

Why criminal records might not be an employment dealbreaker

The Labour Court's recent landmark ruling in the case of *Connor v Lexisnexis* [2024] has changed the rule book when it comes to disregarding jobs applicants based on criminal history.



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The court's acceptance of the employee's claim for unfair discrimination underscores a fundamental shift in perspective, advocating for fairness and inclusivity in the workplace.

The employee, seeking to compel the employer to honour its original offer of employment, challenged the retraction of the offer upon the discovery of his criminal history. Invoking various provisions of labour law, the employee claimed unfair dismissal, discrimination, and contract repudiation.

The court, finding the criminal history irrelevant to the job requirements, ordered the employer to reinstate the original employment offer, albeit with a modification to reflect the time that had elapsed.

Jonathan Goldberg, chairman of Global Business Solutions, stresses the importance of evaluating the relevance of a candidate's criminal history to the job at hand.



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"Gone are the days when a blanket ban on hiring individuals with a criminal record was considered acceptable," Goldberg asserts. "Today, we recognise the need for a more nuanced approach that prioritises fairness and merit."

Goldberg emphasises the significance of assessing the nature of the offence in relation to the job applied for.

"While certain convictions may be relevant to specific roles, many others are not," he explains. "For instance, a youthful indiscretion like smoking marijuana decades ago should not hinder someone's prospects in unrelated fields."

The ruling highlights the imperative for employers to adopt a discerning approach to hiring practices, considering individual circumstances and the potential for rehabilitation.



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"By solely focusing on an applicant's criminal record without considering its relevance to the job, employers risk perpetuating systemic discrimination and denying individuals the opportunity to rebuild their lives," Goldberg warns.

Moreover, Goldberg advocates for greater transparency and accountability in recruitment processes.

"Employers must be prepared to justify any decision to exclude candidates based on their criminal history," he asserts. "This not only promotes fairness but also fosters trust and confidence in the hiring process."

In conclusion, the ruling in *Connor v Lexisnexis [2024]* prompts employers to reconsider their approach to hiring individuals with a criminal record. By prioritising fairness, relevance, and inclusivity, we can build a workforce that reflects the values of justice and equality.

As Goldberg summarises, "A criminal record should not be a barrier to employment, but rather an opportunity for redemption and second chances."

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