

# Principles of Fair Chance Recruitment

*These principles have been developed in collaboration with employers and are intended to support fair chance recruitment of people with criminal records.*

## Principle 1 – Consider whether you need to ask

For most jobs, employers are not legally obliged to ask about criminal records. Disclosure laws mean that people can still be legally required to disclose old and/or minor convictions – if asked - which may not be relevant to the role. Do you really need to collect old and irrelevant information? Being clear about your purpose will help you to assess whether it is really necessary. If you currently ask about criminal records, ask “[why do we do this?](#)” If you decide you don't need to ask, then there's no need to read any further. If you do, please read on.

## Principle 2 – Follow rehabilitation & data protection legislation

Criminal records information is sensitive and, if you do ask you will need show that asking is necessary and complies with the law. Criminal records disclosure is covered by overlapping laws. For example:

- The Rehabilitation of Offenders Act 1974 (ROA) provides for some criminal records to become spent after a period of time. For most jobs, you are not allowed to consider convictions that are [spent](#).
- Collection of all personal data, including criminal records information, is covered by the [General Data Protection Regulation \(GDPR\) and Data Protection Act 2018](#). This means identifying a lawful basis and condition of processing and letting applicants know how you will uphold their data subject rights. Failing to comply with the GDPR can result in [significant fines](#).
- If you plan to carry out criminal record checks you will need to ensure the job is eligible for the level of check requested. Knowingly requesting a higher level check is a criminal offence under the [Police Act 1997](#). Employers who use information obtained from the DBS are required by the DBS Code of Practice to have a policy on recruitment of people with convictions.

## Principle 3 – Consider the right time to ask

Collecting information only when it is necessary is a key part of complying with data protection legislation. It is highly unlikely that you will need to collect criminal records data from all applicants. Most will not be shortlisted and you will then have a lot of sensitive data that you are legally responsible for managing. This could be considered [excessive data collection](#).

Instead, think about when that information is really needed – that will usually be after a [conditional offer](#) is made.

We recommend removing questions about criminal records from your application form and joining the growing list of employers who have [banned the box](#).

## Principle 4 – Ask clear questions and provide guidance

You will need to ask [clear questions](#) to make sure applicants provide information you need. The law around criminal records disclosure is complex and providing guidance to applicants will help ensure you don't collect information you don't need or [shouldn't have](#).

Legally, there are very few situations where you would be unable to employ somebody due to their criminal record.

## Principle 5 – Have a clear, accessible policy that you review

When you have determined your lawful basis and condition of processing criminal records information, you will need to document that. Individuals have a legal right to know how their data will be used so having an '[Applicants with a criminal record](#)' policy is essential. It should be available to applicants at the point their data is collected.

The policy should:

- explain whether and why you will ask about criminal records and, if so, when this will happen.
- set out which roles are eligible for a criminal record check and at [what level](#)
- explain your approach to those who disclose.
- provide guidance to applicants on answering questions and where to seek advice

Keep your policy under regular review to ensure it's up to date with changes in the law.

## Principle 6 – Consider context and relevance

Written information, whether official or provided by an individual, can be difficult to put into context. Experience shows that while people with criminal records may be able to honestly and accurately explain the behaviour that led to their arrest, they can often be confused about exactly what happened next, and especially what was recorded officially, and so don't always disclose this information accurately. Give applicants an [opportunity to explain](#) the circumstances and address any concerns you might have.

Don't limit the discussion to the offence. Instead, focus most on what the applicant has done since; encourage them to discuss their rehabilitation and the positive steps they've subsequently taken. Long-term studies show that the risk of reoffending reduces over time. If someone has no criminal record in the last [7-10 years](#), their risk of committing a crime is the same, or even less, than someone with no criminal record. For most jobs, offences from more than 7 years ago will not be relevant.

## Principle 7 – Document your decision-making

Keep a record of the process you go through and the considerations you give. This enables you to explain your decision-making and make confident recruitment decisions. Applicants have the right to request information held on them and having appropriate documentation will help demonstrate that you have followed your policy.

## Principle 8 – Be confident in your process and practice

Make sure that those involved in recruitment are knowledgeable and confident in dealing with criminal records. Consider specific training for those regularly involved in talking to applicants about their criminal record and making judgements based on information disclosed.

For more details about each of these principles, visit [recruit.unlock.org.uk/principles](https://recruit.unlock.org.uk/principles) or email [recruit@unlock.org.uk](mailto:recruit@unlock.org.uk).