

Hiring Someone with a Criminal Conviction - Frequently Asked Questions for Employers

This document is for employers who are considering hiring someone who has a criminal record and is designed to address any questions or concerns they may have. It has been prepared by Business in the Community Ireland's Linkage Programme. The Linkage Programme works with ex-offenders by helping them access appropriate training, education and ultimately employment. The Linkage Programme was established in 2000, initially as a six month pilot scheme, funded by the Probation Service under the National Development Plan. The success of the pilot saw The Linkage Programme become a joint project in September 2000 under the auspices of Business in the Community Ireland (BITCI) and the Probation Service with support from IBEC, the Small Firms Association and Irish Congress of Trade Unions. The Programme now employs 22 Training and Employment officers (TEOs) nationwide, and has placed almost three thousand clients in further training and education or employment.

1. Why should I employ a person who has broken the law?

Response

- There are a large number of highly skilled and motivated ex-offenders looking for employment. By focusing on previous criminal conduct, society deprives itself of the opportunity to enlist the talents, skills and energies of these individuals in whose development it has a vested interest. At the very least it is wasteful and inefficient for employers to discount such a significant pool of potential employees.
- High quality skills training is now provided in all Irish prisons.
- Employees who have a criminal record are often extremely appreciative of being given a second chance, and are usually very committed, hard working, and loyal workers.
- Some companies have found that the employment of ex-offenders has had a positive effect on their business leading to a highly motivated and dedicated workforce (IBEC).
- Diversity management: The benefits of a diverse workforce can be summarised as follows:
 - better staff morale
 - improved team effectiveness
 - recruitment and retention of skilled and dedicated staff and
 - it can help the company to understand and meet the diverse needs of the population

- Corporate Social Responsibility: Consensus is emerging among key policy groups that prevention seems to be more effective than prison sentences in reducing recidivism. Methods of prevention include addressing poverty and unemployment black spots, increasing probation, financial and community sanctions and measures, providing training in employment skills for offenders whilst in prison, and providing meaningful employment upon release. Being open to hiring suitably qualified candidates who have a criminal record provides an extremely valuable service to the community.
- Fairness: Given that there is no provision in Irish law currently on the expungement of sentences, all offences, regardless of the nature, severity or circumstances of the offence, remain on the offender's file, thus making it difficult for that person to obtain a job in a situation where companies have a blanket ban. This record could have arisen for example, from a minor public order conviction obtained whilst the person was a youth (SFA).

2. Can I trust the candidate:

- **Not to steal from my company?**
- **Not to upset / steal from my customers?**
- **Not to upset / steal from his colleagues?**
- **To be timely and regular in attending for work?**
- **To take instruction and supervision?**

Response

The employer will know more about the ex-offender's background than perhaps 99% of his/her entire workforce, and the ex-offender is aware the employer has this information. Of course, there is no guarantee but the chances of an ex-offender who has been given a second chance breaking the employer's trust is minimal.

The job candidate should go through the same vetting process as any other candidate, including the checking of references, and therefore his/her track record on punctuality and attendance, as well as ability to take instruction and to deal with authority can be verified.

3. How do I balance wanting to be fair and open-minded with any potential risk to my employees and customers?

Response

A bias-free common sense approach is necessary when considering hiring a person with a criminal conviction. Risk assessment involves comparing the applicant's skills, experience and

criminal circumstances against the risk criteria connected to the job. Assessment should include consideration of:

- The Employer's duties in law, particularly with regard to working with vulnerable clients
- The nature of the work sought.
- The nature of the offence – would the offence create unacceptable risks for other employees, clients etc?
- When it occurred – the time that has passed since the offence and/or completion of sentence.
- The circumstances involved – have the circumstances changed since?
- The efforts the candidate has made to avoid re-offending.
- Objective assessment of possible reactions of other employees, customers etc.
- Safeguards against personal prejudices that might cloud judgment and good practice (see question 6).
- The nature of the job – does it present any realistic opportunities for the applicant to re-offend?
- Factors which might decrease the perceived risk, including those already in existence, such as the level of supervision.

4. What information should I have about the ex-offender? How do I manage this sensitive information?

Response

- To encourage applicants to disclose convictions, an environment of trust must be created in which they understand how and why such information will be used.
- Employers should ensure that ex-offenders are included in all statements of equal opportunity and that those questions relating to convictions state that a criminal record will be seen in the context of the overall application.
- It is best practice to ask applicants about criminal convictions on a character inquiry form that is separate from the main application form. Ensure there is adequate space for the applicant to give details of the offence.
- It is important to remember that, unless this question is raised as part of the application process or at interview, there is no obligation on the candidate to divulge a conviction.
- Employers can ask for details about any conviction, such as whether it was work-related. These details should be sealed in an envelope marked private and confidential and attached to the main form.

- This should be opened only if an applicant is shortlisted. Otherwise, it should be returned unopened. If the person is hired, this confidential information should be stored separately from Personnel files.
- Access to criminal record information is on a need-to-know basis.
- Agree internal policy on access to disclosed information with senior management staff. Inform employee/applicant of this policy, including who in the company will know about the offence.

5. Should I not disclose this information to others in the spirit of open communications and trust with all staff?

Response

There is some debate about whether fellow staff members should be informed at the outset that a new employee is an ex-offender or not. The answer to this question is not so easily reached for the following reasons:

- It does support business transparency, but it could also lead to problems in the workplace, such as more pressure being put on the ex-offender to perform and, closer scrutiny of their work.
- It could also isolate the ex-offender and cause a strained work environment and working relationships.
- On the other hand, if colleagues are not told at the start and it is found out by accident, there could be worse consequences: ex-offenders may even resign as they feel that the relationship with staff members has broken down. Therefore, management and staff communications policies should be examined to guide the decision on which approach would be most suitable in the given circumstances of the case.
- As stated in question 4 above, it is considered best practice to treat criminal record information on a strict need-to-know basis. However, it is conceivable that in some companies, particularly small companies with close-knit teams, honesty would be the more suitable policy. ***If this is the decision, then the applicant should be fully informed of this at interview stage or when making a job offer.***

6. What recruitment methods should be used?

Response

Companies should be wary of having standard company-wide bans on the recruitment of ex-offenders as it might exclude people who are highly skilled and motivated and who may not even have an unacceptable level of risk attached to their employment. If you are considering taking applications from ex-offenders as part of your equal opportunities policy, it is important that the recruitment process is fair.

Employers should ensure that:

- All staff are trained in fair selection methods.
- A statement of non-discrimination or equal opportunity is given to all applicants who are asked about criminal convictions.
- It is standard practice that all applications are dealt with on their merits.
- The recruitment process is the same for all candidates, whether it is a job application or CV process.
- The completed application or CV becomes part of the personnel file of those applicants accepted for employment.

And also consider that:

- The employer may investigate any portion of the requested information and may deny or later terminate the employment of anyone giving false or incomplete information.
- If the offence is directly connected to the work sought, the application can reasonably be denied.
- If the offence is not directly connected to the work sought, it is reasonable to consider hiring.

7. If I do decide to hire someone with a criminal record, is there anything I should do to ease the new employee's transition into the work environment?

Response

To encourage the successful transition of an ex-offender into employment:

- Consideration needs to be given to developing senior management support. Their support is crucial: if an initiative is supported from the top, it will also be supported at the bottom. A strong business case can help to engage their support (see question 1).

- The employee can and should be treated like any other, and certainly won't want to be singled out for any special attention. However, it is important to be sensitive to the history of the employee, for example if he/she hasn't worked in a while, and a little patience may be beneficial for everyone.
- Many ex-offenders suffer from low self-esteem, and feel everyone is thinking the worst about them. It's important to treat the new employee just like everyone else, to create a friendly and positive environment, and to provide clear instruction and expectations.
- It might be a good idea to assign a 'buddy' to the newly-hired Linkage candidate for the first few days to help them learn the ropes and to ensure that they are not overwhelmed or isolated.

8. What should I do if I find out someone who is already working for me has a criminal record?

Response

For the job-seeking individual, the disclosure of a criminal record can often adversely affect results. Receiving negative responses when explaining the gap in employment history and constant rejection can cause low self-esteem, low morale, depression and, in some cases, recidivism. As a result, many ex-offenders do not disclose their conviction, unless asked directly during interview or in an application form.

The discovery after-the-fact that an employee is an ex-offender can cause anxiety, nervousness and concern amongst employers. This can lead to rash decision making upon discovery, no matter what the offence, or how it relates to the job. However, it is important to keep a sense of perspective. If employees are performing their duties as required and to the necessary standard, there are no grounds for dismissing them purely on the basis of a prior criminal conviction. If there are problems with the employee's performance, attendance, or conduct these should be dealt with through the disciplinary procedure, in a similar manner to any other employee.

The Linkage Programme:

1. What is the Linkage Programme? What does the Linkage Programme offer me?

Response

Managed by Business in the Community Ireland (BITCI), in partnership with the Probation Service and funded under the National Development Plan, The Linkage Programme offers a comprehensive Guidance and Placement Service to former offenders which includes professional Psychometric Assessment to ensure a meaningful & appropriate placement. The ethos of The Linkage Programme is founded on the premise that access to education, training and employment opportunities are central to reducing recidivism. Creating and maintaining the vital link between employers and former offenders is critical for their transition back into society. Having a stable working environment providing motivation, personal development and financial rewards has a major and pivotal role to play in the rehabilitation of former offenders. The Linkage Programme assigns a Training and Employment Officer (TEO) to work with each candidate referred by the Probation Service, who will carry out an assessment and then work closely with the candidate to prepare for training and/or employment placements.

For the employer, working with Linkage means:

- Recruitment needs are met at no cost to the employer
- Full support for both the employer and the employee if any questions or difficulties arise from the network of highly-qualified and experienced TEOs around the country.
- A reference from the TEO of his/her experience of working with the individual prior to any job application, on request.
- PR and media opportunities if desired, and networking opportunities with other companies hiring Linkage candidates.
- If interested, a tour of your nearest prison can be provided by the local TEO, including the training workshops, in order to gauge the level of expertise provided in prisons.

2. What is exceptional about Linkage clients?

Response

You can expect that a Linkage candidate will have been working for some time with a TEO in preparation for a return to work, including the following types of intervention and development:

- A holistic guidance process which allows candidates to identify their true aspirations
- Soft skills such as meeting commitments (appointments and action items), punctuality, communications skills, how to handle difficult questions about one's past when asked by colleagues, taking instruction, and many others
- Creation of a career and training plan, taking responsibility for and being pro-active in self-development
- Psychometric testing of applicants

Through several months of work with the TEO, the candidate has the opportunity to demonstrate that he/she is motivated, job ready, and eager to begin a new life. TEOs will not recommend a candidate for employment if they are not confident that he/she is ready. Note that sex offenders are not part of the Linkage Programme, but all other offenses are eligible.

3. If problems arise what support, if any, will I get?

Response

A highly skilled and dedicated team of 22 TEOs around the country provides support to both the employer and the employee before and during the placement.

For more information about the Linkage Programme, please contact Patti McCann, BITCI's Information Officer, at 086 609-5460, pmccann@bitc.ie, or check out the website www.bitc.ie.