

# Foreword

The effect of criminal convictions can be lifelong. For example, despite the increasing recognition of a right to rehabilitation, employers remain risk averse. There have been limited studies of this, but one study recorded approximately 10% of employers openly saying that they would never employ an ex-offender<sup>1</sup>. That is not surprising, as no employer wants to be named and shamed by the media for employing a person with a criminal record. However, it does mean that disclosure of criminal records can be a killer blow to employment prospects (as a number of judges have recognised).

Disclosure of criminal convictions does not merely have an impact on a person's employment prospects. For example, vigilantism fed by information about criminal convictions has resulted in violence. The wider a conviction is circulated, the more likely that it will be misused in this manner.

Historically, there was very limited disclosure of criminal records. They would just be forgotten about. Possibly, the first case considering the legality of disclosure was *R v Chief Constable of North Wales Police, ex p Thorpe* [1999] QB 396. At the time that case seemed to be very extreme and unusual. However, a number of factors have made disclosure far more common in the 20 years that have followed. First, technology allows the processing of large amounts of data. In addition, notorious incidents such as the Soham murders have increased the pressure for disclosure. There are now millions of criminal records checks.

This new reality of widespread disclosure means that practitioners are increasingly being approached by reformed ex-offenders who are terrified about their past coming to light. But it is not just ex-offenders who are approaching practitioners. Disclosure can relate to allegations. It can relate to acquittals. Limiting that disclosure can also be essential. We live in a society where an allegation can be enough to destroy a person's job prospects.

The law has the potential to provide an important safeguard by ensuring that there is a genuine justification for the use and disclosure of sensitive information. However, it will only be an effective safeguard if there are informed practitioners challenging decisions. It will only be an effective safeguard if Government lawyers are fully informed of the restrictions upon disclosure and advise accordingly.

The importance of ensuring that disclosure is lawful means that I am very excited by this new book. As far as I am aware, there has been no previous attempt to bring together the law regarding the use and disclosure of police

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<sup>1</sup> *Prejudged; Tagged for Life*, Changing Lives.

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information. This book will provide practitioners with the tools they need to advise.

Ed and Jessica are experienced and leading practitioners in this area. It is to their credit that they are willing to share their expertise. I have no doubt that they are motivated by a desire to increase the protection of those at risk from unlawful use and disclosure of data. I am sure this book will achieve that aim. I thank them for all of their work.

Hugh Southey QC, Matrix  
25 June 2019

This Foreword is taken from:

**Criminal Records, Privacy and the Criminal Justice System: A Practical Handbook**

by Edward Jones and Jessica Jones.

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