



Volunteering
england

Involving Ex-offenders in Volunteering



changing lives
reducing crime



Volunteering Hub

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Foreword

Nacro was delighted to be invited to produce this guide for the Volunteering Hub. We hope that it will help your organisation to reach an often overlooked and marginalised source of volunteers. By ensuring that appropriate volunteering opportunities are open to ex-offenders, we are increasing their chances to turn their lives around, while at the same time enabling them to make a valuable contribution to the community.

Tackling the causes of crime means offering offenders and those at risk of offending a stake in society. By doing so, we help to make society safer for all. We believe that volunteering offers an important way for ex-offenders to establish or reinforce positive community ties and skills.

Ex-offenders represent a significant group, with almost a quarter of men and women having a criminal record, often for minor offences committed in their youth. Among this group are many people with the ability, experience and enthusiasm to be excellent volunteers.

Every year Nacro's resettlement helpline takes thousands of calls from people wanting guidance on what information they need to disclose when applying for paid and voluntary positions. They can be embarrassed by their past offences and unwilling to put themselves in positions where they will have to declare the information. Many potentially excellent volunteers choose not to get involved because of their concern about how they will be treated by organisations who become aware of their past offences.

The safety of service users is paramount; but the vast majority of potential volunteers who have a criminal record pose no risk to children, young people or vulnerable adults and have a positive contribution to make. It is important that potential volunteers who are ex-offenders are treated fairly and not penalised for having committed an offence with no relevance to the role for which they are applying. Involving volunteers with criminal records can reap rewards for service users, the organisation and the volunteer themselves.

I hope that this guide will help you to achieve the dual aims of

keeping service users safe while providing opportunities for those ex-offenders who could become valuable volunteers for your organisation.

Paul Cavadino
Chief Executive
Nacro, the crime reduction charity

Volunteering England is the organisation charged with delivering the Volunteering Hub, a government-funded initiative which will develop the volunteering infrastructure across England.

Part of the Volunteering Hub's work aims to encourage volunteer-involving organisations to engage a wider diversity of volunteers. Volunteering England passionately believes that volunteering is a key route to enabling people from socially excluded groups to participate in their community. We are very pleased to have been able to work with Nacro to produce this booklet, which aims to help volunteer managers to support, value and provide opportunities for ex-offenders without risk to the volunteering activity.

We know from our experience of working with volunteers that involving volunteers from a variety of social groups and background benefits the volunteer-involving organisation as well as the individual volunteer. We hope organisations will find this booklet a valuable tool when looking for – and retaining – volunteers.

Christopher Spence CBE
Chief Executive
Volunteering England

Introduction

A third of all men, along with a significant proportion of women, have been convicted by the courts of theft, fraud and other serious criminal offences. A few of them will have been sent to prison. Many more people will have been cautioned by the police or convicted of less serious offences, ranging from public order to motoring offences.

The figures mean that almost a quarter of men and women of working age have been convicted of a significant criminal offence. Ex-offenders therefore are not a small minority of people with whom we have nothing in common. Often unknown to us, they are our friends, family and colleagues.

They are also people who are motivated to seek voluntary work for the same reasons as us: to meet new people, to learn new skills, to make a difference, etc. Few of them will have any ulterior motives in applying for voluntary work.

Very few of them, too, will have support needs. While many people commit offences in part because they have housing, educational, drugs, alcohol, mental health and other problems, most ex-offenders seeking voluntary work will have none. The only 'support' they need is overcoming their embarrassment and shame in having to disclose their criminal records, where disclosure is required, and overcoming their fear that they will be rejected because of those records. They have good reason to fear because there is some evidence to suggest that people are refused voluntary work on the basis of old or irrelevant cautions or convictions.

It is for these reasons that it is best to take a measured and commonsense approach to dealing with applications from ex-offenders. The small number of people who might cause harm must be excluded from opportunities to do so. However, you should aim to do this by adopting policies and practices which do not exclude those ex-offenders whose offending is in the past and who would not dream of harming anyone. This guidance gives you some pointers about how to adopt a measured and commonsense approach.

The involvement of ex-offenders as volunteers is an equal opportunities issue. Failure to adopt volunteer recruitment and retention policies and practices that incorporate ex-offenders is discriminatory and results in their social exclusion as well as reducing your pool of volunteers. An example of a policy statement that you might want to adapt to meet your own circumstances is given on page 16.

Rehabilitation of Offenders Act

If you are seeking to fill positions covered by the Rehabilitation of Offenders Act 1974, then you should not take spent convictions into account. Under the Act, most convictions become spent after five years. For instance, convictions that lead to fines, probation and community service orders become spent after five years, or two-and-a-half years for juveniles.

Convictions that lead to conditional discharges normally become spent after one year. Convictions that lead to prison sentences of, say, six months, become spent after seven years. Convictions that lead to prison sentences of more than two-and-a-half years can never become spent. Further information about these rehabilitation periods is given on page 12.

Arguably too you should not take into account cautions, reprimands and final warnings, which are generally given for minor offences. Cautions, reprimands and final warnings do not fall within the Rehabilitation of Offenders Act at the moment, although the Government has issued proposals to include them and give them a nil rehabilitation period. This means that they would become spent instantly.

Sensitive positions

If you are seeking to fill a sensitive position – one that is exempt from the Rehabilitation of Offenders Act, notably work with children or vulnerable adults – then you can require the applicant to disclose both spent and unspent convictions, and also cautions, reprimands and final warnings.

The Exceptions Order to the Act provides specific definitions of working with children and vulnerable adults. These definitions are important for they make it clear that occasional contact or potential contact with children and young people does not usually constitute work with children. There is also a precise definition of work with vulnerable adults, which centres around the provision of care services. Under the definition, old people are not considered vulnerable simply because they are old.

Further information about the Exceptions Order and the definitions of working with children and vulnerable adults is given on page 14.

Exclusions

Very few people are banned from employment, paid or voluntary. The very few that are banned are invariably banned from working with children and vulnerable adults. These numbers are likely to increase after 2008 when more stringent vetting and barring arrangements are introduced following the Bichard Inquiry. Those individuals who are banned will know they are banned and are unlikely to apply for work with children and vulnerable adults because of it. In the unlikely event that they did, this information would show up on a Disclosure (see page 6).

Disclosure checks

Where a position is exempt from the Rehabilitation of Offenders Act, you can carry out a Standard or Enhanced Disclosure check – either directly if you are registered with the Criminal Records Bureau or indirectly through an umbrella body if you are not.

A Standard Disclosure will show all convictions, both spent and unspent, and cautions, reprimands and final warnings on the Police National Computer. An Enhanced Disclosure will show the same information, plus any additional information held by local police forces. In practice, most Enhanced Disclosures will show the same information as Standard Disclosures. Where additional information does appear, it will normally be in the ‘other relevant information’ box of an Enhanced Disclosure.

Most of this other relevant information will relate to unsubstantiated allegations against an individual, or acquittals in court. You will need to interview the individual concerned and then if necessary seek further advice before deciding whether to accept the person or not. In a few instances, you may be able to seek advice from a probation officer or from your regulatory body, if you have one. You can also contact the Nacro helpline (see page 17) for general advice.

Safety culture

Disclosure checks alone are not an effective tool for identifying all those who pose a risk to children or vulnerable adults, and so should form just one part of your policies and processes on volunteer recruitment and involvement. Meeting with the applicant to discuss the role they are interested in and why, taking up references, having a trial period and supervision sessions once the person is in post are all equally important in establishing whether the applicant is suitable for the role(s) you have available.

Post-involvement management and supervision should always be alert to indicators of untoward behaviour. The emphasis should be on the creation of a culture that gives staff, volunteers and the people you work with the confidence to raise concerns. Based on the Home Office code of practice, *Safe from Harm* (see page 17) this would include:

- > adopting a policy statement on safeguarding the welfare of vulnerable people
- > planning the work of the organisation to minimise situations where the abuse of vulnerable people may occur – eg avoid as far as possible the need for lone working
- > introducing a system whereby vulnerable people may talk with an independent person
- > applying agreed procedures for protecting vulnerable people to all staff
- > giving staff and volunteers clear roles

Code of practice

Where you carry out Disclosure checks, you are legally bound by the Disclosure Code of Practice. The Code sets out rights and responsibilities in relation to Disclosures. These provisions, which are briefly set out below, represent good practice, whether or not the volunteer work on offer is subject to Disclosure checks.

Written policy: you are required to have a written policy on the involvement of ex-offenders. This should give someone with a record some indication of the likelihood of them being accepted as a volunteer. A sample statement, which might form part of an in-depth policy, is given on page 16.

Application forms: if you have a formal application form, you should ensure that where Disclosures will be required it contains a statement to this effect. If you don't have an application form, people should be informed in writing that a Disclosure will be required.

Blanket bans: you are required to have a statement on the application form or other recruitment material that a criminal record will not necessarily be a bar to voluntary work.

Discussion: you are required to discuss any matters revealed on a Disclosure with the applicant before withdrawing a voluntary position.

Discrimination: you should not unfairly discriminate on the basis of matters revealed on a Disclosure.

Confidentiality

You are also required to ensure that Disclosure information is not passed to persons not authorised to receive it, and to keep such information in locked cabinets for as long as it is needed – generally for no more than six months. This is important given people's anxieties about disclosing their records. As part of your recruitment literature, it is a good idea to emphasise that confidentiality will be honoured.

Assessing risk

The Explanatory Guide which accompanies the Code of Practice provides guidance on assessing the relevance of criminal convictions. The principles that underpin this guidance are equally applicable in cases where people with unspent convictions are being considered for positions not exempt from the Rehabilitation of Offenders Act. The Explanatory Guide asks you to consider:

Relevance

The relevant categories of offences in relation to children are generally violent, sexual and drugs offences. Younger children may be at more risk of violent or sexual abuse; older children from drugs.

For vulnerable adults, the relevant categories are usually violent and sexual offences. Drug offences are less relevant. However, dishonesty offences may be relevant because old people tend to have money and valuables. An offence of shoplifting might not be a particular cause for concern, though an offence of theft from the person very likely would.

A person convicted of drink-driving might be unsuitable in a role driving vulnerable people around. Most other offences, such as public order offences, are generally not relevant.

Seriousness

Offence categories cover a wide range of offences in terms of seriousness. For instance, sexual offences cover everything from consensual homosexual offences and young people sleeping with under-aged girlfriends to indecent assault and rape. Violence covers everything from slaps and smacks to grievous bodily harm and murder. Drugs offences cover everything from possession of small amounts of cannabis for personal use to possession of class A drugs with intent to supply.

Offence labels often sound more serious than the offences themselves. An indication of how serious the offence was is given in the penalty imposed by the courts. Custodial sentences, including

suspended sentences, are given for the most serious offences. Discharges, followed by fines, are given for the least serious offences.

Offence circumstances

An explanation of the circumstances surrounding an offence can often provide reassurance. For instance, a person in fear who in defence ends up assaulting someone who is threatening them is not as culpable as someone who causes serious injury with intent.

Age of offences

Old offences are not relevant in most instances as the people concerned will have put their pasts behind them. Most offenders have criminal careers of less than a year. There is evidence that shows that people who go two years without re-offending are generally no more likely to offend again than those without records.

Pattern of offending

People with a pattern of offending right up to the present date have clearly not put their past behind them. Those people with gambling, drink or drugs-related convictions in particular may remain a risk unless there is a clear break in the pattern of their offending. Nevertheless, most people, including repeat offenders, put their offending behind them at some stage, often as a result of changed circumstances.

Changed circumstances

Most people who are cautioned or convicted when young do not re-offend once they take on family or other responsibilities, in part because they have too much to lose by getting into trouble.

Where a person has been confirmed in post following a risk assessment, it is important to keep a record of why a decision was reached in the unlikely event that the information is needed in the future. Similarly, a record should be kept of any plan agreed with the volunteer aimed at minimising risk.

Involving prisoners

People on day release from prison tend not to be a risk, both because they have been carefully risk assessed by the prison authorities and because they know they have too much to lose should the volunteering opportunity go wrong. Some prisoners who volunteer to work with young people or vulnerable adults develop a strong commitment to such work and seek to pursue such careers on release. In practice, while they may not be banned from such work, many such people find their career paths blocked because of their previous offending. Volunteering in these cases can create expectations that cannot be fulfilled so such expectations need to be managed through the support systems you have in place.

Some released prisoners, especially those who have recently completed periods on probation licence, can be more of a risk as they often face a struggle to resettlement with relatively little support. Such volunteers may need additional support to maintain their involvement. Effective recruitment practices should ensure that the role is suitable for them, while meeting the needs of your organisation. Ongoing support such as regular one-to-one sessions and perhaps matching them with a buddy/mentor can help them to stay involved and get as much from their volunteering experience as possible.

A few prisoners will be released on curfew or 'the tag'. They can undertake voluntary work so long as they can get back home during the evening, generally by around 7pm.

Rehabilitation periods

The key rehabilitation periods under the Rehabilitation of Offenders Act 1974 are as follows:

Sentence	Rehabilitation period People aged under 18 when convicted	Rehabilitation period People aged 18 or over when convicted
Prison sentences ¹ of 6 months or less	3 ¹ / ₂ years	7 years
Prison sentences ¹ of more than 6 months to 2 ¹ / ₂ years	5 years	10 years
Borstal (abolished in 1983)	7 years	7 years
Detention centres (abolished in 1988)	3 years	3 years
Fines, compensation and community penalties ²	2 ¹ / ₂ years	5 years
Absolute discharge	6 months	6 months
	People aged 12-14 when convicted	People aged 15-17 when convicted
Detention and training order of 6 months or less	1 year after the order expires	3 ¹ / ₂ years
Detention and training order of more than 6 months	1 year after the order expires	5 years

With some sentences the rehabilitation period varies:

Sentence	Rehabilitation period
Probation ³ , supervision, care order, conditional discharge and bind-over	1 year or until the order expires (whichever is longer)
Secure training (abolished in 2000) and attendance centre order	1 year after the order expires
Hospital order (with or without a restriction order)	5 years or 2 years after the order expires (whichever is longer)
Referral order	Once the order expires

For further information about the Act, including the rehabilitation periods for motoring and multiple offences, contact the Nacro helpline (see page 17).

- 1 Including suspended sentences, and the old youth custody and detention in a young offender institution sentences.
- 2 Community penalties cover probation (for people convicted on or after 3 February 1995), community service, combination, action plan, curfew, drug treatment and testing, and reparation orders. Probation orders were replaced by community rehabilitation orders, which were replaced in turn by the generic community orders in 2005. Community rehabilitation orders are still available for 16-17 year olds. Community service orders were replaced by community punishment orders, which were replaced in turn by community orders in 2005. Combination orders were replaced by community punishment and rehabilitation orders, which were replaced in turn by community orders in 2005.
- 3 For people convicted before 3 February 1995.

Exceptions Order

The key employments in terms of voluntary work exempt from the Rehabilitation of Offenders Act are as follows:

- 1 any employment or other work which is concerned with the provision of care services to vulnerable adults and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his normal duties.

‘Care services’ means: (1) accommodation and nursing or personal care in a care home (2) personal care or nursing or support for a person to live independently in his own home (3) social care services, or (4) any services provided in an establishment catering for a person with learning difficulties.

‘Vulnerable adult’ means a person aged 18 or over who has a condition of the following type: (1) a substantial learning or physical disability (2) a physical or mental illness or mental disorder, chronic or otherwise, including an addiction to alcohol or drugs, or (3) a significant reduction in physical or mental capacity.

- 2 any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties.
- 3 any work which is (a) work in a regulated position (see opposite) or (b) work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.

Regulated position

Under s.36 of the Criminal Justice and Court Services Act 2000, a regulated position is:

- 1 a position whose normal duties include work in particular children's establishments, principally a detention centre, hospital, care home, nursing home, or an educational institution
- 2 a position whose normal duties include work on day care premises
- 3 a position whose normal duties include caring for, training, supervising or being in sole charge of children
- 4 a position whose normal duties include caring for children under the age of 16 in the course of the children's employment
- 5 a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children's employment
- 6 a position of influence with children, including a school governor and trustee of a children's charity.

Sample policy statement

(to be given to volunteer enquirers/applicants)

As an organisation committed to equality and diversity, we recognise the contribution that all people can make as volunteers and so we welcome enquiries of interest from everyone. We recognise too that many potential volunteers have criminal records and are reluctant to apply for voluntary work where this would involve the disclosure of their record. We understand that people are often ashamed and embarrassed about their cautions and convictions and/or fear they will not be treated fairly because of them.

Please rest assured that if we do ask about criminal records we will handle the information you provide in confidence. Should you disclose them, we will not take into account convictions deemed spent under the Rehabilitation of Offenders Act, unless the voluntary position is exempt from the Act.

If the position is exempt from the Act, we will ask for disclosure of both spent and unspent convictions, and also cautions, reprimands, and final warnings. We will also ask you to agree to a Disclosure criminal record check. If a Disclosure confirms what you have already told us, we will confirm your appointment. If the Disclosure reveals information that we were not previously aware of, we will discuss the matter with you before making a final decision. If you require further information about your rights in relation to Disclosure applications, and our responsibilities to you, please ask us for a copy of the Criminal Record Bureau's Disclosure Code of Practice or download this from the Bureau's website: www.disclosures.gov.uk.

We work on the assumption that people applying for voluntary work in order to help others, to meet new people, to develop new skills, to make a difference, etc., have no ulterior motive in seeking such work. With this in mind, we will wherever possible provide opportunities for people, and do so in ways that will not put you or our service users at risk.

Date _____

Useful contacts

Criminal Records Bureau

The CRB is responsible for the Disclosure service and can provide information about all aspects of its administration.

PO Box 110

Liverpool L69 3EF

General Enquiries: 0870 909 0811

Website: www.disclosures.org.uk

Nacro Resettlement *Plus* Helpline

Nacro's helpline can provide information on Disclosures, including the interpretation of information on certificates and the relevance of offences.

169 Clapham Road

London SW9 0PU

Tel: 020 7840 6464

Fax: 020 7735 4666

Email: helpline@nacro.org.uk

Website: www.resettlement.info

Volunteering England

VE operates a freephone information service, and hosts the Good Practice Bank of information for volunteer managers on its website.

Information line (freephone/textphone): 0800 028 3304,

9.30-5.30, M-F

Email: [information@](mailto:information@volunteeringengland.org)

volunteeringengland.org

Website: www.volunteering.org.uk

Further reading

Code of Practice and Explanatory Guide

Criminal Records Bureau

The Disclosure Code of Practice and Explanatory Guide for registered persons and other recipients of Disclosure information can be downloaded from the Disclosure website www.disclosure.gov.uk.

Getting Disclosures Right

Nacro 2006, £7.50

A review of the use and misuse of criminal record disclosures, with a guide to best practice and assessing risk. *Getting Disclosures Right* is available from Nacro but can also be downloaded free of charge from the Nacro helpline website www.resettlement.info.

Protection of Children Guidance

Home Office, 2000

This guidance on the Criminal Justice and Court Services Act 2000 includes a detailed legal definition of a regulated position (see page 15).

Safe from Harm

Home Office, 1993

A code of practice for safeguarding the welfare of children in voluntary organisations in England and Wales.



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