



University admissions and criminal records

Lessons learned and next steps

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Introduction

For the last two decades, access to higher education in the UK for people with a criminal record has been seen to be much more difficult. This is, in part, because of the way that the Universities and Colleges Admissions Service (UCAS) has required all applicants to disclose whether or not they have a certain criminal record when completing the standard UCAS application.

But that is now changing. [UCAS has announced](#) that it is removing the requirement for applicants to disclose if they have relevant unspent convictions on the application form.

That is why this paper is so timely; it brings together three short essays that look at the lessons that can be learned from the US, and what is next for university admissions and criminal records in the UK.

Drawing on newly published research (by Bradley Custer), sharing lessons from the US (by Dr Alexandra Cox), and looking at the UK context (by Christopher Stacey), this paper provides some useful insights that will be helpful in the work that will now need to be done to ensure that the changes announced by UCAS are followed through by individual institutions to remove unnecessary barriers to higher education for students with a criminal record.

Unlock is taking forward many of the areas discussed in this paper as part of its [Unlocking students with conviction](#) project.

1. A comparison between the US and UK

Research into admissions practices

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Both in the United Kingdom and in the United States, it has become the norm that prospective university students must disclose their criminal records on admissions applications. Yet, this practice has garnered little attention in the media or in scholarly research, especially in the UK. My recent [paper](#), in which I compare US and UK admissions practices, identifies a few serious problems with current practices in the UK. As university admissions departments decide what to do without the UCAS criminal record application question, lessons from this study suggest they should ban the box for good.

In 1998, UCAS added a question to its application about criminal records, which currently reads: “If you have a relevant criminal conviction that is not spent, please tick the box; otherwise leave it blank.” In the US, individual institutions have asked questions about criminal history since at least the early 1990s, but the standardised application company *The Common Application*, which serves more than 750 universities in the United States, added its question in 2006, which currently reads: “Have you ever been adjudicated guilty or convicted of a misdemeanor or felony?” With prospective students’ criminal records in the hands of university admissions officers, an elaborate [review process](#) was developed in both countries to guide decision making, records maintenance, and other administrative matters.

Despite the seemingly rapid and unchallenged adoption of these admissions practices, the ban the box movement has since gained influence. In the US, reports from the Center for Community Alternatives in [2010](#) and [2015](#) and from the US Department of Education in [2016](#) offered compelling rebukes to higher education admissions practices. As a result, several institutions changed their policies, including the entire State University of New York system, and the states of [Louisiana](#) and Washington passed laws to limit the use of criminal history in admissions. In the UK, organisations like [Unlock](#) are working to promote fair admissions practices, and coincidentally, only a week after the release of the US Department of Education report, the UK Ministry of Justice released an [independent report](#) on the matter describing admissions practices for applicants with convictions as “major barriers” to higher education.

Having seen the policy changes that came from the release of compelling evidence in the US, I sought to fill a gap; in the UK, no study had ever been conducted on the admissions process for applicants with prior criminal history. I started by requesting data from UCAS, but they responded by saying they did not hold information about applicants with criminal convictions in their analytical data. So, with the 2015 Center for Community

Alternatives report as a model, I sent public records requests to a sample of thirty, large, but not highly-selective, public universities in the UK to learn about how many undergraduate students with criminal records applied and how many were rejected because of their backgrounds. Here is what I found.

Thirteen universities provided the data that I requested in full; though imperfect, the sample still offers interesting insights.¹ In the 2014-2015 academic year, 2,502 applicants to the thirteen universities ticked the criminal history box, of which 25 (1%) were rejected specifically due to their criminal histories. In 2015-2016, there were 2,159 applicants, of which 47 (2.18%) were rejected. These figures are notable in that they are the first to describe the outcomes of these policies since UCAS began asking about criminal history.

But these figures may not accurately represent the whole population of applicants with a criminal record. For one, ten of the thirty universities commented in their data responses that many applicants tick the box by mistake (“error declarations”). One institution even reported that nearly half of the applicants who ticked the box in 2015-2016 did so in error. This suggests serious problems with the design of the application question, despite UCAS’ [attempts](#) to improve it. It also wastes university resources to investigate and process these applications. For another, it is possible that many more applicants with convictions intended to apply but did not complete their applications when faced with the criminal history question. [Previous US research](#) has found that the question itself and the ensuing review process deters people from applying.

If the UCAS question is either so confusing that many students tick the box in error, or so stigmatising that many students do not complete the application, then removing the question altogether is clearly the right decision. Since it is not clear from the existing [research](#) what, if any, demonstrable benefits come from asking about criminal history, the UCAS question and the accompanying university review procedures seem to cause more problems than they solved.

Given the problems of the current UCAS question, and now that UCAS has removed that question, UK universities should not simply replace it with their own application question about criminal history. Rather, now is the time for UK universities to reconsider the entire process. Before university admissions departments implement any new procedures, they should ask themselves:

1. What is the purpose of collecting and reviewing the criminal histories of all university applicants? Is it necessary to achieve the goals of the university?
2. Has the current process yielded any demonstrable benefits? If so, can those benefits be achieved through alternative, less discriminatory methods?

¹ The other seventeen universities sent me partial or unusable data, rejected my request, or did not respond at all.

3. What have been the administrative challenges, costs, and unintended consequences of administering the current process?
4. What have been the experiences of students who have undergone the review process?
5. What evidence-based policies and programs can be implemented to promote campus safety that do not create barriers for people with criminal histories?

By reflecting on these questions, and by including the voices of students with convictions, researchers, and advocates for people with convictions, a balanced evaluation of the issue may rightfully lead to banning the box in UK university admissions. As explained next in the essay by Dr Alexandra Cox, some individual US universities have already grappled with banning the box, and she offers her reflections and advice to UK university practitioners as they decide what to do next.

My study found that thousands of people with criminal convictions in the UK want to go to university, and a small percentage of applicants (though still significant) are rejected due to their criminal histories. Additional research is needed to understand the impact of those rejections. Nevertheless, twenty years have passed since UCAS began asking about criminal history, and far too little can be shown for what good it has done. The UCAS decision to drop their problematic criminal history question marks the end of a failed experiment in UK higher education, and unless universities can demonstrate evidence to the contrary, the application question and the criminal history review process should not be implemented again.

2. The role of a criminal record in higher education

Some reflections from the United States

Dr Alexandra Cox, University of Essex, Department of Sociology

As a public educator and sociologist, I know that an individual's participation in higher education can build their social and economic mobility, strengthen their social sympathies, and increase their political participation. For those individuals who are disproportionately from low-income, marginalised communities, higher education can connect them to networks and opportunities. This is why I support the inclusion of individuals with criminal convictions in higher education, as they often represent some of our most marginalised and vulnerable citizens.

The evidence is clear: individuals with convictions who participate in higher education succeed, and their families and communities do too. [Participation in higher education in prison reduces an individual's likelihood of reoffending substantially](#). It also allows people to grow and develop in ways that cannot be measured; amongst my students, friends and colleagues who have been convicted of a crime, spent time in prison, and who have then gone into university and received post-graduate degrees, [I count an award-winning poet and lawyer](#), [a scholar of social work](#) and [many other scholars around the world](#), numerous advocates and activists for social change, writers and [journalists](#).

When I was a professor at the State University of New York (SUNY) at New Paltz, I learned about the thousands of people who were effectively denied admission to universities as a result of their criminal record. Yet what I knew to be true in New York State is as true in England and Wales: public universities are engaged in a systematic examination of diversity, inclusion and widening participation. [Those very same universities are struggling to keep their student numbers as high as they need them](#), and they are ostensibly committed to democratic values of participation. Yet what I also know is that universities across the United States and the United Kingdom frequently deny admissions to individuals with convictions in ways that defy that commitment to participation.

I learned about the consequences of this conviction 'box' when I worked with a young man to apply for my university in New York. He'd participated in a higher education course in a juvenile facility and wanted to continue his education. Once he indicated that he had a felony conviction (the term felony is defined as a serious crime) on his application, he was asked to provide further information about his criminal history. He had to request and pay for his criminal history record, write an essay describing his criminal history, and then appear for an in-person interview on campus about his criminal record. This young man, who lived two hours away from the university he applied to, and who was daunted by the process of this review, gave up. He chose

the institution because it was far away from the community where he was first arrested, and where he struggled to find work and opportunities. Yet this distance ultimately played a role in preventing him to go there, and he decided not to continue with his application. Sadly, he was just a statistic: in a report produced by the Center for Community Alternatives, researchers found that two out of three individuals with criminal records who applied to SUNY schools did not complete the admissions review process. [They termed this 'denial of admission by attrition.'](#)

Many might argue that individuals with convictions *should* go through this systematic review, not only for the purposes of public safety and accountability, but also because it forces them to fully demonstrate their commitment to the process. I heard this argument when I was part of a committee appointed by the General Counsel of SUNY to analyse the role of the conviction box on the SUNY application. Yet, we ultimately decided to reject that logic, recognising that we wanted to *encourage*, rather than discourage, individuals with convictions from participating in higher education: in September 2016 the Board of Trustees of SUNY decided to [eliminate the conviction box from the application](#). As the largest university system in the United States, serving over 600,000 students, this was a monumental move.

I have learned several lessons from participating in this process and working with students with convictions. These lessons reflect the available empirical evidence, key principles and values of higher education, and issues of systemic efficacy. Many of the lessons are reflected in the [guidance on criminal convictions](#) offered by Supporting Professionalism in Admissions. With the elimination of the box from the UCAS application, the need to implement guidance for universities is all the more urgent.

Universities should recognise the role that the admission of individuals with criminal convictions plays in widening participation in higher education, and consider the intersecting experiences of disadvantage that individuals carry with them, from race, class and gender, to experiences in institutions, from prisons to social care. This is consistent with the core principles of tolerance in our democracy, but also recognises the role that higher education can play in the expression of mercy, justice and redemption.

Universities should not create any extra barriers to participation in higher education beyond those that relate to legally enshrined aspects of a criminal conviction. At SUNY, we recognised that there would be a number of degree programs, from nursing to law, which involved career paths that would require criminal background checks and, in some cases, exclude applicants with convictions. We felt that, in the absence of a criminal conviction box at the front end of the application process, those *relevant* programs may be entitled to have an additional criminal record screening only in order to *notify and warn* the applicant about the potential bars on their participation in clinical education programs, and ultimately a career in that field. However, should an individual with a conviction apply to a law program, for example, we felt that they should not be barred from

participating in a program even if the barriers to entry in the profession were high. It also recognises the evolving common sense about risk and public safety in the professions. A number of jurisdictions and companies around the world have eliminated the conviction box from their employment application process, and professions have refined their guidance on criminal convictions.

Universities should be attuned to principles of equity and fairness if they should decide to establish any screening programs with respect to housing or other programs. [Custer's research on the UK higher education application process revealed that](#), even with a conviction box on the UCAS application, universities varied widely in their rejection rates of students with convictions solely on the basis of their convictions, from some rejecting no applicants, to others rejecting 20% of applicants. In a fair and equitable system, this variation would not exist. Universities should recognise that all individuals with convictions, even those with sexual offense convictions, are not inherently more risky or dangerous than any other member of the population. In fact, we take enormous risks when we focus our attention on only some people we deem risky (those with criminal convictions) instead of focusing our attention on the well-being of students on campus.

We should not assume that a person's engagement in an act predicts their future dangerousness; not only do scholars question this notion, adherents of fairness and justice do as well. If there are specific bars on access to housing, they should be made in consultation with government authorities, such as the National Probation Service or Community Rehabilitation Companies, both responsible for managing people serving sentences in the community. They will have similar requirements that they have developed, based on their own metrics of risk and need; their expertise should trump that of universities.

There is enormous discretion that individuals can exercise at the admissions office level, and a wide variety of decisions that can be made by individuals who have little or no knowledge about the role of a conviction in an individual's life. Thus, adding any extra screening processes will arguably create more harm than good, not only raising questions about fairness in the application of screenings, but also potentially delaying and disrupting admissions processes. The College and Community Fellowship (CCF), an organisation based in New York, and which led the campaign to eliminate the conviction box in the SUNY system, has developed a technical assistance program for universities interested in supporting the admission of students who have criminal convictions; in this training, CCF provides training and on-going technical assistance on myth-busting about people with convictions, individualised education programs, access and retention. This project was created in recognition of the ongoing need from university staff and administrators about meeting the unique needs of students with convictions. Universities in England and Wales have an opportunity to implement a robust and equitable approach to people with convictions.

3. Where next for criminal records and admissions?

Applying lessons to the UK context

Christopher Stacey, Co-director, Unlock

In over 10 years of working to remove barriers for people with a criminal record, access to higher education has been a significant issue which has, if anything, been a growing problem. That is why Unlock very much welcomes the removal of the main criminal conviction box from the UCAS form. This is a significant change that has the potential to help many people with convictions see a university education as a positive way forward in their lives. For far too long, universities have operated arbitrary, unfair admissions practices towards those who ticked the box to indicate they have a previous criminal offence. Unlock has seen first-hand how people have been put off from applying to university as a result of this box

With the changes that UCAS has announced, the higher education sector now has a unique opportunity to question whether criminal records should feature *at all* when deciding whether someone should be accepted onto a university course.

If universities are committed to widening participation, they should be considering the widest number of potential applicants. The change by UCAS provides a strong signal to universities that criminal records shouldn't feature in their assessment of academic ability. Many institutions are now rightly looking at how to amend their policies and practices. As part of setting the tone for that work, I wanted to share some thoughts about how I see this as a positive for universities, and look at what universities should look to do moving forward.

The public perception of 'ex-offenders' is largely driven by stories in the press. However, when you look at who actually has a criminal record, **you can see how there are real benefits to universities in being open and inclusive towards people with a criminal record.**

Firstly, there are large numbers of people with convictions who could potentially be admitted to university who are not because they are being deterred from applying. The numbers of prison university partnerships are growing. Less than 10% of people with a criminal record go to prison, yet there are [over 11 million people with a criminal record](#) and approximately [three-quarters of a million people with an unspent criminal record](#). Although most convictions become spent (under the Rehabilitation of Offenders Act 1974) at some point, for young people that offend, their criminal record is likely to be 'unspent' at the key moment when their peers go to university. Furthermore, for many courses that involve enhanced criminal record checks, a criminal record will continue to show even once it is spent, and often for the rest of the individual's life. Our recent report on [youth](#)

[criminal records](#) shows the significant numbers of people affected in this way because of youth criminal records from years ago. Bradley Custer's research points to the number of people applying to university through UCAS that have declared they have a criminal record; that in 2014-15 there were 2,502 applicants across thirteen universities that ticked the box.

Secondly, this issue should be seen through the lens of widening participation. For example, the government wants to double the percentage of higher education students from disadvantaged backgrounds by 2020. People of Black, Asian or minority ethnic (BAME) background are [disproportionately represented](#) amongst those who are arrested and imprisoned; the racial disproportionality in the UK criminal justice system is actually greater than that in the US system. People with convictions also often represent other groups who are disproportionately under-represented at university, including care leavers, people from low income households, mature students, people with learning difficulties and/or disabilities and first-in-family.

People with convictions who are applying to university are showing a huge commitment to turning their lives around. As a society, we should be doing all we can to support them. The opportunity to go to university can help people to move away from their criminal past, build careers and contribute positively to society. Their presence is also hugely beneficial to universities themselves, which gain highly committed students who help create a more diverse and inclusive learning environment.

Yet, to date, there have been some real systemic barriers. The main one is what is referred to as the 'chilling effect'; this is where people have been deterred from applying when presented with questions about their criminal record. It is a signal that they will never belong in this world and will be viewed in terms of the identity and lifestyle they are trying to leave behind. More importantly for the individuals involved, those that have disclosed a criminal record have experienced a range of different treatment by universities – despite [good practice guidance](#), there has been a lack of consistency in approach, no training or support for admissions staff, a lack of transparency about whether decisions are being made on academic or risk assessment grounds, mechanisms set up to consider individual cases failing to have face-to-face contact with the individual nor any appeal mechanism. These practical issues have often been underpinned by discrimination, stigma and baseless assumptions about 'ex-offenders'.

That is why removing the general criminal record question is a positive step. It provides a unique opportunity for institutions to look again at their approach.

Whether universities should ask at all

It's important to understand why UCAS have [dropped the need for applicants to disclose relevant unspent convictions](#); they recognised that the question at application stage could deter people from applying, and wanted to reaffirm that higher education is open to everyone.

In Belgium and Denmark, universities don't ask about criminal records. Most European universities do not ask. The 23 California state universities do not ask. The 64 State University of New York colleges and universities do not ask. [Research from the US](#) found no evidence that admitting people with criminal convictions led to a higher rate of crime on campus. It is also consistent with the [ban the box campaign](#) that is spreading amongst employers, removing the question about criminal records from job application forms.

So what should universities do to be consistent with the message from UCAS? The starting point should be that criminal records should not be a part of a university's assessment of academic merit. The change by UCAS sends a strong signal to universities that they should not be collecting criminal records from all potential students at application stage, and I expect to see the majority of institutions decide not to ask about criminal records for admissions purposes for most courses. Criminal record disclosure (of, say, certain offences) may feature in other parts, like when applying for university accommodation, but that's further down the line and a separate process to that of admissions.

Within the context of the GDPR (the General Data Protection Regulation) and the Data Protection Act 2018, universities need to consider what lawful basis they have for asking about criminal records, a special category of personal data. At this stage it seems unclear what lawful basis most university courses would have for requesting criminal record details for admissions purposes. It is also important to recognise the failings of an approach to date which has relied on self-disclosure, particularly given how it's usually been the honest ones that have disclosed and so been pulled into an array of assessment panels, whereas the ones that have been dishonest, withholding the details, have been able to happily study. The reality of this must question the approach of asking at all. The changes by UCAS send a strong signal that it is not a requirement at the application stage, and as a result there remains a serious question mark over why UCAS is continuing to allow universities to require applicants for certain courses (such as Medicine) to answer a question about criminal records through the UCAS process. UCAS should not be asking applicants about their criminal record. Instead, it is for individual institutions to complete enhanced criminal record checks where the law permits, for appropriate courses such as Medicine and Dentistry. Since an enhanced criminal record check will need to take place for these courses regardless of whether the applicant answers the question, it is unclear that UCAS collecting this data is a targeted or proportionate approach.

In considering concerns about people recently convicted of serious offences applying to universities and not having to declare whether they have a criminal record, this is where a key understanding of the role of others outside of universities is important. Most people with unspent convictions will not be on probation or on licence from prison. Where an individual poses a risk of re-offending, they will be managed by a criminal justice agency, usually by the National Probation Service, a Community Rehabilitation Company or a youth offending team. Everyone who is deemed to still be at some risk of reoffending has an active licence or order. Everyone who has been in prison, even for a short time, serves at least 12 months 'on licence' requiring them to be supervised by a probation officer. Those studying on day release from prison will be subject to the responsibility of the prison. While both those in prison and those serving sentences in the community represent the minority of potential applicants with a criminal record, where those individuals do look to apply to university, the criminal justice agencies involved have their own responsibility to both the individual and the wider public. Prison and probation staff are experts in risk assessments, and so by the time someone applies to university, these processes will have already been carried out by the criminal justice system. They are best placed to manage risk, and may in specific situations share information with an institution. This is the type of process that universities need to consider within their policies and practices, rather than up-front self-disclosure from potential students. Universities shouldn't try to do the same job simply based on what information the individual provides.

Instead, one of the key considerations should be how universities can provide support to students with criminal records that might need some extra help. There are examples of where this works well – such as [Open Book](#) based at Goldsmiths in London, and [Project Rebound](#) in San Francisco. Essentially, the point is that universities don't need to *ask* every applicant about whether they have a criminal record while still making sure that they *provide support* to those that want and need it.

The approach to certain courses that involve enhanced DBS checks

For courses that involve regulatory requirements or placements that require enhanced Disclosure and Barring Service (DBS) checks, questions about past criminal records may be needed at some stage in the process. Medicine courses are an example, where active placements in the profession are required, so it is appropriate to ask specific, targeted questions about criminal records as part of an assessment as to whether there will be any issues in the person completing the course or being registered by the General Medical Council. However, for these types of courses the process of criminal record disclosure can be done after a student has been accepted on their academic merit, and the process at that point will vary depending on the nature of the course and what is involved during the course, as well as what status is given to the individual following completion. There is no one-size-fits-all approach to these types of courses. There is a lot more work needed to better understand what the specific professional or regulatory requirements are for certain courses, and ensuring this

is properly reflected in the approach. This means there's a degree of nuance. For example, if a course involves a mandatory placement in regulated activity, it's appropriate to ask applicants to confirm up-front that they're not barred from regulated activity. However, the vast majority of courses won't fall into that category, and only a small proportion of people with a criminal record are barred from regulated activity.

For these courses, taking forward the vision of UCAS that higher education is open to everyone, questions should be asked after an academic decision has been made. The key component is separating out any assessment about criminal records from the applicant's academic ability. In these situations, a clear policy and process readily available on the university website will enable this to be explained. The process should include targeted questions relevant to the course (rather than broad, standardised questions).

There remains work to be done to ensure that there is a proportionate approach to assessing the relevance of the applicant's criminal record and that the right decisions are reached. In my experience, the decisions of universities often go further than they should – justified as “for the benefit of the student” – making assumptions about what will be possible for them in the future. While it's right that individuals should be aware of what future challenges they might encounter, they shouldn't be preventing them the opportunity to try. Universities can also end up spending a lot of time considering old and minor criminal records in assessment panels that should have been disregarded at an earlier stage in the process. It's a sad fact that enhanced DBS checks can reveal cautions and convictions that are decades old and could easily be ruled out as irrelevant for most courses, without the need for a full assessment. For the more recent and serious offences, it is still the case that the majority of criminal records will likely be irrelevant. However, if rejection is on balance quite possible, a face to face meeting with the individual to find out more information is crucial to ensure a fully informed assessment can be made. And finally, a lot of work needs to be done in established clear appeals processes that enable any assessments by a university to be independently reviewed. This is something that is lacking in many of the cases that I've seen.

Throughout all of this, universities need to have a strong, inclusive mindset. Unless you are proactively including, you are probably accidentally excluding.

Many institutions are now rightly looking at how to amend their policies and practices. I hope to see a number of universities step forward and make changes to their processes of the type I've described here. There is potential to follow in the footsteps of [President Obama's 'Fair chance higher education' pledge](#), creating some clear principles that could achieve some consistency in approach across institutions. I look forward to working with UCAS and individual universities in developing clear guidance and support to ensure fair admissions policies towards students with criminal records.

Unlock

Unlock is an independent award-winning national charity that provides a voice and support for people with convictions who are facing stigma and obstacles because of their criminal record, often long after they have served their sentence.

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