

# Change the Record

## Nacro's campaign report

### Foreword



Nacro's Change the Record campaign, which calls for reform of the *Rehabilitation of Offenders Act 1974*, is a welcome initiative which could bring about a more positive and practical attitude towards the rehabilitation of offenders. The campaign also highlights the excessive use of Criminal Records Bureau checks.

I am one of many ex-offenders grateful for the passing of the *Rehabilitation of Offenders Act* in 1974. This legislation was designed to help people with a criminal record get back into work. It established the principle of 'spent' convictions, giving certain categories of ex-offenders the right not to disclose their offence to employers after periods of time ranging between five and ten years.

But after 36 years, the *Rehabilitation of Offenders Act 1974* is in need of reform because its limitations make it out of date and ineffective. In an age of ever lengthening sentences it is wrong for our law to restrict the right to not disclose a criminal record after a certain period of time to those who have served 30 months or less in prison. The rehabilitation periods are also too onerous. So amendments to the Act are overdue.

In 2003, a Home Office review recommended a revised Act which would allow a much wider range of convictions to become spent after shorter 'buffer' periods. If these reforms were implemented many thousands of law-abiding ex-offenders would be helped to get back into work, thus reducing the reoffending rate.

Linked to the reform of the Act is the need to reform our system of CRB checks. Nacro of course supports the principle that vulnerable old people and children need to be protected. But the legal

machinery implementing this principle has grown into a bureaucratic monster which has issued 19 million CRB disclosure certificates in the past eight years.

Over 11% of these CRB checks are unlawful under the Act, yet there is no protection for individuals with spent offences who are refused employment or dismissed from their jobs. So when the *Rehabilitation of Offenders Act* is reviewed, the list of exceptions to the Act (by which many CRB checks are justified) needs to be tightened and clarified. There must also be legal protection for all those whose spent offences are wrongly disclosed.

These reforms are not just matters of interest to specialists in criminal justice. In today's Britain, a quarter of the population of working age has a conviction.

Nacro's campaign to strike the right balance between rehabilitation and protection is important and right. I wholeheartedly support it.

**Jonathan Aitken** 13 September 2010

### Contents

#### **Why the *Rehabilitation of Offenders Act* must be reformed 2-5**

The current position 2 Why the Act needs reforming now 3 The benefits of getting ex-offenders into work 4 The cost of not acting 5 What Nacro wants 5

#### **CRB checks: the need for reform 6-9**

A necessary safety net 6 Why CRB checks must be reformed now 7 Volunteering and the big society 8 What Nacro wants 9

#### **Employers: the benefits of reform 10-11**

Untapped resources 10 What Nacro wants 11

#### **Nacro's recommendations 12**

Visit the campaign website at [www.changetherecord.org](http://www.changetherecord.org)

# Why the Rehabilitation of Offenders Act must be reformed

## The current position

The *Rehabilitation of Offenders Act 1974* was designed to help people with a criminal record back to work. It gives ex-offenders the right not to disclose their offence to employers after a period of time as follows:

- Offences resulting in fines do not have to be disclosed after five years.
- Offences resulting in prison sentences of six months or less do not have to be disclosed after seven years.
- Offences resulting in prison sentences of two-and-a-half years do not have to be disclosed after ten years.

For those under 18, the rehabilitation periods above are halved. After these periods the record is 'spent'.

However, offences resulting in sentences of over two-and-a-half years never become spent.

In addition, sensitive posts (such as those involving direct work with children and vulnerable adults, as well as some financial, legal and security roles) are exempt from the Act. This means that employers in these areas can gain access to all past records on prospective employees, regardless of how much time has passed since the offence.

The Act's current provisions are also more stringent than the arrangements in other European countries where rehabilitation periods are often only half the length of ours and rehabilitation periods are applied to sentences which are longer than two-and-a-half years.



## Why the Act needs reforming now

There are three reasons why the Act needs reforming now.

The **first** is ‘sentence inflation’ or the fact that people nowadays get longer sentences than they used to. In 1974 when the *Rehabilitation of Offenders Act* was passed, 3,574 people were given sentences of 30 months or more. By 2002, the estimated figure was 13,200.

Between 1998 and 2008, the length of custodial sentences increased by almost 12%.<sup>1</sup> This increase is not a result of more people committing more serious crimes. It is because people are being given longer sentences for the same offences which means their rehabilitation periods are longer so it takes longer for offences to become spent.

The **second** reason why reform is needed is the dramatic growth in Criminal Records Bureau (CRB) disclosure checks.

The **third** related cause is the risk-averse culture which has developed amongst some employers.

Why does any of this matter? The fact many ex-offenders cannot get past their record and get a job means that they and their families often end up on benefits. Unemployment also adds to the risk of them reoffending which has detrimental knock-on effects on their communities. Important skills are lost to employers too.

Certain groups in particular bear the brunt of the injustices of the current Act. The recession has already hit young people hard and some may never get their foot on the first rung of the career ladder as a result of the time a record can take to become spent.

People from black and ethnic minorities are seven times more likely to be stopped and searched, over three times more likely to be arrested and five times more likely to be in prison despite evidence they are no more likely to offend.<sup>2</sup> This means they are more likely to have an offence on record for longer, making it more difficult to find work.

Instances such as these illustrate how the current Act is at odds with the government’s rehabilitation revolution, its initiatives to get people off benefits and back to work, and its big society plans to create a more equal society in which everyone has the chance to contribute to the prosperity of their communities.

The end result is that we are making it harder for reformed offenders to put their past behind them, get a job and contribute to society. The original aim of the *Rehabilitation of Offenders Act* – to help reformed offenders to find work – has now effectively been lost.

**Nacro’s Change the Record campaign aims to right this wrong.**

<sup>1</sup> See [www.justice.gov.uk/publications/docs/sentencing-stats-2008.pdf](http://www.justice.gov.uk/publications/docs/sentencing-stats-2008.pdf). Like for like figures are not available as the system for collecting statistics has changed.

<sup>2</sup> Ministry of Justice (2009) *Statistics on Race and the Criminal Justice System 2007/8: A Ministry of Justice publication under section 95 of the Criminal Justice Act 1991* London: Ministry of Justice

“There are no winners...Not those with a criminal record denied the opportunity to put their past behind them. Not employers who lose out on committed and conscientious employees, and on resources and skills that otherwise may not be on offer. And certainly not our communities, because denying employment opportunities to people with a criminal record increases the risks of reoffending.”<sup>3</sup>

<sup>3</sup> Home Office (2002) *Breaking the Circle: A report of the review of the Rehabilitation of Offenders Act* London: Home Office

## The benefits of getting ex-offenders into work

Employment is important to us all. Economists such as Richard Layard, author of *Happiness*,<sup>4</sup> suggest that unemployment is one of the most profound causes of unhappiness, outweighed in its effect only by major life events such as a death in the family.

Employment benefits ex-offenders. It offers ‘a reduction in unstructured time and an increase in structured time; an income which enables home-leaving [for young people] and the establishment of significant relationships; a legitimate identity; an increase in self-esteem;...financial security; daily interaction with non-offenders;...and ambitions and goals, such as promotion at work’.<sup>5</sup>

In addition:

- Employment reduces offending by between a third and a half.<sup>6</sup>
- Employment is the single most important factor in reducing offending in young men.<sup>7</sup>
- A 2005 Home Office report claimed that 65% of offenders serving a custodial sentence and 53% of those serving a community sentence had a problem with education, training and employment which was related to their offence. No other factor was so closely related to offending.<sup>8</sup>

Since its launch ten years ago, Nacro’s Resettlement *Plus* Helpline has given advice to over 250,000 callers. Last year it received 34,624 enquiries. Eighty-four per cent of these calls were about criminal records, disclosures and employment.<sup>9</sup> The level of concern about getting and keeping a job amongst ex-offenders is indisputable.

### Raymond's story

Raymond grew up surrounded by crime and poverty. By 10 he was stealing and shoplifting. At 15 he was in prison. He served a number of sentences including one for over two-and-a-half years, which under current legislation will never be spent.

Aged 22, he made a fresh start. He got a part-time job and paid his way through college.

Fearing rejection, he didn’t disclose his record when he applied for his first full-time job. He got the job and built a successful career in sales. But he always felt uneasy about his lie. He left, did a degree in education and decided to come clean to prospective employers.

Fifty applications on and 15 years since he last offended, he is now jobless and living in a bedsit.

4 Layard R. (2006) *Happiness: Lessons from a new science* London: Penguin

5 Farrall S. (2002) *Rethinking What Works With Offenders: Probation, social context and desistance from crime* Devon: Willan Publishing, p.146

6 Social Exclusion Unit (2002) *Reducing Reoffending by Ex-prisoners* London: The Stationery Office

7 Lipsey M. (1995) ‘What do we learn from 400 research studies on the effectiveness of treatment with juvenile delinquents?’ In J.McGuire (Ed.) *What Works: Reducing reoffending* Chichester: John Wiley & Sons, pp. 63-78

8 Harper G. and Chitty C. (Eds.) (2005) *The Impact of Corrections on Reoffending: A review of what works Home Office Research Study 291* London: Home Office

9 Nacro’s Resettlement *Plus* Helpline (2010) ‘Final report to NOMS for year ending 31 March 2010’ (unpublished)



## The cost of not acting

In 2002, the Home Office estimated that reform of the *Rehabilitation of Offenders Act* would save £125 million.<sup>10</sup> This estimate was arrived at by assuming that a reformed Act would affect 500,000 people with an average ‘buffer’ period (which would replace rehabilitation periods) of two years.

This means that 250,000 people every year would be free from a requirement to disclose their past record, resulting in 12,500 people finding work. Welfare costs would be reduced by £50 million as a result. This figure does not even include any reduction in the extensive social costs associated with unemployment such as physical and mental health problems or a return to drug use.

A reformed Act would also result in savings to the criminal justice system of £75 million, £18 million of which would be to the public purse, with the rest being to corporations.

Taking into account inflation and increased sentencing (which would affect the buffer periods) a conservative estimate would put the saving at £150 million a year.

<sup>10</sup> Home Office (2002) *Breaking the Circle: A report of the review of the Rehabilitation of Offenders Act* London: Home Office

“Employment reduces offending by between a third and a half.”



## What Nacro wants

Nacro believes that the *Rehabilitation of Offenders Act 1974* must be reformed now.

The time it takes for offences to become spent must be updated. We propose that new ‘buffer’ periods be established as follows in line with the proposals set out in the amended review of the Act by the Home Office in 2003:<sup>11</sup>

- Fines would be disclosed for one year.
- Prison sentences of less than four years would be disclosed for two years.
- Prison sentences lasting four years or more would be disclosed for four years.
- Life sentences would require disclosure in perpetuity.
- Buffer periods for young people would be reduced.

These proposals lie at the heart of Nacro’s Change the Record campaign.

There is support across all parties for reform of the Act:

- The Liberal Democrat Peer and Nacro President Lord Dholakia currently has a private members bill before Parliament – the Rehabilitation of Offenders (Amendment) Act – aimed at reform based on these proposals.
- Iain Duncan Smith’s think tank, The Centre for Social Justice, also supports reform.
- The previous Labour government also supported the proposals but failed to implement them.

Until the Act is amended, rehabilitation for ex-offenders in its widest sense – the chance to get a job and claim a positive stake in society once more – will remain an unachievable goal.

<sup>11</sup> Home Office (2003) *Breaking the Circle: A summary of the views of the consultees and the government responses to the report of the review of the Rehabilitation of Offenders Act 1974* London: Home Office

# CRB checks: the need for reform



## A necessary safety net

Whilst the *Rehabilitation of Offenders Act* aims to give offenders a second chance, CRB checks act as a balance by giving employers access to confidential information about an individual, including spent offences.

CRB checks are vital and provide a safety net for employers recruiting individuals for sensitive posts.

People working in 'regulated activity' with children and vulnerable adults are exempt from the *Rehabilitation of Offenders Act* which means that employers will always be able to access information on them. Roles that fall into this category include teachers, childminders, foster carers, people working in childcare and residential care for adults and children, and those driving a vehicle solely for the purposes of conveying children or vulnerable adults.

Other areas exempt from the Act include posts in health, pharmacy, finance, the courts and the law, licences to drive taxis and posts in the private security industry.

“Since the introduction of CRB checks in 2002, their use has risen dramatically from 1.4 million to 3.8 million in 2008-9.”

## Why CRB checks must be reformed now

At Nacro we run over 300 projects which work closely with children and vulnerable adults, and their safety and well-being are of paramount importance to us.

CRB checks undoubtedly play an essential role in safeguarding children and vulnerable adults. However, since the introduction of CRB checks in 2002, their use has risen dramatically from 1.4 million to 3.8 million in 2008-9. This increase cannot be attributed to an equivalent rise in the number of people working in sensitive posts.

Whereas previously, working with children typically meant caring for, training, supervising or being in sole charge of them, and working with vulnerable adults meant providing care services to them, nowadays any contact whatsoever with children or vulnerable adults is generally seen to constitute work with them.

As a result, anyone having contact with children is routinely subject to these checks. From the calls received by Nacro's helpline, as well as doctors, nurses, teachers, carers and social workers being checked, employers also deem the following groups to be working with vulnerable people: dog wardens, IT, secretarial and administrative staff, refuse collectors, customer service staff, firemen, plasterers, rent collectors, ticket inspectors, train drivers, tenancy officers, carpenters, environmental health officers, electricians, car park attendants, plumbers and bus drivers, plus many others who by the very nature of their job have some form of contact with the public.

In 2005, research revealed that an estimated 11% of CRB checks are technically unlawful.<sup>12</sup> Applying these findings to 2008-9, this means that roughly 420,000 people had their histories exhumed by employers who had no legal right to do so, resulting in lost opportunities for tens of thousands of applicants whose criminal record was already officially spent.

### Derek's story

Derek applied successfully for a job as a head gardener at a complex of retirement homes. The application was straightforward and did not require him to disclose any 'spent' convictions. After he had begun work, the employer carried out a disclosure check. When they found out about his spent convictions, he was dismissed on the grounds of 'gross misconduct'.

This was a clear injustice and unfair treatment. It was unlawful for the employer to run a CRB check or to know about his spent conviction. However, there is no legal redress under the *Rehabilitation of Offenders Act* and because Derek had not worked for the company for 12 months, he could not claim unfair dismissal under employment law. So he has been unfairly dismissed but could do nothing about it.

<sup>12</sup> Suff R. (2005) 'Checking out the activities of the Criminal Records Bureau' *Employment Review* vol. 828 London: Internal Revenue Service



Under the *Safeguarding Vulnerable Groups Act* the definition of working with children and vulnerable adults was broadened. It's because of this Act that many employers have carried out retrospective checks which have led to many people being dismissed from their jobs.

Since 2002, there has been an increase of over 50% in the number of positions exempt from the Act. In a recent review of the retention and disclosure of criminal records, the Home Office-appointed adviser, Sunita Mason, questioned whether the current list of exception orders reflected the spirit and purpose of the original legislation which was to make a balanced risk assessment between the rights of the individual and the protection of the public.<sup>13</sup> In total, 19 million CRB checks have been carried out since 2002, including 752,000 checks on children under 18.<sup>14</sup>

The introduction of Cabinet Office guidance by the previous government on the pre-employment screening of civil servants and others, including government contractors,<sup>15</sup> has led to a further depletion in employment opportunities for people with spent convictions, since large numbers of employers in the private and voluntary sectors are dependent on government contracts.

The result of all these developments is that anyone with a record is being increasingly squeezed into a limited range of occupations which are not exempt from the Act.

The system of CRB checks has now spread its net so widely that the principle allowing a criminal record to be spent has been almost entirely lost. It means that as a result, good people are out of work and their communities suffer.

<sup>13</sup> Mason S. (2010) *A Balanced Approach: Safeguarding the public through the fair and proportionate use of accurate criminal record information* London: Home Office

<sup>14</sup> In relation to the second figure, see *Freedom of Information Act* request reference number 13,408 at [www.crb.homeoffice.gov.uk/](http://www.crb.homeoffice.gov.uk/).

<sup>15</sup> Cabinet Office (2009) *HMG Baseline Personnel Security Standard: Guidance on the pre-employment screening of civil servants, members of the armed forces, temporary staff and government contractors* London: Cabinet Office

## Volunteering and the big society

For many ex-offenders, volunteering offers a route into paid employment. It also gives people an opportunity to give something back to their community.

The aim of CRB checks should be to identify volunteers who present a risk without discouraging those who do not. Last year 756,905 CRB checks were carried out on volunteers. Some were undoubtedly necessary to protect vulnerable clients but even where this is the case, in most instances a disclosed offence should be seen as the prelude to a risk management process rather than as the trigger for an automatic disqualification from volunteering (as it often is).

### Denis' story

Denis was a volunteer taxi driver for East Midlands Ambulance Service for nine years using his people carrier to ferry patients around the region.

In August this year a criminal record check resulted in his dismissal. Denis had served a suspended prison sentence in 1972 and was given a fine and probation in 1974.

'I was convicted for electric meter tampering and a burglary many years ago but I've moved on and I'm an honest man who just can't get away from my past.

'They told me at a meeting they were sorry to let me go but I'm gutted because I worked well and really enjoyed helping in this satisfying job and I'm worried I'll never be able to do volunteering again.'

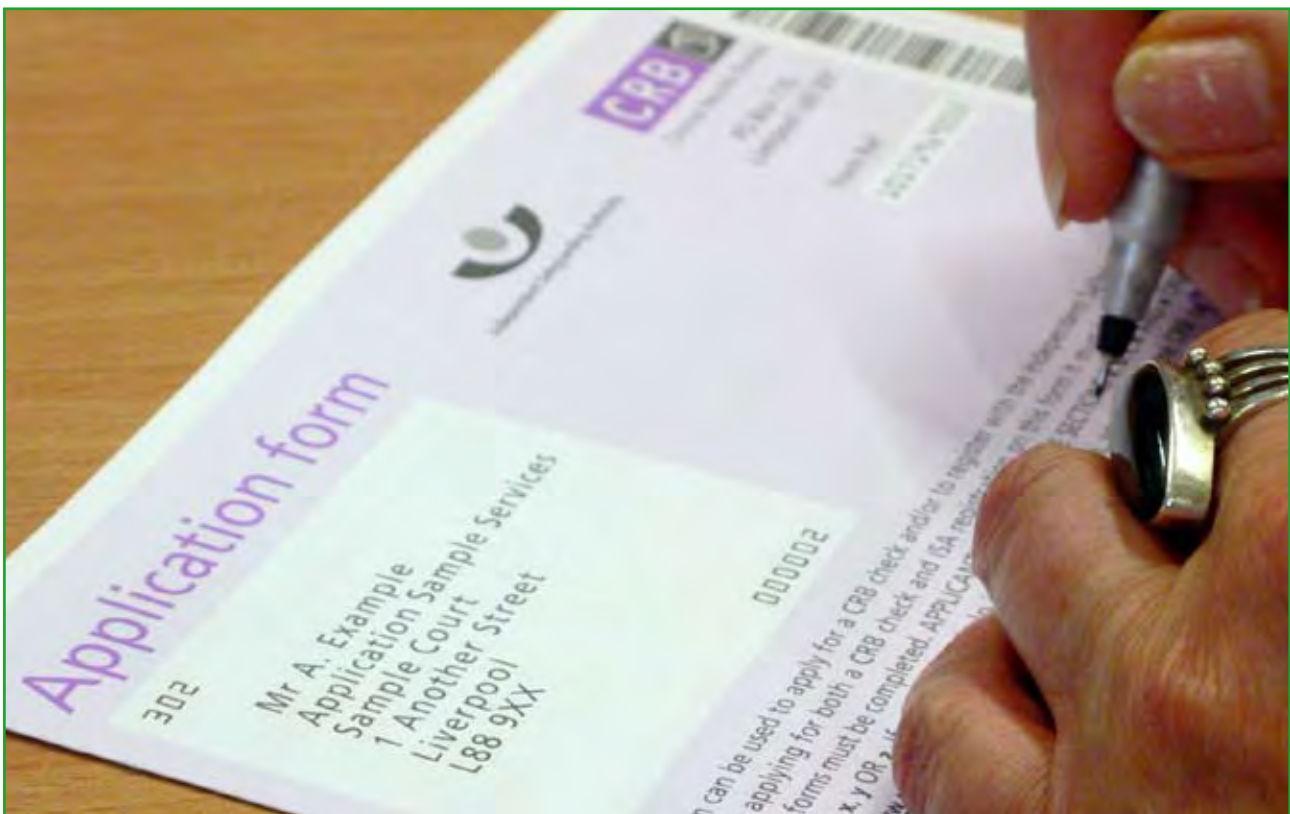
CRB checks have important implications for the coalition government's big society plans which aim 'to help everyone achieve change in their local area. Our aim is to create a new relationship between citizens and government in which both are genuine partners in getting things done: real democracy using all the human and technological tools we now have available'.<sup>16</sup>

The word 'relationship' is important here. If checks become the default position, then a culture of suspicion will undermine attempts to build more cohesive communities and will discourage the involvement and participation of many people in local initiatives. In 2007, the children's charity NCH (now Action for Children) and Chance UK published a survey revealing that 17% of men would not volunteer because they knew they would face a criminal record check. This number will undoubtedly include reformed offenders with spent records.

<sup>16</sup> [www.thebigsociety.co.uk/idea.html](http://www.thebigsociety.co.uk/idea.html)

## What Nacro wants

- A review of the number of positions which are exempt from the *Rehabilitation of Offenders Act* with a view to reducing them.
- The Criminal Records Bureau to be given responsibility for ensuring that employers' requests for information are lawful, in keeping with the spirit of the *Rehabilitation of Offenders Act*, and for ensuring that a revised list of roles and positions exempt from the Act is strictly adhered to.



# Employers: the benefits of reform

## Untapped resources

Employers are understandably cautious about whom they take on. But there is also evidence to suggest that some unfairly discriminate against those with a record even when it is spent and unrelated to their area of work.

Research shows that 75% of employers would treat a candidate with a criminal record less favourably. One in seven said they would reject any applicant with a criminal record irrespective of the nature of the offence.<sup>17</sup> A 2005 study from the Chartered Institute of Personnel and Development found that 36.6% would exclude all ex-offenders from their recruitment process altogether.<sup>18</sup>

This type of reaction springs from a fear that ex-offenders are likely to continue to offend. In fact this fear is unfounded. Although a small minority of people are repeat offenders, half of male offenders and three quarters of female offenders have just one conviction. Moreover 55% of men and 80% of women convicted have an offending history which lasts less than a year. By the age of 25, 43% of men who had offended were classified as 'desistors', meaning that they had not offended for five years.<sup>19</sup>

Despite these findings, employers are increasingly demanding 'clear disclosure' from applicants. This means that employment is conditional on having no record whatsoever. It is difficult to see any justification for this policy. For example it is hard to see why someone with a one-off conviction for shoplifting 20 years ago should be denied the opportunity of applying for a sensitive post now.

This is by no means an extreme example. Shoplifting and theft are the most common offences disclosed by the CRB. In addition, one third of the disclosures in the ten most common offences in 2008-9 were for driving offences which caused no third party injury.<sup>20</sup> All crime must obviously be taken seriously but it should also be recognised that past offending is not necessarily an indicator of future criminality.

The *Rehabilitation of Offenders Act* is confusing for employers. And CRB checks override it. The checks give employers an opportunity to contract out a filtering process at no cost to themselves. But there is evidence to suggest employers would support a clearer, reformed system.

As long ago as 2002, the recommendations from the Home Office's review of the *Rehabilitation of Offenders Act* were discussed with a range of interested parties, including the Confederation of British Industry, The Trades Union Conference and the Chartered Institute of Personnel and Development. With their backing, a series of proposals were drawn up<sup>21</sup> (as discussed on page 5) but never implemented.

In 2003 Nacro published a report *Recruiting Ex-offenders*, following discussions with employers including KPMG, the CBI, the TUC, ASDA, Whitbread Supply Chain, Tesco and Granada.<sup>22</sup> In the report employers told us they were willing to employ those with criminal records but were reluctant to openly develop recruitment policies and procedures because of the critical response they might receive from the press and public.

In its 2004 report, *Employers and Offenders*, the Chartered Institute of Personnel and Development also noted that, despite a general reluctance among employers to be proactive in employing people with criminal convictions, the evidence from those who have done so shows their experiences are, contrary to expectations, positive.<sup>23</sup>

17 Social Exclusion Unit (2002) *Reducing Reoffending by Ex-prisoners* London: The Stationery Office

18 'Employers exclude "core jobless" groups' is at [www.peoplemanagement.co.uk/pm/articles/2005/09/employersexcludecorejobless.htm](http://www.peoplemanagement.co.uk/pm/articles/2005/09/employersexcludecorejobless.htm).

19 Prime J, White S, Liriano S, Patel K, (2001) *Criminal Careers of Those Born Between 1953 and 1978* London: Home Office

20 See *Freedom of Information Act* request reference number 12,457 at [www.crb.homeoffice.gov.uk/pdf/FOI%2012457.pdf](http://www.crb.homeoffice.gov.uk/pdf/FOI%2012457.pdf).

21 Home Office (2003) *Breaking the Circle: A summary of the views of the consultees and the government responses to the report of the review of the Rehabilitation of Offenders Act 1974* London: Home Office

22 Nacro (2003) *Recruiting Ex-offenders – The Employers' Perspective: A report on and guide to recruiting ex-offenders based on the views and recommendations of employers, employer organisations and the Trades Union Congress* London: Nacro

23 Chartered Institute of Personnel and Development (2004) *Employers and Offenders: Reducing crime through work and rehabilitation* London: Chartered Institute of Personnel and Development



And it's not just employers who benefit, but society as a whole. Sustainable employment provides ex-offenders with stability and an income which makes them less likely to reoffend. According to the CBI, National Grid's Youth Offender Programme, which offers prisoners training while in prison and employment following release, 'has reduced reoffending among those on the scheme to less than 7% from a national average of 75%'.<sup>24</sup>

At Nacro we believe in practising what we preach. At any one time we employ over 1,000 people working with children and vulnerable adults, yet 12% of our workforce has a criminal record. This means we need to manage any risk that arises; in doing so, we are repaid by a committed, dedicated workforce.

### Daniel's story

Daniel Clarke was a successful investment banker in London. One night he was caught up in a fight resulting in a 27-month sentence, including nine months in prison.

Upon release he applied for jobs in banking but job offers were rescinded when they heard about his record. He was offered a job by a council, having told them of his offence. But inexplicably, after running a CRB check, they changed their mind.

He now works for Nacro, helping former offenders back into work. His manager, Kelly Ewers, says of him: 'His experience means he can relate to the people he helps and he has become inspirational to many of them. Dan wasn't recruited because he was an ex-offender, but because he gave the best interview and demonstrated the skills and experience he has developed since leaving prison.'

“24% of males and 6% of females between the ages of 10 and 52 in England and Wales in 2006 had at least one conviction.”

Ensuring that ex-offenders have the requisite skills and ability to enter employment is of course crucial. At Nacro we run projects in prison and around the country which equip ex-offenders with the tools they need to get a job. Our Progress2Work Linkup project in Sheffield, for example, worked with 250 adults with a criminal record in 2008-9: 40% then went on to full-time employment and 44% went on to complete training.

## What Nacro wants

- An education and awareness raising programme for employers to promote the benefits of employing people with a criminal record and of using criminal record checks correctly.
- Legislative sanctions in an amended *Rehabilitation of Offenders Act* to allow people with spent offences who are refused employment or dismissed from employment as a result of unlawful CRB checks to seek legal redress.

<sup>24</sup> Confederation of British Industry (2008) *Getting Back on the Straight and Narrow: A better criminal justice system for all* London: Confederation of British Industry

# Nacro's recommendations

Unless the *Rehabilitation of Offenders Act 1974* is reformed and the excessive use of CRB checks curbed, ex-offenders will continue to struggle to find work and the government's rehabilitation revolution and initiatives to get people off benefits will be seriously undermined.

Reform will benefit ex-offenders. It will also benefit employers, the communities they come from, the volunteering initiatives at the heart of

the government's big society and the public purse. It will create a more just and fair system and put an end to discrimination. It will help build a better Britain whilst ensuring that children and vulnerable adults remain safeguarded.

Reform of the *Rehabilitation of Offenders Act* is not a panacea, but it is a first step and one that is necessary to redress the balance between the Act and the CRB checks that have undermined it.

## Nacro recommends:

- 1 The *Rehabilitation of Offenders Act 1974* is amended in line with the proposals set out in the amended review by the Home Office of the Act in 2003.

The amended Act must reduce the time it takes for offences to become spent. We therefore support the establishment of new 'buffer' periods<sup>25</sup> as follows:

- Fines to be disclosed for one year.
- Prison sentences of less than four years to be disclosed for two years.
- Prison sentences lasting four years or more to be disclosed for four years.
- Life sentences to be disclosed in perpetuity.
- Buffer periods for young people to be reduced.

- 2 The inclusion of legislative sanctions in an amended *Rehabilitation of Offenders Act* so that people with spent offences who are refused employment or dismissed from employment as a result of unlawful CRB checks can seek legal redress.

- 3 The Criminal Records Bureau is given responsibility for ensuring that employers' requests for information are lawful, in keeping with the spirit of the *Rehabilitation of Offenders Act*, and that a revised list of roles and positions exempt from the Act is strictly adhered to.

- 4 The number of positions exempt from the *Rehabilitation of Offenders Act* is reviewed with a view to reducing them.

- 5 An education and awareness raising programme for employers to promote the benefits of employing people with a criminal record and of using criminal record checks correctly.

<sup>25</sup> Buffer periods, as outlined in Home Office (2003) *Breaking the Circle: A summary of the views of the consultees and the government responses to the report of the review of the Rehabilitation of Offenders Act 1974* London: Home Office, would replace rehabilitation periods. This is to establish the principle that the buffer period is not an additional sentence to the one already served, but a time during which an ex-offender can demonstrate his or her commitment to reform.