12 years, making a positive business case to employers for taking on people with convictions both while in custody and on release into the community. They act as a broker, holding the hand of the employer and supporting applicants to prepare for the interview process. They provide the necessary support that enables an individual to get a job and keep it.

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

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

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

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

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

If you would like to take part in a Mind the Gap business challenge day, or would like further information, email: foundation@mitie.com.

Using innovation in custody to meet skills gaps

Mind the Gap partners work closely with some of the Offender Learning and Skills Service (OLASS) providers that are responsible for delivering the education and training in prisons throughout England, giving prisoners the skills and qualifications they need to find sustainable employment upon release. These contracts are currently subject to tender and may change by the end of 2018. A number of these providers already deliver training in construction-related skills.

Current OLASS Providers

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Areas covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Novus</td>
<td>North West, Yorkshire, North East, Kent and Sussex, Lincolnshire, London</td>
</tr>
<tr>
<td>Milton Keynes College</td>
<td>West Midlands, East Midlands, South Central</td>
</tr>
<tr>
<td>Weston College</td>
<td>South West</td>
</tr>
<tr>
<td>People Plus</td>
<td>East of England</td>
</tr>
</tbody>
</table>
CASE STUDY: Novus and NW prisons employment passport

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

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

- Developing essential functional skills (i.e. English, maths, ICT)
- Vocational training qualifications (e.g. bricklaying, painting and decorating, fitted interiors, site joinery, bench joinery, plastering, dry lining, wall and floor tiling, groundwork)
- Support with developing key employability skills and knowledge that ensure they are ‘work ready’
- Suitable candidates can be introduced to employers via employment brokers

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

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

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

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

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

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

The way that education services are delivered in custody is being reformed under the Prison Education Framework (PEF) which will replace OLASS and give prison governors more control and responsibility for contracting the education and training provision within their prisons. Some prisons have already started to utilise this extra flexibility to deliver bespoke interventions, equipping prisoners near to release with the relevant skills and ‘tickets’ that meet the local market demands.

These education reforms also include the introduction of a Dynamic Purchasing System (DPS), a digital framework agreement that will work separately from the PEF, providing a route for prisons to commission smaller and more bespoke education services. The DPS will provide a great opportunity to get more local or third sector training providers working in partnership with the prisons, using innovation to address local employer’s recruitment needs.

To learn more about DPS, register on Bravo or email Prison_Education@justice.gov.uk.
Mainstream Group working in partnership with Kent prisons

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

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

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

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

With the full support of the prisons, Mainstream’s Kent-based training facility demonstrated a 90% success rate of individuals trained and placed into permanent employment in the first six months.
Bounce Back and Landsec: corporate and voluntary sector innovation in prison training and education

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

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

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

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

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

What is ROTL?

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

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

Managing ROTL

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

ROTL top tips

• The employer should provide the prison with a clear job description and person specification for the role or work with the prison to develop these. They should also detail what skills are required and work with the prison to look at what steps can be put in place to help applicants acquire these skills.
• A risk assessment will be carried out by the prison, with the final review and recommendation being carried out by the prison governor.
• Suitable ROTL applicants should be identified and/or approved by the prison and then referred for an initial meeting and/or interview with the employer at the prison.
• A review of the interview should be carried out by the interviewers and an update given to the prison as to the success of applicants.
• A disclosure statement should be provided to the employer by the ROTL applicant accepted onto the work placement.
• A reference for the ROTL applicants should be written by the Head of Resettlement at the prison.
• A site visit should be carried out by someone from the prison to confirm that it is suitable. This should include a risk assessment for public and prisoner safety.
• A separate risk assessment should be carried out by the employer on the ROTL applicant, in line with their own policies and procedures. They should assess the environment and role to be undertaken, the risk and relevance of the applicant’s criminal record and any support needs they may have. They should put any necessary safeguards in place.
• A professional boundaries agreement should be completed between the employer and the new ROTL member of staff. A sample agreement is contained in Appendix F.

• Details of the ROTL member of staff’s criminal record should only be shared with those who have a need to know. All information should be stored securely in compliance with data protection laws.

• The ROTL member of staff’s line manager should be responsible for any training and induction and supervision at the start of the placement.

• Risk assessments should be reviewed every few weeks for the ROTL member of staff by the employer.

• Where an incident of any type occurs, the risk assessment must be reviewed immediately by the employer.

• Once every couple of weeks the employer should speak to the designated person at the prison to talk through any issues, concerns and success. Visits to the placement are likely to be carried-out by prison staff from time-to-time.

• Any serious concerns need to be raised immediately by the employer (depending on the nature and severity) with the ROTL member of staff, with the potential for the placement to end with immediate effect.

• In addition, the prison should be informed of the serious concerns and the outcome that is desired by the employer.

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

Appendix H contains a Model MoU for an unpaid ROTL placement.

To find out more about ROTL, contact the head of employment, training and skills at your local prison.
Tideway – developing effective ROTL programmes

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

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

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

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

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

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

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

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

A short film about Release Potential can be viewed here.
ROTLCASE STUDY: Be Onsite

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

When Be Onsite started operating 10 years ago, its first paid employee was a serving female prisoner. The job on offer was as a trainee dry liner on a Lendlease site in central London. Their employee travelled from HMP East Sutton Park in Kent to central London every day working from 8am-5pm in a role that would traditionally be associated with men. She went on to gain formal qualifications and maintained her job upon her release from custody. This was not only the beginning of her journey, but that of Be Onsite’s too. They have since successfully employed and supported more than 100 people with criminal backgrounds to turn their lives around.

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

You can register your interest to work with prisons here.
Useful contacts

Mind the Gap partners

**Nacro Employer Advice Service**
First Floor, 46 Loman Street, London SE1 0EH
Tel: 0845 600 3194
Email: employeradvice@nacro.org.uk
www.nacro.org.uk

**Mind the Gap consultant**
Dominic Headley
Mobile: 07739 814 199
Email: dominic@dominicheadleyassociates.co.uk

**Be Onsite**
20 Triton Street, Regent's Place London NW1 3BF
Email: info@beonsite.org.uk
www.beonsite.org.uk

**Mind the Gap project manager**
Heather Ronan
Mobile: 07885 966 989
Email: Heather.Ronan@lendlease.com

**Bounce Back Foundation**
Pop Brixton, Unit L05, 49 Brixton Station Road, London SW9 8PQ
Tel: 020 7735 1256
Email: info@bouncebackproject.com
www.bouncebackproject.com

**Mind the Gap lead**
Timothy Wilson
Email: tim@bouncebackproject.com

**A Fairer Chance**
Unit 81 Millmead Business Centre, Second Floor, Millmead Rd N17 9QU
Tel: 020 8616 8860
Email: maggie@afairerchance.co.uk
www.afairerchance.com

**Mitie Foundation**
Level 12, The Shard, 32 London Bridge Street, London SE1 9SG, UK
Tel: 0203 123 8700
Email: foundation@mitie.com.
www.mitiefoundation.com
Other useful contacts

**Blue Sky** (a part of The Forward Trust)
An award-winning charity that employs and trains ex-offenders. They offer a value-added alternative to mainstream labour agencies, operating in a growing range of sectors. They source highly-committed employees who are all ex-offenders, offering life-changing opportunities through real paid jobs.

Tel: 01895 839 848  
Email: John.Chesters@blueskydevelopment.co.uk  
www.blueskydevelopment.co.uk

**Business in the Community**
137 Shepherdess Walk, London N1 7RQ  
Tel: 020 7566 6611  
Email: banthebox@bitc.org.uk  
www.bitc.org.uk

**Chance 2013**
A national employment agency exclusively for people with convictions, specialising in the construction and civil engineering sectors supplying staff at all levels. All their candidates are fully motivated and ready for work.

Tel: 01584 823661  
www.chance2013.co.uk

**Clean Sheet**
A charity that supports former prisoners into real, sustainable employment. The Clean Sheet Employers Directory comprises more than 125 national employers that consider work-ready members for roles based on their merit, skills and experience.

Tel: 0300 123 3045  
Email: info@cleansheet.org.uk  
Website: http://cleansheet.org.uk

**Disclosure and Barring Service (DBS)**
For customer services  
PO Box 3961, Wootton Bassett SN4 4HF  
Tel: 03000 200 190  
Email: customerservices@dbs.gsi.gov.uk

**Employers Forum for Reducing Reoffending (EFFRR)**
An independent, business-led organisation, that pairs businesses considering employing ex-offenders with those who already do so. It is a collective of local and national employers that provide training and employment opportunities for offenders, including Amey, Cisco, DHL, Greggs, Halfords, Landsec, Lendlease, Mitie, Recycling Lives, Sodexo, Timpsons, Willmott Dixon, and many more. To join EFFRR or to find out more:

Email: effrr@apm-uk.co.uk  
https://apm-uk.co.uk/partners/employers-forum-for-reducing-re-offending
Information Commissioner's Office (ICO)
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
Tel: 0303 123 1113
Email: casework@ico.org.uk
www.ico.org.uk

Jobcentre Plus
Email: employer.advice@dwp.gsi.gov.uk (Ref: Mind the Gap)

Minstrell Recruitment Ltd
Specialises in the provision of construction specific health and safety training as well as being a leading supplier of blue and white collar resource across the construction industry. The organisation’s reputation for excellence has been earned through its passion for detail, experience and honesty, its key motivation is a focus on employing local labour to their client base through a non-judgmental screening model.
Tel: 0333 023 0056
www.minstrellrecruitment.com

Offploy CIC
Offploy CIC is a social enterprise operating nationally that supports businesses recruit and retain people with convictions.
Tel: 0113 457 5202
Email: hello@offploy.org
www.offploy.org

Prosper 4 Group
Prosper 4 Group is a specialist agency that provides jobs specifically for ex-offenders, and prisoners on ROTL. They provide a Digital Jobs Board for forward thinking employers looking to provide job opportunities for people with convictions.
Tel: 020 3021 4780
Website: https://www.prosper4jobs.co.uk/

Tempus Novo
Tempus Novo is an award-winning charity operating in Yorkshire that brokers fulltime paid employment for people with convictions. Their core values are that they are bespoke, personal and sustainable.
Email: admin@tempusnovo.org
www.tempusnovo.org

The Exceptionals
The Exceptionals is a campaign to inspire more employers to hire people with convictions. Its award-winning online portal - www.theexceptionals.org - helps employers understand the potential people with convictions have to offer and how to best to manage the hiring process. The portal includes a useful directory of forward-thinking organisations working in the criminal justice sector that can help connect employers with the right candidates for their roles.
Email: info@theexceptionals.org
www.theexceptionals.org
Appendix A

The Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 (ROA) enables certain convictions to become ‘spent’ (or legally ignored) after a ‘rehabilitation period’. After this period, a person with a ‘spent’ conviction is not required to declare it when applying for most jobs, unless the role is ‘exempt’ from the Act.

The tables below detail the rehabilitation periods of the more common sentences. For custodial and community sentences the rehabilitation period includes an additional ‘buffer period’ that runs from the end of the sentence. This ‘buffer period’ is determined by the length of total sentence imposed.

Rehabilitation periods for custodial sentences and community sentences (with buffer period)

<table>
<thead>
<tr>
<th>Sentence/disposal</th>
<th>Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period</th>
<th>Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community order or youth rehabilitation order</td>
<td>1 year</td>
<td>6 months</td>
</tr>
<tr>
<td>Imprisonment or detention in a young offender institution for 6 months or less</td>
<td>2 years</td>
<td>18 months</td>
</tr>
<tr>
<td>Imprisonment or detention in a young offender institution for over 6 months and up to and including 30 months (2½ years)</td>
<td>4 years</td>
<td>2 years</td>
</tr>
<tr>
<td>Imprisonment or detention in a young offender institution for over 30 months (2½ years) and up to 48 months (4 years)</td>
<td>7 years</td>
<td>3½ years</td>
</tr>
<tr>
<td>Imprisonment or detention in a young offender institution for over 48 months (4 years) or a public protection sentence</td>
<td>Never ‘spent’</td>
<td>Never ‘spent’</td>
</tr>
</tbody>
</table>
**Examples of ‘spent’ periods for custodial sentences:**

- John receives a three-month custodial sentence as an adult (he is aged 18 or over when convicted). His sentence may become ‘spent’ after two years and three months: the rehabilitation period is the total sentence of three months (including the licence period) and the additional ‘buffer period’ of two years as he received a total sentence of six months or less.

- Examples of ‘spent’ periods for community sentences:

- Michelle receives a one-year youth rehabilitation order (she is under 18 when convicted). Her sentence may become ‘spent’ after 18 months: the rehabilitation period is the total length of the order (one year or 12 months) plus the additional buffer period of six months.

**Rehabilitation periods for sentences which start from the date of conviction (with no buffer period)**

<table>
<thead>
<tr>
<th>Sentence/disposal</th>
<th>Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered)</th>
<th>Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Simple caution/youth caution*</td>
<td>‘Spent’ immediately</td>
<td>‘Spent’ immediately</td>
</tr>
<tr>
<td>Conditional caution/ youth conditional caution</td>
<td>3 months or when caution ceases to have effect if earlier</td>
<td>3 months or when caution ceases to have effect if earlier</td>
</tr>
<tr>
<td>Absolute discharge</td>
<td>‘Spent’ immediately</td>
<td>‘Spent’ immediately</td>
</tr>
<tr>
<td>Reparation order</td>
<td>‘Spent’ immediately</td>
<td>‘Spent’ immediately</td>
</tr>
<tr>
<td>Bind over</td>
<td>At the end of the order</td>
<td>At the end of the order</td>
</tr>
<tr>
<td>Conditional discharge order</td>
<td>At the end of the order</td>
<td>At the end of the order</td>
</tr>
<tr>
<td>Fine</td>
<td>1 year</td>
<td>6 months</td>
</tr>
<tr>
<td>Compensation order</td>
<td>When paid in full</td>
<td>When paid in full</td>
</tr>
<tr>
<td>Hospital order (with or without restriction)</td>
<td>At the end of the order</td>
<td>At the end of the order</td>
</tr>
<tr>
<td>Referral order</td>
<td>At the end of the order</td>
<td>At the end of the order</td>
</tr>
<tr>
<td>Relevant order</td>
<td>When the order ceases to have effect</td>
<td>When the order ceases to have effect</td>
</tr>
<tr>
<td>Endorsements *</td>
<td>5 years</td>
<td>2½ years</td>
</tr>
</tbody>
</table>

Comprehensive guidance on the ROA and other rehabilitation periods can be found on the Nacro website. For further advice, support or training on the ROA, contact Employer Advice Service Tel: 0845 600 3194 or Email: employeradvice@nacro.org.uk
Appendix B

Disclosure and Barring Service (DBS) filtering guide

What are the filtering rules?

For adults

An adult conviction will be removed from a DBS certificate only if:

(i) 11 years have elapsed since the date of conviction
(ii) It is the person's only conviction
(iii) Conviction did not result in a custodial or suspended sentence
(iv) Conviction does not appear on the list of specified offences

An adult caution will be removed after six years have elapsed since the date of the caution and if it does not appear on the list of specified offences. There is no limit to the number of cautions that can be filtered.

For juveniles

A juvenile conviction will be removed from a DBS certificate only if:

(iii) Five and a half years have elapsed since the date of conviction
(iv) It is the person's only conviction
(v) Conviction did not result in a custodial or suspended sentence
(vi) Conviction does not appear on the list of specified offences

A youth caution, reprimand or final warning will be removed after two years have elapsed since the date of the caution and if it does not appear on the list of specified offences. There is no limit to amount of cautions, reprimands or final warnings that can be filtered.

Key considerations for employers

- It is unlawful to carry out a standard or enhanced DBS check for a role which is not 'exempt' from the ROA, and therefore not eligible for a DBS check
- It is unlawful to require an applicant to disclose a ‘protected’ conviction, caution, reprimand or final warning, which would be filtered off a DBS check
- It is unlawful to require an applicant or existing employee to carry out an ‘enforced subject access request,’ i.e. provide a copy of their Police National Computer (PNC) record from the police
- Applicants are not legally required to disclose fixed penalty notices (FPNs), penalty notices for disorder (PNDs) or other disposals that are not convictions, cautions, reprimands or final warning
- Applicants are not legally required to disclose allegations, arrests or not guilty verdicts
Filtering process flowchart

Do you know what is in your criminal record?

Yes

Do you have any cautions, reprimands or final warnings?

No

Do you have any convictions?

No

No disclosure required

Yes

Obtain subject access request from local police force

Do you have any cautions, reprimands or final warnings that are on DBS list of specified offences?

Yes

Offences will never be filtered

No

Under 18s: Cautions, reprimands, or final warnings will be filtered after 2 years if under 18 when disposal received

Over 18s: Conviction will be eligible for filtering after 6 years if over 18 when convicted

No

Do you have more than one conviction (including more than one count/conviction in the same court hearing/proceedings?)

Yes

All convictions must be disclosed and will never be filtered

No

Did conviction result in suspended or custodial sentence?

Yes

Conviction must be disclosed and will never be filtered

No

Does the conviction appear on DBS list of specified offences?

Under 18s: Conviction will be eligible for filtering after 5½ years if under 18 when convicted

Over 18s: Conviction will be eligible for filtering after 11 years if over 18 when convicted

Comprehensive guidance on filtering can be downloaded here.
Appendix C

Criminal record declaration form for jobs covered by the ROA

This form must be completed by all applicants. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

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

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

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

It is important that applicants understand that failure to disclose all unspent convictions could result in disciplinary proceedings or dismissal. Further advice and guidance on disclosing a criminal record can be obtained from Nacro.

To access an editable copy of Appendix C, go to www.nacro.org.uk/mindthegap
# Criminal record declaration form

<table>
<thead>
<tr>
<th>Surname:</th>
<th>Forename:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This post is not exempt from the Rehabilitation of Offenders Act 1974. We only ask applicants to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974. If you are not sure whether your convictions are spent, please contact Nacro for further advice.

Do you have any unspent convictions?  

- Yes [ ]  
- No [x]  

If you have answered yes, you now have **two** options on how to disclose your criminal record.

**Option 1:** Please provide details of your criminal record in the space below.

**Option 2:** You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked **CONFIDENTIAL** and state your name and the details of the post you are applying for.

I have attached details of my conviction separately [ ]  

(Please mark with an X if appropriate.)

---

**DECLARATION**

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at [insert name of organisation].

Signed:  

Date:  

---

Please return this form to: [insert name of approved HR representative]
Appendix D

Criminal record declaration form for jobs exempt from the ROA

This form must be completed by all applicants. The information disclosed on this form will not be kept with your application form during the application process.

Policy statement on recruiting applicants with criminal records

This post is exempt from the Rehabilitation of Offenders Act 1974 and therefore applicants are required to declare any cautions, convictions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

For further information on filtering please refer to Nacro guidance and the DBS website.

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

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

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

It is important that applicants understand that failure to disclose all cautions, convictions, reprimands or final warnings that are not protected could result in disciplinary proceedings or dismissal. Further advice and guidance on disclosing a criminal record can be obtained from Nacro.

To access an editable copy of Appendix D, go to www.nacro.org.uk/mindthegap
Criminal record declaration form (exempt positions)

<table>
<thead>
<tr>
<th>Surname:</th>
<th>Forename:</th>
</tr>
</thead>
</table>

Do you have any cautions, convictions, reprimands or final warnings which are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)?

Yes ☐ No ☐

If you have answered yes, you now have **two** options on how to disclose your criminal record.

**Option 1:** Please provide details of your criminal record in the space below.

```

```

**Option 2:** You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked **CONFIDENTIAL** and state your name and the details of the post.

I have attached details of my conviction separately ____ (Please mark with an X if appropriate.)

**DECLARATION**

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at [insert name of organisation]

Signed: ___________________ Date: ___________________

Please return this form to: [insert name of approved HR representative]
**Appendix E**

**Criminal record check risk assessment form**

This form is to be completed and used for the following purposes:

1. When a successful candidate has been offered a role.

2. When an existing employee has transferred to a role that requires a disclosure.
   - Where required, the risk assessment needs to be completed before candidates can commence employment.
   - If further action is necessary, this should be agreed between the relevant member of the HR team and the line manager.
   - Once completed this form should be signed by both the relevant member of the HR team and the line manager and sent to the HR department to be stored on file.
   - A review of the risk assessment should be carried out whenever a risk is presented. **To be completed by the relevant member of the HR team and the line manager**

Please complete in full:

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes/No/NA</th>
<th>Give detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the applicant declared any criminal convictions, cautions, reprimands, final warnings or bindovers in the UK or any other country, or are they under police investigation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are offence(s) relevant to the employee's position?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single offence, or have there been other offences?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of applicant:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post applied for/current post:</td>
</tr>
<tr>
<td>Level of disclosure required:</td>
</tr>
<tr>
<td>Directorate:</td>
</tr>
<tr>
<td>Date of assessment:</td>
</tr>
<tr>
<td>Name of assessor one (HR team):</td>
</tr>
<tr>
<td>Name of assessor two (line manager):</td>
</tr>
<tr>
<td>Nature of conviction(s) and other information</td>
</tr>
<tr>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>(Continue on separate sheet if necessary)</td>
</tr>
<tr>
<td>Offence:</td>
</tr>
<tr>
<td>Date of conviction:</td>
</tr>
<tr>
<td>Sentence:</td>
</tr>
<tr>
<td>Offence:</td>
</tr>
<tr>
<td>Date of conviction:</td>
</tr>
<tr>
<td>Sentence:</td>
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<td>Date of conviction:</td>
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<td>Sentence:</td>
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<tr>
<td>Offence:</td>
</tr>
<tr>
<td>Date of conviction:</td>
</tr>
<tr>
<td>Sentence:</td>
</tr>
<tr>
<td>Seriousness of offence(s)</td>
</tr>
<tr>
<td>Does the employee have a pattern of offending or other relevant behaviour?</td>
</tr>
<tr>
<td>Age at time of offence(s)</td>
</tr>
<tr>
<td>Length of time since conviction(s)</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>What were the circumstances surrounding the offence(s)?</td>
</tr>
<tr>
<td>Attitude to the offence(s)</td>
</tr>
<tr>
<td>Efforts made to not reoffend</td>
</tr>
<tr>
<td>Is the applicant taking part in a specific remedial/action programme?</td>
</tr>
<tr>
<td>Have the individual's circumstances changed since the offence(s)? If so, how?</td>
</tr>
<tr>
<td>Does the nature of the job present any opportunities for the post holder to re-offend in the place of work?</td>
</tr>
<tr>
<td>Question</td>
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<tr>
<td>-------------------------------------------------------------------------</td>
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<tr>
<td>Does the post involve direct contact with the public?</td>
</tr>
<tr>
<td>What level of supervision does the post holder receive?</td>
</tr>
<tr>
<td>Does the position involve direct responsibility for finance or items of value?</td>
</tr>
<tr>
<td>Does the position involve a significant level of trust?</td>
</tr>
<tr>
<td>Were suitable references obtained and ID checked?</td>
</tr>
<tr>
<td>Are they any potential risks to the reputation of the organisation?</td>
</tr>
</tbody>
</table>

Enter below any further questions you may feel relevant to the post in respect of criminal convictions if necessary

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

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

1.                                                                 |
2.                                                                 |
3.                                                                 |
Declaration by HR Team and Relevant Manager. (Tick as appropriate)

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

Detail action to be taken below

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

*Delete as appropriate

HR Team

Signed __________________________
Print name __________________________
Date __________________________

Relevant Manager

Signed __________________________
Print name __________________________
Date __________________________
Appendix F

Sample ROTL placements professional boundaries

**Mobile phones**
It is important to follow Nacro’s code of conduct and abide by the customs and practice of Head Office, which do not allow for personal calls to be taken during work hours.

If you need to take a personal call during work hours, then permission will need to be obtained in advance of any call made or received from your line manager.

Any call made (or attempted to be made) to, or received from, a serving prisoner will result in immediate termination of your placement.

**Internet usage**
It is important to follow Nacro’s Internet usage policy, the code of conduct and the customs and practice of Head Office which do not allow for the Internet to be used for personal use. You are only allowed to use the Internet to search websites sites that are necessary for the purpose of Nacro business.

If you need to search a website for any reasons other than to conduct Nacro business, then permission will need to be obtained in advance from your line manager.

**Lunchtime travel**
Nacro will only pay for necessary travel directly from and to [insert prison]. Under no circumstances will Nacro authorise, or incur the costs of, any other travel on the Oyster card or travel card provided necessary for your travel to or from the prison.

**Money**
Nacro will provide [insert amount] towards the cost of your lunch expenses, upon production of a receipt for food and drink items purchased. If you have reason to carry upwards of £20 on your person, we require permission/confirmation in writing from the prison that this has been authorised.

**Conducting personal affairs**
It is important to be professional at all times and as such abide by the customs and practice of Head Office which do not allow for any personal affairs to be conducted during work hours.

If you need to deal with a personal matter during work hours, then permission will need to be obtained in advance from your line manager who will consider your request on a case by case basis.

**Be accountable**
If you are facing any problems or difficulties, whether personal or work-related, tell your line manager so that they can help and support you appropriately. If you are ever unsure of what to do, ask.

**General professional boundaries**
The following situations are never appropriate while working/volunteering with Nacro. These are set out in Nacro’s Safer Working policy:

- Drinking alcohol or using drugs
- Any illegal activity/or colluding with any activity with a service user
- Having any form of sexual relationship with a service user
• Arranging meetings with service users outside of agreed working hours
• Accepting money or gifts from a service user
• Lending money to service users
• Giving a service user a lift home
• Purchase goods or services from service users, their families or friends
• Telling a service user your address or telephone number
• Promising to keep any information they disclose as a secret
• Arranging to meet a service user (or other person) outside of work hours
• Physical contact, unless for the purpose of professional assistance such as with a service user’s self-care/first aid if you are trained and authorised to do so
• Talking about a service user/member of staff in a public space where the conversation can be overheard
• Talking about a service user’s private business in front of other service users, including other prisoners
• Giving out any information over the telephone about service users, without their consent
• Storing data on a service user in an unlocked drawer
• Taking responsibility for a service user’s personal property.

These boundaries are in place to keep you safe, to keep our service users safe and to maintain a professional working environment. Failure to abide these boundaries may lead to termination of your placement.

Signed by: __________________________ Date: __________________________

PRINT NAME:________________________________________________________________________

Signed by: __________________________ Date: __________________________

(For and on behalf of Nacro)

PRINT NAME:________________________________________________________________________
Appendix G

Model Memorandum of Understanding – paid placement

This model placement Memorandum of Understanding is designed to cover situations in which an offender undertakes any paid external placement

MEMORANDUM OF UNDERSTANDING
(PAID EXTERNAL PLACEMENT)

INTRODUCTION
1. The purpose of this Memorandum of Understanding is to ensure that all those who are party to it (the Offender, the Employer and the Establishment) are aware of the arrangements under which the placement will take place.

2. Nothing in this memorandum should be taken to prevent the employer entering into a written contract of employment with the offender in preparation for their release.

THE OFFENDER
3. [Name of offender] is reminded that:
   i. As a serving offender, he/she will be subject to Prison Rules throughout the duration of the placement. Payments for work will, if above the specified threshold, be subject to a levy under the Prisoners’ Earnings Act 1996. For further details, please see PSI 76/2011.

   ii. He/she will be released on Resettlement Day Release (RDR) to undertake the placement. The RDR licence will specify the time, location and purpose of the release. The terms of the RDR licence may be varied only on the authority of the governor.

   iii. A copy of the RDR licence will be given to the employer by the establishment at the start of the placement.

   iv. He/she must comply fully with the terms of the RDR licence and that any breach of the terms of the licence may lead to disciplinary action and the cancellation of the placement.

   v. He/she must comply fully with the reasonable instructions of the employer (and any of the employer’s employees who have responsibility for him/her), particularly in relation to timekeeping, performance and general conduct.

   vi. He/She must identify to the Establishment the bank account into which the payments for their work will be made at least [xx] days in advance of their employment beginning or, if the work begins within [same xx] or fewer days of the offender obtaining the position, as soon as possible. Failure to do so will mean that payments are delayed.
vii. Failure to provide personal bank account details will result in the offender not being permitted to undertake a paid work placement.

4. [Name of offender] agrees to the disclosure of previous convictions, that is not prohibited by the Rehabilitation of Offenders Act, to specified persons within [name of employer] for use solely by [name of employer] in the management of the placement, including checks on [name of offender] behaviour by persons authorised to act on behalf of [name of establishment]. (See paragraphs 5vii and 9iv, below).

THE EMPLOYER

5. [Name of employer] is reminded that:

i. They will ensure that the placement complies with all relevant health and safety and equal opportunities legislation and will make available certificates of insurance and certificates relating to safe working practices for inspection by [name of establishment].

ii. They will be clear about the range of work activities entailed in the placement, and engage with us about any proposed changes to those activities before they occur.

iii. They will monitor the timekeeping, performance and general conduct of [name of offender] and provide [name of establishment] with reports at intervals of [number of weeks] or as required.

iv. They will facilitate a programme of checks by staff from [name of establishment] to check on [name of offender]'s adherence to the terms and conditions of their temporary. These will be of four types:
   - Visit
   - Telephone (at least one per month)
   - Risk based (insert relevant frequency from Risk below)
   - Request of employer

v. The offender will be assessed to ascertain check requirement levels as defined below:

   **Standard ROTL** – the minimum requirement for spot checks for STANDARD ROTL cases is that there must be visits in 10% of cases per week.

   **Restricted ROTL** – the minimum requirements for spot checks for RESTRICTED ROTL cases are that there must be a telephone check in 50% of cases per week and visits in 20% of cases per week.

iv. They will participate in meetings (on a timescale to be agreed with [name of establishment]) to review the progress of the placement.

vi. In the event of any breach or suspected breach of the terms of his/her RDR licence by [name of offender] or any breach of the Employer’s own rules governing the conduct of its employees, [name of employer] will inform [name of establishment] immediately.
vi. They will not ask [name of offender] to do or not to do anything which might constitute a breach of any condition(s) of his/her RDR licence.

vii. They must not divulge to a third party any information about [name of offender], and must immediately report any approaches from a third party. They must comply in all respects with the provisions of the Data Protection Act 1998 and the two organisations will agree in writing the names/positions of [name of employer]'s staff who will have access to confidential information about [name of offender] who must in turn have a copy of these details. (See paragraphs 4 and 9iv).

6. [Name of employer] certifies that serving offenders do not constitute a majority of its workforce and that its business is not dependent on offender labour.

7. The amount of remuneration agreed between the governor and [the employer] is [insert amount per hour].

8. When setting the rate it is critical that due consideration is afforded to the risk of the perception of under cutting the local workforce. Accordingly, there is an explicit expectation that the level of remuneration is no lower than the level which a member of the public would be expected to receive for the same task. Where a wage lower than the National Minimum Wage is considered appropriate in the initial stages of a placement, there should be a clear path towards paying the National Minimum Wage by the three month point of any placement or, if appropriate, at an earlier stage.

9. Where the employer is providing meals or transport or other expenses which an employee would normally be expected to fund themselves, the employer may make appropriate deductions for these costs where these costs are agreed with both the prison and the offender.

10. [Name of employer] further confirms that gross pay less the deductions which they make, such as income tax and National Insurance, to [name of offender] will be made into NOMS Bank Account, details of which are set out below:

   BACS PAYMENTS
   Sort code                 08-33-00
   Account Number    12307588
   Account Name        GBS Re NOMS Agency

   CHEQUE AND CASH PAYMENTS
   Bank Name           Natwest
   Account Number: 10002383
   Sort code  60-70-80
   Account Name       GBS Re NOMS Agency

   Payments must not be made direct to the offender

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

   Name of employee (offender)
   Prison number (if available)
   Name of Employer
12. [Name of employer] will provide pay advice direct to the offender

THE ESTABLISHMENT

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

i. Agree with the host organisation the criteria of offender with regards to current and previous offences. Due consideration must be given to the suitability of engagement in the activity, e.g. sector, interface either directly or indirectly with children or other vulnerable groups etc.

ii. Risk assess [name of offender] in relation to the nature of the placement before RDR can be approved.

iii. Assess the potential risks and public acceptability of the work activity itself, and consider appropriate controls if placements are judged appropriate.

iv. Monitor [name of offender] compliance with the terms and objectives of his/her RDR licence by means of site visits and telephone checks.

v. Inform [name of employer] if [name of offender]'s RDR licence is suspended or withdrawn. This information will be provided as soon as possible and, in the case of a suspension, information on the reinstatement of the RDR licence will be supplied.

vi. Provide information on [name of offender]'s criminal record to [name of employers] in confidence. (See paragraphs 4 and 5 vii, above).

(Points vii to x are applicable to Public Sector Prisons only)

vii. Provide the following information to the Shared Services:

- Offender name
- Offender number
- Offender release date
- Establishment
- Employer
- Value of payment to offender (net of PAYE)
- Frequency – weekly/monthly
- Date paid
- Period worked

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

ix. Ensure deduction statements prepared by the Shared Services are issued to offenders.

x. Act as an intermediary between offender/employer and the Shared Services.
GENERAL

14. [Name of offender] will commence his/her placement at [ ] on [date].

15. His/her hours of attendance will be [ ].

16. His/her supervisor will be [ ].

17. His/her main duties will be [ ], and he/she will receive appropriate training before undertaking these tasks.

18. No special clothing/equipment will be required/the following special clothing/equipment will be required. [Identify whether special clothing/equipment will be provided by the placement organisation, the establishment or the offender].

19. In the event of a dispute about the terms of this Memorandum of Understanding, any resolution or variation of the terms must involve all those who are party to it.

20. The placement defined by this Memorandum of Understanding may be terminated at any time by anyone who is a party to it.

21. For the avoidance of doubt, nothing in this Memorandum of Understanding shall create or shall be deemed to create a contract of service, a contract of services or a partnership between any of the parties hereto, nor any rights or obligations that are legally enforceable.

CONTACT POINTS

22. For the Establishment:
   [Name]
   [Position/Role]
   [Telephone number]
   [email address]

23. For the Employer:
   [Name]
   [Position/Role]
   [Telephone number]
   [email address]

SIGNATORIES TO THE AGREEMENT

24. For the Establishment:
   [Signature]
   [Name]
   [Position/Role]
   [Date]

25. For the Employer:
   [Signature]
26. Offender:
[Signature]
[Name]
[Date]
MEMORANDUM OF UNDERSTANDING
(UNPAID EXTERNAL PLACEMENT)

INTRODUCTION

1. The purpose of this Memorandum of Understanding is to ensure that all those who are party to it (the Offender, the Employer and the Establishment) are aware of the arrangements under which the placement will take place.

2. Nothing in this memorandum should be taken to prevent the employer entering into a written contract of employment with the offender in preparation for their release.

THE OFFENDER

3. [Name of offender] is reminded that:
   i. As a serving offender, he/she will be subject to Prison Rules throughout the duration of the placement.
   ii. He/she will be released on Resettlement Day Release (RDR) to undertake the placement. The RDR licence will specify the time, location and purpose of the release. The terms of the RDR licence may be varied only on the authority of the governor.
   iii. A copy of the RDR licence will be given to the employer by the establishment at the start of the placement.
   iv. He/she must comply fully with the terms of the RDR licence and that any breach of the terms of the licence may lead to disciplinary action and the cancellation of the placement.
   viii. He/she must comply fully with the reasonable instructions of the employer (and any of the employer’s employees who have responsibility for him/her), particularly in relation to timekeeping, performance and general conduct.

4. [Name of offender] agrees to the disclosure of previous convictions, that is not prohibited by the Rehabilitation of Offenders Act, to specified persons within [name of employer] for use solely by [name of employer] in the management of the placement, including checks on [name of offender] behaviour by persons authorised to act on behalf of [name of establishment]. (See paragraphs 5vii and 9iv, below).
THE EMPLOYER

5. [Name of employer] is reminded that:

i. They will ensure that the placement complies with all relevant health and safety and equal opportunities legislation and will make available certificates of insurance and certificates relating to safe working practices for inspection by [name of establishment].

ii. They will be clear about the range of work activities entailed in the placement, and engage with us about any proposed changes to those activities or the premise where they take place before they occur.

iii. They will monitor the timekeeping, performance and general conduct of [name of offender] and provide [name of establishment] with reports at intervals of [insert number of weeks] or as required.

iv. They will facilitate a programme of checks by staff from [name of establishment] to check on [name of offender]'s adherence to the terms and conditions of their temporary. These will be of four types:
   - Visit
   - Telephone (at least one per month)
   - Risk based (insert relevant frequency from Risk below)
   - Request of employer

v. The offender will be assessed to ascertain check requirement levels as defined below:

   **Standard ROTL** – the minimum requirement for spot checks for ALL STANDARD ROTL cases is that there must be visits in 10% of cases per week.

   **Restricted ROTL** – the minimum requirements for spot checks for ALL RESTRICTED ROTL cases are that there must be a telephone check in 50% of cases per week and visits in 20% of cases per week.

vi. They will participate in meetings (on a timescale to be agreed with [name of establishment]) to review the progress of the placement.

vi. In the event of any breach or suspected breach of the terms of his/her RDR licence by [name of offender] or any breach of the Employer’s own rules governing the conduct of its employees, [name of employer] will inform [name of establishment] immediately.

vi. They will not ask [name of offender] to do or not to do anything which might constitute a breach of any condition(s) of his/her RDR licence.

vii. They must not to divulge to a third party any information about [name of offender], and must immediately report any approaches from a third party. They must comply in all respects with the provisions of the Data Protection Act 1998 and the two organisations will agree in writing the names/positions of [name of employer]'s staff who will have access to confidential information about [name of offender].
of offender] who must in turn have a copy of these details. (See paragraphs 4 and 9iv).

6. [Name of employer] certifies that serving offenders do not constitute a majority of its workforce and that its business is not dependent on offender labour.

THE ESTABLISHMENT

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

vii. Agree with the host organisation the criteria of offender with regards to current and previous offences. Due consideration must be given to the suitability of engagement in the activity, e.g. sector, interface either directly or indirectly with children or other vulnerable groups etc.

viii. Risk assess [name of offender] in relation to the nature of the placement before RDR can be approved.

ix. Assess the potential risks and public acceptability of the work activity itself, and consider appropriate controls if placements are judged appropriate.

x. Monitor [name of offender]’s compliance with the terms and objectives of his/her RDR licence by means of site visits and telephone checks.

xi. Inform [name of employer] if [name of offender]’s RDR licence is suspended or withdrawn. This information will be provided as soon as possible and, in the case of a suspension, information on the reinstatement of the RDR licence will be supplied.

xii. Provide information on [name of offender] criminal record to [name of employers] in confidence. (See paragraphs 4 and 5 vii, above).

GENERAL

8. [Name of offender] will commence his/her placement at [insert location] on [date].

9. His/her hours of attendance will be [insert hours].

10. His/Her supervisor will be [insert name].

11. His/Her main duties will be [insert duties], and he/she will receive appropriate training before undertaking these tasks.

12. No special clothing/equipment will be required / the following special clothing/equipment will be required. [Identify whether special clothing/equipment will be provided by the placement organisation, the establishment or the offender].

13. In the event of a dispute about the terms of this Memorandum of Understanding, any resolution or variation of the terms must involve all those who are party to it.
14. The placement defined by this Memorandum of Understanding may be terminated at any time by anyone who is a party to it.

15. For the avoidance of doubt, nothing in this Memorandum of Understanding shall create or shall be deemed to create a contract of service, a contract of services or a partnership between any of the parties hereto, nor any rights or obligations that are legally enforceable.

CONTACT POINTS

16. For the Establishment:
   [Name]
   [Position/Role]
   [Telephone number]
   [email address]

17. For the Employer:
   [Name]
   [Position/Role]
   [Telephone number]
   [email address]

SIGNATORIES TO THE AGREEMENT

18. For the Establishment:
   [Signature]
   [Name]
   [Position/Role]
   [Date]

19. For the Employer:
   [Signature]
   [Name]
   [Position/Role]
   [Date]

20. Offender:
   [Signature]
   [Name]
   [Date]