

Employing with Conviction: the experiences of employers who actively recruit criminalised people.

Abstract

In England and Wales, criminal reoffending costs £18 billion annually. Securing employment can support desistance from crime, but only 17% of ex-prisoners are employed a year after release. Understanding the motivations of employers who *do* recruit criminalised people therefore represents an important area of inquiry. This article draws upon qualitative interviews with twelve business leaders in England who proactively employ criminalised people. Findings reveal that inclusive recruitment can be (indirectly) encouraged by planning policies aimed to improve social and environmental well-being and that employers often work creatively to meet employees' additional needs, resulting in commercial benefits and (re)settlement opportunities.

Key words: Criminal justice, desistance, resettlement, prisons, probation, employment

Introduction

Job stability can promote desistance from crime by creating new social bonds (Sampson & Laub, 1993), reducing criminal opportunities, providing informal social control (Kazmian & Maruna, 2009) and nurturing a pro-social identity, strengthening individuals' commitment to remain crime free (Farrall, 2005). Employment may also facilitate 'psychological rehabilitation' through increased self-confidence, personal autonomy, and the ability to demonstrate steps toward "going straight" (Goodstein & Petrich, 2019). These theories are supported by evidence that employment correlates with reduced re-offending (Visher, et al., 2008; Solomon, et al., 2006; Wadsworth, 2006; Harrison & Schehr, 2004) and unemployment

with higher risks of re-offending (Blomberg, et al., 2012; Vacca, 2004; Nuttall, et al., 2003). Research further indicates that the *quality* and *stability* of the job matters (Ramakers, et al., 2016; Uggen & Wakefield, 2008; Sampson and Laub, 1993) in order to provide the opportunity to ‘knife off’ from criminal pasts (Giordano, et al. 2002) and compensate for financial positions supported by offending. However, it is ‘cruelly ironic’ that one of the most important resources for turning lives around – employment – can also be the most elusive (Flake, 2015: 45).

Criminalised people must often overcome personal and systemic barriers to employment, including histories of school exclusion and limited literacy skills (Ludlow, Armstrong & Bartels, 2019); sporadic employment records or lack of trade skills (Holzer, et al. 2003, 2004); and considerable hardships including poverty, precarious housing and homelessness, and serious medical and mental health problems (Goodman, 2020; Kethineni & Falcone, 2007). Employer discrimination is also a key contributor to the marginalisation of criminalised people (Haith, 2001) as people with convictions can be perceived by employers to be lazy, unreliable, and untrustworthy (Graffam *et al*, 2008). In the US, where prison rates are the highest in the world, steady, full-time work is rare post release, and those who do secure jobs, often work in precarious employment (Western, et al. 2015). Even in more ‘progressive’ jurisdictions such as Canada (Goodman, 2020) or the Netherlands (Ramakers et al., 2014) there are practical barriers and worsened employment prospects. In England and Wales, ‘only 17% of ex-offenders manage to get a job within a year of release’ (MOJ, 2018) and half of UK employers surveyed ($n=1849$) would not consider employing an ‘ex-offender’ (YouGov, 2016). While an employer’s decision to hire a criminalised person can be a key catalyst to facilitate desistance from crime (Reich, 2017), employers are often dissuaded by perceived risks (Haslewood-Pocsik, et al., 2008), including those to staff (95%) and customer safety (89%) and bad publicity (69%). Holzer et al., (2004) found 90% of employers would

not hire someone with a violent conviction, whilst retail employers feared past theft as a business risk (Albright & Denq, 1996). In this context it is unsurprising that criminalised people have limited expectations and aspirations when it comes to jobs (Goodman, 2020; De Giorgi 2017).

Whilst much is known about why employers *do not* recruit people with convictions, less is known about why some do. Understanding the motivations of this group can inform policies designed to increase the recruitment of criminalised people, and therefore promote desistance from crime (Goodstein & Petrich, 2019; Ricciardelli & Mooney, 2018). Reich (2017) studied employers in Australia and found that those with a ‘belief in redeemability’ were more likely to hire criminalised people, moreover such beliefs could be mediated by applicants ‘hard skills’ (e.g. technical competencies) and ‘soft skills’ (e.g. interpersonal skills) through which people could ‘signal’ desistance to employers. Goodstein & Petrich (2019) studied the experiences of employers in Canada and found that employment-based re-entry organisations helped employers find and retain people, providing follow up help when required. In turn employers gained employees with a strong work ethic. These studies indicate that employer willingness and commitment to recruit criminalised people can be positively influenced by applicant presentation, structural supports, and perceived benefits.

Drawing on the experiences of employers in England, we offer a UK based perspective on post-conviction employment. Our theoretical contribution is to locate the motivations and strategies of employers within a hybrid social justice framework (Tomczak & Buck, 2019), revealing how a group of actively inclusive employers adopt hybrid *functionalist*, *interpretivist*, *humanist* and *structuralist* positions to meet the diverse needs of criminalised applicants and employees. When these positions come in to view, they can be

built upon by policy makers and practitioners to broker inclusive practices from micro to macro levels.

The policy context in England and Wales

The Rehabilitation of Offenders Act (ROA) (1974) sets out legal requirements for declaring previous convictions to employers, yet such declarations can hinder employment chances (Ray, et al. 2016; LeBel et al., 2008; Holzer, et al. 2003, 2004) and employers are often unclear about their legal position (Brown, et al. 2005; Fletcher, 2001; Haslewood-Pocsik, et al., 2008). Only 49% of recruiters were aware of ROA provisions (Brown, et al. 2005), creating potential for unnecessary disclosures. Given the ‘social disability’ caused by a criminal conviction (Ramakers et al., 2014: 399-400), campaigns, such as ‘Ban the Box’ (Unlock, 2020; Craigie, 2020) champion disclosure at a later stage than application.

Goodman (2020) recommends that jurisdictions regulate criminal record disclosures like those pertaining to disabilities. Henley (2014) and Buck et al., (2020) argue this could be achieved in the UK by extending antidiscrimination legislation – such as the *Equality Act 2010* – to criminalised people. However, the UK government have been more focused on engaging employers, than regulatory change. *Protecting the Public and Reducing Reoffending (2006)* involved employers in the design and delivery of pre-release training; *The Education and Employment Strategy (2018)* created the New Futures Network¹ to persuade employers to take on ex-prisoners and introduced employer incentives such as National Insurance holidays. *A Smarter Approach to Sentencing (2020)* proposed ‘work coaches’ and ‘employment brokers’ to help people find employment on release. However, these plans have been undermined significantly by the Coronavirus pandemic. Not only is a rise in

¹ <https://www.gov.uk/government/publications/unlock-opportunity-employer-information-pack-and-case-studies/employing-prisoners-and-ex-offenders>

unemployment believed to be inevitable (Mayhew & Anand, 2020), but since March 2020, prisons have implemented ‘exceptional regime’ management plans, halting vital elements of resettlement such as day release to attend education, training or employment (Prison Reform Trust, 2020).

Methodology

This article draws upon a qualitative study, guided by an interpretivist philosophy (Bachman and Schutt, 2014), which examined the perceptions of employers who actively recruit criminalised people. The research aimed understand what has influenced employers to create employment pathways for people with convictions and focused on three research questions: *Why do some employers actively recruit people with convictions? What do employers do to manage perceived risks? What are the costs and benefits of employing people with convictions?* Methods comprised semi-structured interviews with twelve employers in England. All participants were business owners or senior leaders in their organisation. Whilst this sample is small in size, and therefore not *representative* of the whole UK employment market, qualitative investigations can obtain a rich picture of employment post prison, offering important clues to how we can create more effective social policy and enable strategic investment in re-entry successes (Goodman, 2020). Our data reveals some of the factors behind employers’ decisions to hire – thus offering insight into a key catalyst to facilitate desistance (Reich, 2017), they also provide detailed illustrations of how employers support people to remain in post and how criminal justice partners can help (or hinder) these efforts.

Purposive sampling (Rubin and Rubin, 1995), was employed to access organisations pro-actively employing criminalised people, following ethical approval from Cambridge University. Participants, who have been anonymised, were accessed via a charity

that connects criminalised people and employers using a directory; prospective employees complete a membership module for ‘work readiness’ and can then access support and vacancies in the directory. Employers in the directory commit to actively consider members for employment. Participants worked in charitable foundations (n=2), a national charity (n=1), the food industry (n=2), construction and civil engineering businesses (n=2), an information technology company (n=1), a pharmacy chain (n=1), a shoe repair company (n=1), a furniture hire business (n=1) and a social enterprise for socially disadvantaged people (n=1). Their organisations ranged in size from 40 employees to over 56,000 and annual turnover ranged from the tens of thousands to £1.7 billion. Nine participants were interviewed in person and three by telephone. All interviews were recorded digitally and transcribed verbatim. Transcripts were analysed using thematic coding analysis (Robson and McCartan, 2017), which consists of inductively determining themes. All parts of the data were coded (identified as representing an area of interest), codes with similar/ connecting labels were grouped together as themes, and themes then served as a basis for further data analysis and interpretation. For example, interview transcripts (data) were coded based on an area of interest (e.g. legislative nudges). Codes were then grouped into themes (e.g. ‘legislative nudges’ became part of a wider theme of ‘motivations’/ ‘rehabilitative work’ became part of a wider theme of ‘adaptive infrastructure’). Themes were further analysed utilising *hybrid sociology* (Tomczak & Buck, 2019) as a theoretical framework. This theory maps multi-layered possibilities for social justice action in criminal justice and was useful for describing some of the positions adopted by employers as ‘rehabilitative work’ became a feature of retaining employees.

Findings and Discussion

The themes we present here are organised into categories of *why* employers recruit criminalised people, *how* they recruit and support people in practice and *reported benefits*. The ‘why’ includes personal values and experiences and legislative nudges; the ‘how’ includes adaptive infrastructure and recruitment pathways, efforts to navigate stigma and rehabilitative work; and ‘benefits’ include personnel paybacks and broader commercial value.

Why we do it

Personal values and experiences

Many respondents were personally motivated to employ criminalised people having noticed exclusionary employment practices in their own lives:

I didn’t give up [a career in] teaching because I was a struggling, failing teacher [... it was] because I want to employ people who no-one else will employ (PP04).

These motivations were often driven by a general desire for social justice and second chances, but some identified childhood experiences that helped them to identify with applicants:

I remember as a kid, sitting outside Styal prison...waiting for my mum to come back from the visit. So, it’s something I’ve always been open to and familiar with (PP02).

We were poor, but we had great supportive parents...I was on a free school dinner my whole life, I had my brothers’ trousers [handed down] with holes in the knees. All that sort of thing, but that made me the person I am today (PP07).

Participants could often identify with the life circumstances of those they sought to help and considered they had a responsibility to people from similar backgrounds:

Rather than putting up the drawbridge, now that I've made it...I want to try to get other people across that drawbridge, out of those estates and into great careers.
(PP07).

Employment therefore becomes an exercise in social justice, some employers consciously seek to make improvements in the lives of those who have experienced adversity.

Legislative nudges

In addition to personal motivations, there was evidence of incentivisation. Incentives came in the unlikely form of local authority planning legislation, which were not specifically designed to encourage the employment of criminalised people. *The Public Services (Social Value) Act 2012*, for example, requires commissioners of public services to consider social, economic and environmental benefits before and during the procurement of commissioned services. Bidders competing for contracts are required to evidence how they will add social value:

The private sector is becoming a lot more interested in social value. Their motivations vary. Sometimes they just want to win the public sector contracts and be able to write in their bids that they've got [Social Enterprise] in their supply chain, so they can score a few more points in the tender (PP05).

Section 106 of the Town and Country Planning Act 1990 functions in a similar way. It encourages agreements between local authority planners and developers seeking permission to build, which mitigate the impacts on communities. These local planning policies *nudge* developers into working with charities to access people who may otherwise not have been employed:

We have to employ people from the local community...It's part of a section 106. We've got to reach out to ex-offenders and things like that...so we just sat down and Googled a lot of charities and organisations that help people into work especially those who work with ex-offenders (PP10).

Legislation which nudges employers toward broader social benefits therefore appears to help create more inclusive recruitment practices.

How we do it

Adaptive infrastructure and recruitment pathways

In terms of how they did this work, some participants developed roles dedicated to employing criminalised people:

To make it work you need someone on the ground who is funded by the business to make sure that this happens day to day. Because it's...time consuming, it has costs to it, but if you get it right, it's a very valuable resource (PP02).

We've got a client support team downstairs...four or five people, this is what they have done all day every day, for the last ten years or more (PP05).

Participants recognised the need to pro-actively maintain initiatives, and that traditional recruitment pathways may need adaptation to account for the location and personal histories of criminalised people. Four businesses established links to prisons, whilst eight recruited from the community. For those linked with prisons, there were complexities. Support from prisons is needed to identify candidates and facilitate work trials, but at times operational factors appeared to influence referrals:

They've sent us the guys who weren't ready...they couldn't get something else and it's in [the prisons] interest to get them out the door. It's also in the person's interest [to get out on licence], but it wasn't in our interest at all (PP06).

One participant adopted an assertive approach to prisons, which enabled better outcomes:

We have learnt to be quite bossy. So, we say to a prison "we are turning up on Wednesday and we want at least 10 men to interview that fit these criteria" and if we turn up and there are only 8 we make sure that the powers that be know we are not happy (PP02).

However, not all participants described such assurance when dealing with prisons: "we are kind of the weaker partner...So, we were getting the guys who just, you know, they weren't so serious" (PP06). Prison staff are therefore crucial gatekeepers. They can strengthen pathways into employment *or* undermine them. In-prison preparation work is also crucial:

I don't see the training in prisons to be anywhere as efficient, as dedicated, as sharp, to prepare these people to work...I'm not sure that people are being prepared in prison to work...I think that the deficiencies in the system are great. So, it makes it extremely challenging for any employer to take on people (PP03).

This perception aligns with a UK prison education system in crisis. Of the 45 prisons inspected by the *Office for Standards in Education, Children's Services and Skills* between 2018 and 2019, only 2% were judged 'outstanding', 38% were 'good', 44% required improvement and 16% were deemed inadequate (Ofsted, 2020). Ofsted also noted that significant numbers of prisoners received insufficient support towards gaining employment on release, did not access a curriculum enabling them to achieve vocational qualifications and had poor access to e-learning platforms to search for job vacancies or undertake learning (2020: 111). These deficits matter, because 'those who have engaged in prison education are 24 per cent more likely to find employment than those who have not' (Ellison et al., 2017: 125). The potential impact of policies such as 'targets' and 'incentives' for recruitment may also be limited if prisoners cannot access a meaningful curriculum or careers resources whilst incarcerated. In recognition of the barriers criminalised applicants face, employers often acknowledged that a curriculum vitae (CV) may not be the best way of assessing potential:

It doesn't matter if it's not the best CV in the world because some people are going to have very limited work experience (PP09).

When we interview someone...we don't even look at a CV, it's pointless. We are just interested in personality because I can train you to [do the job], but I can't train you to have a different personality (PP02).

Another employer saw the value of replacing traditional recruitment processes altogether:

We've got a very simple interview process. So, no written application form. We ask about 3 questions in an interview...because we are trying to help the hardest to help people (PP04).

Creatively bypassing traditional recruitment strategies, using informal 'getting to know you' mechanisms, is one strategy for including a more diverse range of applicants.

Navigating stigma and risk

One of the most significant tasks associated with *how* people recruited was how they managed concerns about criminalised people. Previous research highlights that offence types can affect employment decisions (Cerda, et al., 2014; Atkin & Armstrong, 2011; Varghese, et al., 2010). For most participants in this study, offences against the person caused particular concern:

The three main convictions we have massive problems with, you won't be surprised about this, I called it TSM and that's Terrorism, Sex offenders and Murderers...I have less issue getting people with a murder conviction into work than I do sex offenders and terrorists. Terrorists because the newspapers and just the word scares the hell out of people and for sex offenders because of reputational damage (PP07).

This speaker verbalises a fear of ‘courtesy stigma’ (Goffman, 1958) or ‘image transfer’ (Wolfensberger, 1999), whereby ‘those who are closely associated with – or viewed as identified with – a stigmatized person acquire some of the same stigmatization’ (Wolfensberger, 1999: 59). As a result, overt discrimination was sometimes employed ‘we are recruiting people from prison, there are no HR rules. You can be discriminatory and selective and whether you like that or not, that is the case’ (PP02). Yet not all employers rejected people who had committed serious offences:

The murderers are quite good people and it’s usually just the one offence, a crime of passion or a fight in the pub (PP07).

We have a large number of people who have been convicted for murder. Most have never done anything wrong in their lives before, it was a moment of madness...for example, we’ve just taken on a guy recently who just got married, came home from work...His wife was in bed with the next-door neighbour they had a fight, he threw the guy against a wall and killed him straight away. So, you know, what happened is terrible, he served his time, he’s done his punishment, but we’ve taken him on and he’s great (PP02).

These speakers humanise their employees by adding context to their convictions and offering second chances. However, not all employers were able to see beyond sexual crimes in the same way. In fact, only one participant reported employing people with sexual convictions:

We have people that...are on the sex offenders register in the organisation, quite a few in various different places. For some people that’s an absolute no-go. For us,

it's often the story, and actually with a bit of thought it wouldn't have to be a problem (PP05).

This speaker implies that with careful consideration of context, stigma can be navigated, and people meaningfully employed. Erving Goffman (1963: 3) defined stigma as 'an attribute that is deeply discrediting'. Tyler (2020: 9) argues that there are debilitating psychological effects of being stigmatised and moreover that stigma is 'a material force, a structural and structuring form of power', resisting 'the divisions which stigma politics are designed to cultivate' is therefore an urgent task (Tyler, 2020: 29-30). Some of the employers in this study made small steps toward resistance by creating opportunities to humanise stigmatised people. Most frequently this humanising took the form of hearing a person's story.

It's a number of people sitting down, bringing a bit of a case conference [...] looking at what we know about that individual and having people in the room that have got to know that individual a bit (PP05).

If somebody has gotten a long period of offending over many years...but when we meet and they say "that was linked to this, that happened during my childhood or adolescence and then it was linked to other things" and we could see that those situations were an influence, and then they describe what happened in their life that helped to turn things around...I feel a lot more comfortable because I can then conceptualize what was going on and where we're at now (PP01).

Other employers alleviated the opportunity for division by carefully selecting roles that would avoid potential conflicts with others and mitigate associated risks:

We do sometimes have to move people around a bit or be careful about the positions we put them in, as much for their safety as for ours...we make sure we have enough jobs where it's not obligatory to do a DBS check...offer that person a job in our landscaping team...manage it a different way (PP04).

You wouldn't obviously send someone with a background of child sexual exploitation into a [swimming] pool or whatever, or to do a school dinners contract. There are kind of no-brainers that you just have to accept. Whether they are a risk or not, they are not acceptable in the eyes of the customer. So, they might work on reception or in the recycling team, do you know what I mean? So, it's trying to find ways around the restrictions (PP05).

Role flexibility enables employers to achieve their aims of employing criminalised people and whilst this might not always be possible in smaller organisations, a willingness to see beyond the first hurdle and adapt was consistently communicated:

I think not saying 'no' to anyone, but... 'not yet' or 'not on the contracts that we've got', I'm not trying to say I could put anyone anywhere, as I don't think that's realistic. But at the same time not saying a blanket 'no, we would never ever touch you' (PP04).

To support practice such as this and overcome the use of blanket exclusion policies, Goodman (2020) has advocated for policy action. He proposes a "Selective, Voluntary Disclosure" approach, which includes regulating the collection and use of criminal record

information *and* increasing the flow of (or, at minimum, not blocking) socially beneficial conversations. In other words, contextual conversations and flexible employment practices alone may not break down barriers for criminalised people, these may need to be supplemented with regulation if barriers are to be removed more broadly. Goodman's proposals, however, would not necessarily manage existing staff perceptions of their own safety in the workplace:

I was just speaking to [a colleague] today. She said, you know, "we do still say no to anyone who's on the sex offender register, don't we? Because that's really important to me that I'm safe at work" (PP06).

We have one colleague now who doesn't want any ex-offenders to work with him because his son was murdered (PP02).

These articulated fears of (physical and/or emotional) harm are important for employers to consider. Yet conversely, over time, employing criminalised people became something that employees valued, rather than feared:

What you find is that often people are quite nervous the first time they are working with someone from prison but when they get to know them, give them a couple of days and they see the role that they have to play in helping this person turn their life around, then they're completely engaged. And it actually becomes a really interesting part of their job, and something, they never signed up for it, but actually they take pride in the fact that they are not just repairing shoes, but actually helping someone on their journey to turn their life around (PP02).

Gaining criminalised people as colleagues can facilitate personal connections and foster empathy, dissipating fears and concerns. This speaker also introduces one of the most surprising findings from the research, which is that many employers engage in practices that are remarkably similar to rehabilitative work. They effectively become *criminal justice volunteers*, providing support and advocacy in addition to their usual job roles.

Rehabilitative Work

Tomczak & Buck (2019) draw on prior work by Howe (2016) and Burrell & Morgan (1979) to map four main orientations adopted by criminal justice volunteers, including: *(functionalist) fixers of individual flaws* who aim to improve individuals; *(interpretivist) enablers*, who hear people's interpretations in order to facilitate personal growth; *(humanist) thought changers* who campaign to raise broader consciousness; and *(structuralist) distribution changers* who seek fairer distribution of resources and promote the welfare of subordinate classes. Surprisingly, elements of all these orientations – sometimes in hybrid forms – could be traced in the activities of these employers. An *enabler* orientation was adopted by those employers who created opportunities to hear an applicant's story and contextualise previous convictions as part of recruitment processes; a *thought changer* position can be identified in those employers who facilitated personal connections, which fostered empathy and dissipated employee fears, but also when senior leaders' minds were changed:

When my project director first read one of the personal stories within the case studies, he said he went home on the train and had a lump in his throat. That is

so powerful that it makes a difference. So, he was on board from that moment on and he takes it forward (PP09).

Some employers even performed ‘fixer’ roles, offering direct interpersonal interventions:

We’ve got a guy who works for us who is in his 50’s. It’s his first ever job since leaving school at 17. He is 35 years out of school and never worked in his life. His first day for us was his first ever day in paid work...He can’t read properly, he can’t write. He’s been in trouble with the police, he’s had trouble with addiction, he’s been homeless, he’s been suicidal. So, he’s fairly much on the scrap heap and unemployable. What does it take to actually employ him? Hard work! There have been times where I have been there at 7 o’clock in the morning to make sure he’ll wake up...it’s going above and beyond saying I work 9 – 5 (PP04).

At the beginning it’s going to be hard because a lot of these people haven’t had jobs before, so it’s getting them used to what it is to be an employee – that means getting up on time, being on time, make it in. A lot of people aren’t used to taking orders from other people, got to get them used to that! So, it’s just micromanaging them through the whole process, which usually takes about three to six months for them to actually realize this is what it takes to be an employee (PP10).

Finally, a ‘distribution changer’ orientation can be seen in those employers motivated by a desire for social justice and mobility, whilst a hybrid ‘fixer’ and ‘distribution

changer' position also underpinned activities which helped people to gain 'a fairer share of whatever goods are around' (Howe 2016: 138):

In the short term, they need help. And it could be they have got to go and live in a hostel. When they get to the hostel, they have got no duvet, they've got no toothbrush, toothpaste, how they gonna get to work if they work in one of our shops? So, we have a way of supporting them. We basically fund all that (PP02).

Other challenges that we've had is people coming out and they got housing problems or probation problems. Things like that can be rectified. We can call probation officers housing officers get them to rearrange appointments to at the end of the days and just little stuff like that (PP10).

Employers therefore adopt varied functional and radical positions, much like the criminal justice voluntary sector more broadly, to support employees. However, they also come to this task via 'brokers' – i.e. charities that connects criminalised people and employers. Tomczak & Buck (2019) argue that such coordinating organisations deserve further analysis, given their potential to broker (radical) change at a variety of scales. Here, we see brokers (charity actors) facilitating connections that in turn re-shape recruitment and in-work support structures. However, the significant in-work support and advocacy activities revealed here require financial investment (in terms of salaries) and make additional demands of staff who provide them on top of their main responsibilities:

The biggest hit we've taken is the managers who have been the good people who've done all the hard work...I said to the senior management team, "they're

the heroes...we failed to recognize what hard work it is. It's a lot extra work and they don't get a lot for it" (PP06).

These tasks not only make additional demands; for some businesses, they are beyond their existing skill set:

We're not in a brilliant position to support with housing [or other issues] because we were making pies with production targets and sales targets and all that (PP06).

The successful induction and retention of employees post prison therefore requires significant practical and interpersonal support from actors other than employers. Whilst some employers proactively absorbed support roles, smaller organisations may be less able to, limiting the opportunities available. A well operationalised national strategy is therefore required to ensure such individualised resettlement support is available to all.

The *Transforming Rehabilitation* (TR) (MoJ, 2013) policy is relevant to consider here. TR fortified successive UK governments' reforms towards a 'mixed market' of criminal justice and heavily committed to 'collaborations across civil society, private capital and public prison and probation services' (Corcoran, Maguire & Williams, 2019: 97). TR also focused on short sentence prisoners, extending mandatory post-release supervision and through-the-gate resettlement provisions to a previously neglected group (Cracknell, 2018). However, Cracknell (2018: 302) argues that these post-release reforms served to 'widen the net' of punishment and oversight, undermining efforts to resettle short sentence prisoners (Cracknell, 2018: 302). Tangible barriers to employment resulted, both in terms of recall to prison and a lack of delivery of promised services. Webster (2017), for example, highlights an increasing number of

ex-prisoners being drawn back into custody while on licence, with (56%) of recalls taking place for technical breaches of licence conditions, as opposed to further offences. Cracknell (2018: 309) argues that to avoid repeated recalls, post-release supervision should offer assistance with practical needs and balance support and control so that punishment comes to an end and the person can re-enter society as a ‘full citizen’. In reality, inspectors found serious shortfalls in the fragmented market model:

None of the prisoners had been helped into employment...and we did not see examples of handover to specialist education or training resources in the community. The low number of mentors available did not match the early promise of [community rehabilitation] contract bids, or the numbers of prisoners who might have benefited from this type of support on release (HMIP, 2016: 8).

TR faced a series of censorious reports (Corcoran & Carr, 2019: 3), before being abandoned in May 2019. The current model of probation in England and Wales is therefore still in (re)development. We argue that tailored employment support pre and post release should be central to the new model, as should partnering with those proactive employers – and charities – who stepped into gaps left by a disrupted probation provision. We would also advocate a national policy commitment to re-engaging former prisoners as citizens in place of ongoing (technical) punishments.

The small group of employers introduced here resist a deficit discourse of people with convictions – or what McNeill (2019: 132) has termed the ‘Malopticon²’, which undermines confidence in redeemability by perennially misrecognising and discrediting’

² In the ‘Maloptican’ [antonym: Panoptican] penal subjects suffer the pain of not being seen; at least not as they would recognise themselves. He/she is seen as bad... by virtue of its insistence on supervising them, the Maloptican represents and projects its subjects as untrustworthy (McNeill, 2019: 132).

people (McNeill, 2019: 132), instead, they recognise people as (potentially) productive and work in hybrid ways to meet myriad needs toward this end. A justice system which reorientates in this direction (in partnership with employers) ‘has the potential to bring real improvements to the lives of families in distressed communities, where criminal justice has been far too extensive and repressive’ (Phelps, 2018, cited in McNeill, 2019: 173).

Systemic Barriers

We have illustrated how some employers work in creative ways at an operational and individual level to boost the inclusion of criminalised people in workplaces. One barrier which was universally seen as significant, however, was organisational liability. Arson convictions, in particular, made employers fearful of invalidating their insurance:

We have had one issue, and that is if you recruit an arsonist, because arsonists in the insurance world are a big no-no (PP02).

We struggle with our construction business insurance if we’ve got people with a record for arson...we have to say we can’t take anybody who has got a record of arson, because that would invalidate our insurance (PP05).

One participant who ran a foundation with links to the construction industry said:

Personally, I don’t [have a problem with arson] but...that’s one of things our clients actually balk at for some reason...Sometimes the arson is a 15-year-old schoolgirl in the park, having a cigarette with her mates and thought it would be a

good laugh to set fire to the bins and it's ridiculous that that ends up being an arson offence, but it does. That's why I try to get people to recruit the person not the conviction (PP07).

Removing this barrier may lie outside the remit of employers, or even criminal justice professionals, given that what is needed are less discriminatory private insurance practices or reduced liability for employers who adopt best practices (Goodman, 2020).

The benefits of recruiting criminalised people.

Personnel benefits

Whilst previous studies have highlighted fears of reputational damage, or beliefs that 'ex-offenders' are unskilled or unreliable (Griffith & Young, 2017; Graffam *et al*, 2008), this study revealed some opposing views. Participants frequently cited traits such as *trustworthy*, *loyal* and *hard working* to describe the people they employed:

From our experience and many other companies experience, the people we recruit from prison are more loyal, work harder and are more honest than the people you recruit from the street (PP02).

If you meet that person at that crossroads in their life and you can reach out a helping hand and say "I believe in you, I think you can do this, come and do a job for us" what you get back is a huge amount of faithfulness and commitment and gratitude and that makes for a better workforce...the difference that the opportunity can make reaps huge rewards in the business (PP05).

This supports Goodstein & Petrich's (2019) finding in north America, that one of the benefits of hiring formerly incarcerated people is hardworking and trustworthy employees. Our UK participants explained how the costs of providing support post prison were compensated by the benefit of good employees:

I'll tell you why it has benefitted us, because you get good employees...I genuinely believe that the reason why this business is successful is because we employ wonderful people who are engaged to the culture and they work bloody hard (PP02).

If I'm honest, they are bloody good employees. At least as good if not better than any other strata of society (PP05).

Commercial benefits

Employers also highlighted benefits to organisational image:

What does the business get from it? You get good publicity and things like that as well, but it's the sense of, especially for a person, it's just self-satisfaction (PP10).

I think more people come to us now because of what we do rather than avoid going into our shops because they may be served by someone who they don't like the look of. And, because it's now not a story, the journalists don't say avoid this one because it's an ex-con in there they just see it as a positive thing (PP02).

The speakers here report an interesting reverse of ‘courtesy stigma’ (Goffman, 1958) or ‘image transfer’ (Wolfensberger, 1999). Instead of association with a stigmatised person resulting in similar stigmatization, this close association results in *courtesy kudos*: business reputation is augmented by (rehabilitative) association with stigmatised people:

If it wasn’t commercially advantageous, we probably wouldn’t do it, because at the end of the day, I’ve got to run a business and I’ve got to pay people and make sure everything works commercially. But, running an ethical business, paying your tax properly, paying your suppliers, looking after your people, is all part of doing what we do (PP02).

This is a particularly important finding given that overcoming stigma is a key factor in addressing concerns about damage to organisational image (Obatusin & Ritter-Williams, 2019). A very contemporary feature of business was also reflected upon, that is how important it is to ‘Millennials’³ that businesses are aware of their social impact:

Millennials are becoming a big part of the workforce and if you’re an employer and you want to attract clever millennials; you’ve got to be doing the right thing. They don’t want to be working for a scum-bag money machine that’s going to stamp on everybody they can to generate the maximum profit; they want to work for an organisation that cares for the community, that has strong values, they want to be part of something with a purpose (PP05).

³ those born or coming of age around the time of the millennium (Scardamalia, 2019: ix)

I've got 4 children and they say that is quite important to them, working for a company that cares. They get that if somebody is homeless, not only is it costing the taxpayer money to keep that person on the streets, it just doesn't make sense when you could give that person a job, somewhere to live and just make society a whole better place (PP07).

Playing a part in the employment and (re)settlement of criminalised people can therefore be marketed by employers to enhance their corporate reputation with customers and potential employees.

Conclusion and recommendations

Despite a wealth of research evidence that meaningful employment can support efforts to desist from crime, criminalised people continue to face systemic barriers to securing work. For many, these barriers include personal histories of poverty, disadvantage and sporadic past employment, but regardless of life trajectories, a criminal conviction itself can be a disabling factor, which has led to international calls for policies to regulate the blanket collection of criminal histories. This study examined the perceptions of employers who proactively recruit criminalised people in the hope their experiences could inform more inclusive employment pathways moving forward. Whilst the sample discussed here is not *representative* of the UK employment market – given its small size and proactivity – it does offer valuable insight into how some organisations overcome barriers to employment post-conviction. The employers speaking here were motivated by personal drives for social justice, which aligned with the corporate social responsibility goals of their organisations. Surprisingly, some were nudged in this direction by local planning legislation, which seeks to build social value into development plans. Partnering with criminal justice organisations and charities became a way

for businesses to demonstrate they were adding social value through inclusive recruitment and therefore secure contracts. However, employer narratives also revealed the crisis within UK prison education, which has borne the brunt of austerity politics (Ismail, 2019) and the significant post-release support some applicants require. Businesses therefore adapted recruitment practices to bypass formal résumés and interviews and adopted a *hybrid sociological* (Tomczak & Buck, 2019) approach to in-work support, spending additional time on training, practical support and interpersonal interventions when people were in post. Employers were aware of the stigma of criminal conviction and gave careful thought to employee placement, however, they also found personal connections can dissipate abstract fears and enable colleagues to see value and potential in criminalised people.

This study illustrates that proactively employing people with criminal convictions – including those straight from prison – is possible and, in many cases, beneficial to employers. Businesses can gain loyal, reliable staff and a sense of satisfaction by helping people to overcome barriers. Employers also reported positive reputational gains from recruiting criminalised people, which was commercially advantageous in terms of winning social contracts and winning over potential customers and employees. It is our hope that more employers consider the example of these proactive organisations, taking small steps toward inclusive recruitment and tailored human resource support. We also recommend that policy makers tackle ongoing barriers related to blanket disclosure, inadequate in-prison and post-prison employment support, and discriminatory insurance practices. Finally, we encourage probation practitioners, wherever possible, to facilitate ongoing support for prison leavers entering employment and to familiarise themselves with local and national charities who can act as ‘brokers’, connecting criminalised people to inclusive employers. Such combined efforts from employers, policy makers and practitioners are likely to have tangible social

benefits including a rise in the number of people securing and retaining employment post prison and connectedly, a fall in the excessive financial and social costs of reoffending.

Bibliography

- Albright, S., & Denq, F. (1996) 'Employer attitudes toward hiring ex-offenders.' *The Prison Journal*, 76(2): 118-137.
- Atkin, C. A., & Armstrong, G. S. (2011) 'Does the concentration of parolees in a community impact employer attitudes toward the hiring of ex-offenders?' *Criminal Justice Policy Review*, 20, 1–23.
- Blomberg, T. G., Bales, W. D., & Piquero, A. R. (2012) 'Is educational achievement a turning point for incarcerated delinquents across race and sex?' *Journal of Youth and Adolescence*, 41(2): 202-216.
- Brown, K., Deakin, J. and Spencer, J. (2005) 'Barriers and opportunities to employment for sex offenders', Manchester: University of Manchester (unpublished report for IMPACT).
- Buck, G., Harriott, P., Ryan, K., Ryan, N. & Tomczak, P. (2020). All Our Justice: People with convictions and 'participatory' criminal justice. In H. McLaughlin, J. Duffy, P. Beresford, H. Casey & C. Cameron. *The Routledge Handbook of Service User Involvement in Human Services Research and Education*. Oxon: Routledge.
- Cerda, J. A., Stenstrom, D, M., & Curtis, M. (2014) 'The role of type of offense and work qualifications on perceived employability of former offenders.' *American Journal of Criminal Justice*, 40: 317-335.
- Cracknell, M. (2018). Post-release reforms for short prison sentences: re-legitimising and widening the net of punishment. *Probation Journal*, 65(3), 302-315.
- Corcoran, M. & Carr, N., (2019), 'Five years of transforming rehabilitation: Markets, management and values', *Probation Journal*, 66(1), pp. 3–7.

- Corcoran, M.S., Maguire, M. & Williams, K., (2019), 'Alice in wonderland: Voluntary sector organisations' experiences of transforming rehabilitation', *Probation Journal*, 66(1), pp. 96–112.
- Craigie, T. A. (2020). Ban the Box, Convictions, and Public Employment. *Economic Inquiry*, 58(1), 425-445.
- Ellison, M., Szifris, K., Horan, R., & Fox, C. (2017). A Rapid Evidence Assessment of the effectiveness of prison education in reducing recidivism and increasing employment. *Probation Journal*, 64(2), 108-128.
- Farrall, S. (2005) 'On the existential aspects of desistance from crime.', *Symbolic Interaction*, 28(3): 367-386.
- Flake, D. F. (2015). When any sentence is a life sentence: Employment discrimination against ex-offenders. *Wash. UL Rev.*, 93, 45.
- Fletcher, D. R. (2001) 'Ex-offenders, the labour market and the new public administration.' *Public Administration*, 79: 871-891.
- Giordano, P.C., Cernkovich, S.A and Rudolph, J.L. (2002) 'Gender, crime and desistance: Toward a theory of cognitive transformation.' *American Journal of Sociology*, 107 (4): 990 -1064.
- Goodman, P. (2020). "Work Your Story": Selective Voluntary Disclosure, Stigma Management, and Narratives of Seeking Employment After Prison. *Law & Social Inquiry*, 1-29. doi:10.1017/lsi.2020.9
- Goodstein, J. D., & Petrich, D. M. (2019). Hiring and retaining formerly incarcerated persons: An employer-based perspective. *Journal of Offender Rehabilitation*, 58(3), 155-177.
- Graffam, J., Shinkfield, A. J., & Hardcastle, L. (2008) 'The perceived employability of ex-prisoners and offenders.' *International Journal of Offender Therapy and Comparative Criminology*, 52: 673–685.

- Griffith, J. N., & Young, N. C. J. (2017). Hiring ex-offenders? The case of Ban the Box, *Equality, Diversity and Inclusion: An International Journal*, Vol. 36 Issue: 6, pp.501-518
- Haith, A. (2001). Employing offenders. *Probation Journal*, 48(4), 296-299.
- Harrison, B., & Schehr, R. C. (2004) 'Offenders and post-release jobs: Variables influencing success and failure.' *Journal of Offender Rehabilitation*, 39(3): 35-68.
- Haslewood-Pocsik, I., Brown, S. and Spencer, J. (2008) 'A not so well lit path: Employers' perspectives on employing ex-offenders.' *The Howard Journal*, 47(1): 18-30.
- Henley, A. (2014). 'Abolishing the stigma of punishments served'. *Criminal Justice Matters*, 97(1), 22-23.
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2003) 'Employment barriers facing ex-offenders.' *Urban Institute Reentry Roundtable*, 1-23.
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2004) 'The effect of an applicant's criminal history on employer hiring decisions and screening practices: Evidence from Los Angeles.' Available at: http://npc.umich.edu/publications/working_papers/?publication_id=24&
- Home Office (2004) *Reducing Re-Offending: National Action Plan*. London H.M.S.O.
- Ismail, N. (2019). Contextualising the pervasive impact of macroeconomic austerity on prison health in England: a qualitative study among international policymakers. *BMC public health*, 19(1), 1043.
- Kethineni, S., & Falcone, D. N. (2007). Employment and ex-offenders in the United States: Effects of legal and extra legal factors. *Probation Journal*, 54(1), 36-51.
- Kvale, S (1996) *Interviews. An Introduction to Qualitative Research Interviewing*. London: Sage.

- LeBel, T. P., Burnett, R., Maruna, S., & Bushway, S. (2008) 'The 'chicken and egg' of subjective and social factors in desistance from crime.' *European Journal of Criminology*, 5(2): 131-159.
- Ludlow, A., Armstrong, R., & Bartels, L. (2019). Learning Together: Localism, Collaboration and Reflexivity in the Development of Prison and University Learning Communities. *Journal of Prison Education and Reentry*, 6(1), 4.
- Mayhew, K., & Anand, P. (2020). COVID-19 and the UK Labour Market. *Oxford Review of Economic Policy*, 36(Supplement_1), S215-S224.
- McNeill, F. (2019). *Pervasive punishment: Making sense of mass supervision*. Bingley, United Kingdom: Emerald Publishing.
- Ministry of Justice, (2018) *Employing Prisoners and ex-offenders*. London: H.M.S.O.
Available at: <https://www.gov.uk/government/publications/unlock-opportunity-employer-information-pack-and-case-studies/employing-prisoners-and-ex-offenders>
- Nuttall, J., Hollmen, L., & Staley, M. (2003) 'The effect of earning a GED on recidivism rates.' *Journal of Correctional Education*, 54(3): 90-94.
- Ofsted (2020) *The Annual Report of Her Majesty's Chief Inspector of Education, Children's Services and Skills 2018/19*. London: Ofsted. Available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/859422/Annual_Report_of_Her_Majesty_s_Chief_Inspector_of_Education_Children_s_Services_and_Skills_201819.pdf
- Obatusin, O. & Ritter-Williams, D. (2019). A phenomenological study of employer perspectives on hiring ex-offenders. *Cogent Social Sciences*, 5(1), 1571730.
- Prison Reform Trust (2020) *How prisons are responding to Covid-19 Briefing #2 Regimes, reactions to the pandemic, and progression*. Available at:

http://www.prisonreformtrust.org.uk/Portals/0/Documents/CAPPTIVE2_regimes_and_progression_web_final.pdf

- Ramakers, A., Apel, R., Nieuwebeerta, P., Dirkzwager, A., & Van Wilsem, J. (2014). Imprisonment length and post-prison employment prospects. *Criminology*, 52(3), 399-427.
- Ramakers, A., Nieuwebeerta, P., Van Wilsem, J., & Dirkzwager, A. (2016) 'Not just any job will do: A study on employment characteristics and recidivism risks after release.' *International Journal of Offender Therapy and Comparative Criminology*, 61(16): 1795-1818.
- Ray, B., Grommon, E., & Rydberg, J. (2016) 'Anticipated stigma and defensive individualism during post incarceration job searching.' *Sociological Inquiry*, 86(3): 348-371.
- Reich, S. E. (2017). 'An exception to the rule: Belief in redeemability, desistance signals, and the employer's decision to hire a job applicant with a criminal record'. *Journal of Offender Rehabilitation*, 56(2), 110-136.
- Ricciardelli, R., & Mooney, T. (2018). 'The decision to disclose: Employment after prison'. *Journal of Offender Rehabilitation*, 57(6), 343-366.
- Robson, C. and McCartan, K. (2017) *Real World Research*. 4th ed., Chichester: Wiley.
- Rubin, H. J. and Rubin, I. S. (1995) *Qualitative Interviewing: the art of hearing data*. London: Sage Publications.
- Sampson, R. and Laub, J. (1993) *Crime in the making: Pathways and turning points in life*.
- Scardamalia, R. L. (2019). *Millennials in America 2019*. Rowman & Littlefield.
- Solomon, A., Visher, C., La Vigne, N., & Osbourne, J. (2006) *Understanding the challenges of prisoner reentry: Research findings from the Urban Institute's prisoner reentry portfolio*. Washington, DC: The Urban Institute.

- Tomczak, P., & Buck, G. (2019). 'The penal voluntary sector: a hybrid sociology'. *The British Journal of Criminology*, 59(4), 898-918.
- Tyler, I. (2020). *Stigma: The machinery of inequality*. Zed Books.
- Uggen, C. & Wakefield, S. (2008) What have we learned from longitudinal studies of work and crime? In A. Liberman (ed.), *The long view of crime: A synthesis of longitudinal research*. New York, NY: Springer, pp. 191-219.
- Unlock (2020) 'Ban the Box' Available at: <https://www.unlock.org.uk/projects/employment-discrimination/ban-the-box/>
- Vacca, J. (2004) 'Educated Prisoners Are Less Likely to Return to Prison.' *Journal of Correctional Education*, 55(4): 297-305.
- Varghese, F. P., Hardin, E. E., Bauer, R. L., & Morgan, R. D. (2010) 'Attitudes toward hiring offenders: The roles of criminal history, job qualifications, and race.' *International Journal of Offender Therapy and Comparative Criminology*, 54(5): 769-782.
- Visher, C., Bebus, S., & Yahner, J. (2008) *Employment after prison: A longitudinal study of releases in three states*. Washington, DC: The Urban Institute.
- Wadsworth, T. (2006) 'The meaning of work: Conceptualizing the deterrent effect of employment on crime among young adults.' *Sociological Perspectives*, 49(3): 343-368.
- Webster R (2017) Why are offenders recalled to prison? Available at: <https://www.russellwebster.com/recalls/>
- Western, B., Braga, A., Davis, J. & Sirois, C. (2015) "Stress and Hardship After Prison." *American Journal of Sociology*, 120(5): 1512-47.
- YouGov (2016) *Survey Results, Fieldwork 26 June – 14 December*. London: YouGov.
Available at <http://bit.ly/YouGovDWP>