

MIKE PITT, employment, company and commercial law specialist, of Oldham's Pearson Hinchliffe, looks at the legal, business and social issues involved in employing ex-offenders.

ONE in five Britons of working age has a criminal record. Getting a job is the single most important factor in helping these people to stay on the straight and narrow. But it is at least eight times harder for a person with a criminal record to obtain work. Evidence shows that, of all things to put an employer off, a criminal offence is the worst.

Of course, employers have a duty of care to their employees and customers and must protect their business interests. Risk management plays a particularly important role in organisations dealing with vulnerable customer and client groups. But the fact is that there are often strong business and social arguments – as well as legal reasons – why employers should face up to the challenge of offering work to people with criminal records.

Any conviction for a criminal offence can be regarded as spent under the Rehabilitation of Offenders Act 1974 if the offender completes his or her rehabilitation period without further convictions. The offender can then usually answer “no” when asked if he or she has a criminal record, although certain occupations are excepted and custodial sentences of more than two and a half years are never considered spent.

The Police Act 1997, while supporting the protection given under the Rehabilitation of Offenders Act, enables criminal-record checks. Employers who register with the Criminal Records Bureau can ask job applicants to apply for one of three categories of disclosure (they vary in the amount of detail provided), depending on the type of job the person is applying for.

I advise employers to encourage applicants to be honest by stating that applications will be considered on merit and ability. Advise job applicants to submit information about their criminal past separately from the usual application form, and to a named employee. Assure the applicant that only people who need to know the information will be allowed access to it.

Employers should consider the nature of any conviction and its relevance to the job being advertised. A publican may, for example, trust a convicted fraudster to clear tables, but not to work behind the bar. Employers should examine the circumstances leading to the applicant's offence, and take into consideration the length of time since he or she broke the law. The amount of supervision available on the job may also be a factor.

Moreover, employers should recognise that having a criminal record does not always mean having no job skills or qualifications. Indeed, some offenders may have up-to-date vocational skills gained during prison training schemes.

In research by the Chartered Institute of Personnel and Development, only eight of the 144 personnel officers who knowingly employed former offenders reported cases of re-offending. Two-thirds of the human-resource specialists claimed to have a positive experience of employing ex-criminals. And in almost half of the organisations, the ex-offenders stayed for more than three years.

In other words, when former criminals are offered a job they often turn out to be loyal, reliable and hard-working employees.