

Submission

Lammy Review of BAME representation in the CJS

Introduction

Unlock welcomes the opportunity to provide a short written submission to the Lammy Review. We have chosen to respond in writing as our area of concern does not directly map across the questions in the online consultation. However, we have submitted a response online in response to question 39 and this encompasses our response below.

Our response

As a charity that exists for people with convictions, our focus is less on who is *in* the criminal justice system but rather, how those leaving the system move forward with their lives and overcome the obstacles associated with having a criminal record. We are therefore particularly pleased to see that the review is seeking to address issues arising during rehabilitation in the wider community, and this is the focus of our response.

We know from our work that people from all backgrounds struggle after they have left the criminal justice system – this is often, in part at least, as a result of the criminal record that they carry with them. The stigma and discrimination by society generally towards people with criminal records, and the attitudes of employers, housing providers and insurers in particular, makes it difficult for people with criminal records to lead positive lives in the future.

It is unclear to what extent there is an opportunity in this review, but we would encourage the review to consider the disproportionate impact that a criminal record has on people from BAME backgrounds.

In particular, given what we know about the attitudes of employers towards applicants that have a criminal record, we believe it is important for the review team to consider whether this type of treatment amounts to unfair treatment and indirect discrimination towards people from BAME backgrounds when applying for work.

For example, some employers have a blanket policy of not employing people with unspent convictions. As a result of the disproportionate numbers of people from BAME backgrounds that have a criminal record, this type of employer recruitment practice disproportionately affects people from BAME backgrounds.

Indirect discrimination occurs when an apparently neutral condition, required of everyone, has a disproportionately harsh impact on a person with an attribute. In this context, it is clear that the requirement to disclose criminal records as part of applying for employment opportunities has a disproportionately harsh impact on people from BAME backgrounds. There is no good justification for this discrimination; it is not a proportionate means of achieving a legitimate aim, where non-discriminatory methods (such as judging each case on its merits) would suffice to protect the integrity of the workforce.

Statistics

The statistics below go some way towards demonstrating the impact of a criminal record. This impact will be disproportionately affect people from BAME backgrounds.

1. Royal Mail has a stated policy not to recruit any applicant who has an unspent conviction for a huge range of offence categories, without looking at the sentence received or how long ago it was.¹
2. 53% of employers have no policies in place in relation to people with convictions, and only 1% of employers have policies in place to encourage the employment of ex-offenders. Yet 38% of employers have a company-wide policy to ask if a candidate has a criminal record.²
3. Many employers have a tick-box on their application form about criminal records; “HR teams mostly use template application forms, and online templates that are frequently adopted will include this box”, according to Business in the Community (BITC). This ‘tick-box’ acts as a barrier to entering employment for many people.³
4. Removing this ‘tick-box’ has shown to have a positive impact. ‘Banning the box’ has had success in the USA, led there by the National Employment Law Project. In the city of Minneapolis, where the City Council banned the box, 57.4% of applicants with convictions in the last seven years were hired (2007-08), compared to just 5.7% hired before the box was removed (2004-6).⁴
5. 75% of employers discriminate against applicants on the basis of a criminal record.⁵

¹ <http://www.royalmailgroup.com/our-people/careers/royal-mail/faqs-about-job-opportunities>

² Survey of 1,118 employers by Reed, January 2013, presented at a No Offence conference

³ Comment by Faye Goldman, Communications Manager for BITC, in email correspondence with Unlock
⁴

http://www.staradvertiser.com/news/breaking/20140826_Hawaii_job_application_law_reduces_crime.html

⁵ Working Links (2010) Prejudged: Tagged for life, London: Working Links

Comment

It is our view that, for those employers, insurers and housing providers that have blanket exclusions towards people with criminal records – e.g. “we do not employ people with unspent criminal records” – they are indirectly discriminating against people from BAME backgrounds.

We would urge the review to consider in what ways this can be looked at as part of the review and what steps could be taken to eradicate this indirect discrimination towards people from BAME backgrounds.

About Unlock

Unlock is an independent, award-winning charity for people with convictions which exists for two simple reasons. Firstly, we assist people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Secondly, we seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives.

We help

- We support people with convictions by providing information, advice and support through our [websites](#) and [helpline](#)
- We help practitioners who support people with convictions by [providing criminal record disclosure training](#) and useful resources
- We [recruit and train people with convictions as volunteers](#) to help support the information and advice we provide
- We [support employers](#) in the fair treatment of people with criminal records

We listen and learn

- Our [helpline](#) and [forum](#) provide an ear to ground on the problems that people face as a result of their criminal record
- We [collect evidence and undertake research](#) into the barriers caused by criminal convictions

We take action

- We [challenge bad practice by employers and push for improvements to the way that criminal record checks operate](#)
- We advocate for a fairer and more inclusive society by [working at a policy level](#) with Government, employers and others

More information

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