

Submission

Government consultation on behalf of the Office for Students

Unlock welcomes the opportunity to provide a short written submission to the Department for Education's consultation on behalf of the Office for Students.

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.

The focus of our response relates principally to admissions of people with convictions, and relates particularly to the following statement in the consultation document: *"Widening access and promoting the success of disadvantaged students will be at the heart of the OfS's remit."*

We would welcome the opportunity to work with the Office for Students on taking this forward.

Our response

People with convictions share characteristics that UCAS and the government call "disadvantaged" – i.e. those least likely to progress to university. Almost half the prison population left school with no qualifications, 42% were permanently excluded and nearly a quarter (compared with 2% of the general population) have spent time in the care system as children. Despite making up just 14% of the population, black and minority ethnic men and women make up 25% of prisoners, while over 40% of young people in custody are from BAME backgrounds. There are over 11 million people in the UK with a criminal record, with an estimated three-quarters of a million with unspent convictions. **This is a widening participation issue.**

Less than 10% of people that get a criminal record end up going to prison. A criminal record acquired as a young person can cause significant detriment to educational opportunities. The University and Colleges Admissions Service (UCAS) requires all applicants to make a declaration on the initial application relating to unspent offences for a wide-range of offences. If applying for a course leading to certain professions or occupations exempt from the Rehabilitation of Offenders Act 1974 (ROA), applicants have to tick a further box if they have a conviction or caution that would not be filtered.

It would be regarded as good practice to not take a declaration like this into account until after the applicant's academic ability had been considered. Unfortunately, this is not always the case, and there is a lack consistency as to why the information is needed at this initial stage. Anecdotally, we know that it puts people off from applying. For example, in one case an individual said:

"Why do they need to know this before I've accepted any conditional offer. Asking for information right at the beginning suggests they're going to be using it. It's put me off applying to any course through UCAS. I'm going to look at where I can apply directly instead."

Although no quantitative research has been carried out in the UK, we regularly hear from people who find that old and minor criminal records cause problems when applying to university, particularly in accessing courses like social work and healthcare. One individual said:

"I applied for a place on a Human Resource and Management course at a local university. ...I met all the academic requirements... I filled in the form, ticked the box to say I had unspent criminal convictions and made a full disclosure as requested. It did not take long for me to receive a forty-five word email refusing me entry. I appealed but I was refused entry again. At this point, it would have been easy to walk away... However, I decided it was worth one last effort... [Six months after my original application a] letter came through the letter box overturning the original decision to keep me out and offering me a place on the course... We all deserve a second chance, whatever we have done, but be prepared to fight for it – it certainly won't be handed to you on a plate."

In the US, research ("Boxed Out") found that "there is no empirical evidence to indicate that criminal history screening makes college campuses any safer". It also found that almost two-thirds of applicants who disclosed a felony conviction to the State University of New York (SUNY) were denied access to higher education. This has led to SUNY removing the box from their initial application form and the Department of Education in the US has emphasised the importance of going "beyond the box" in college applications — because unnecessarily broad questions about criminal history can often deter and discourage qualified students from pursuing a college degree.

There is good practice in place. Unfortunately, this is often not followed by institutions. Crucially, in July 2017, UCAS announced it was withdrawing funding from SPA, only 8 months after SPA published updated good practice guidance to the university admissions sector on criminal records. Criminal records and fair admissions was one of their main priorities of work.

In April 2017, we led a workshop at the UCAS Admissions conference, alongside UCAS and SPA, with the focus on good practice and in understanding what more was needed. The feedback demonstrated the importance of engaging with admissions professions directly, as well as the need for more support to institutions:

- The session was saved by Chris from Unlock who provided some useful information
- This was an excellent session. Dan Shaffer's presentations are always informative and the presenter from Unlock, Christopher Stacey, gave an interesting insight into the applicant experience from the perspective of an applicant with the criminal convictions.
- I thought that this session would help to develop our Criminal Convictions policy, however the information given was very vague. I felt that the session could have been more practical other than providing us with facts and figures
- Very useful session and particularly timely, as we are reviewing our processes currently.

There are over 11 million people in the UK with a criminal record. We run a helpline that speaks to around 8,000 a year about the problems they're facing as a result of their criminal record, and we have an online information site that has over 1.2 million visitors a year.

Useful data, research and statistics can be found at the following links:

- <http://www.unlock.org.uk/policy-issues/key-facts/>
- <http://www.unlock.org.uk/policy-issues/specific-policy-issues/university-admissions/>
- <http://hub.unlock.org.uk/knowledgebase/university/>
- Unlocking potential: a review of education in prison - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524013/education-review-report.pdf - see pages 54 and 55

- SPA good practice guide - Considerations for applicants with criminal convictions - <https://www.spa.ac.uk/resources/criminal-convictions>
- Beyond the Box (US Department of Education, 2016) - www.ed.gov.uk/beyondthebox
- Centre for Community Alternatives (2015), Boxed Out: Criminal History Screening and College Application Attrition. Available at <http://www.communityalternatives.org/fb/boxed-out.html>

In 2016/17, over 200 people contacted our helpline looking for advice on applying to university with a criminal record, while around 56,000 people visited our online information for individuals on this subject.

We regularly share stories of people's experiences - some of these are listed below and can be found at www.the-record.org.uk:

- "University study is possible – but you'll have to fight for it" - <http://www.the-record.org.uk/unlock-people-with-convictions/university-study-is-possible-but-youll-have-to-fight-for-it/>
- "See the legal system from both sides - and becoming a solicitor!" - Thomas' story shows how education helped him to overcome a gambling addiction, earn himself a law degree and qualify as a solicitor - <http://www.the-record.org.uk/unlock-people-with-convictions/seeing-the-legal-system-from-both-sides-and-becoming-a-solicitor/>
- "Harnessing my anger to help myself and others - Becoming a teacher with a criminal record" - <http://www.the-record.org.uk/unlock-people-with-convictions/harnessing-my-anger-to-help-myself-and-others-becoming-a-teacher-with-a-criminal-record/>

Recommendations

1. Recognise people with a criminal record as a disadvantaged group

Given the data around black and minority ethnic groups in the criminal justice system, as well as care leavers and other characteristics, people with a criminal record should be regarded as a disadvantaged group within an "access and admissions" perspective. The Office for Students should look at how this group is included in all access and participation plans.

2. UCAS should "explain or change"

UCAS believe that their current approach doesn't discourage or discount applicants, but do not share any data to show this. There is lots of evidence that the current UCAS approach has a chilling effect and that people end up not being offered a place as a result of an irrelevant criminal record.

We recommend that UCAS remove the question about criminal convictions from their application forms. This was recommended by Dame Sally Coates in her report on prison education. Applicants should be judged first and foremost on their past achievements and experience, with then a fair and transparent assessment and appeals process relating to criminal records.

3. Improve and enforce good practice guidance

There needs to be a clear plan to build on the good work on SPA in influencing and supporting institutions in their policies and practices for dealing with criminal record.

4. Understand the numbers

The Office for Students should require UCAS and universities to report data on applicants and students that disclosed a criminal record, and what their admissions outcomes were (i.e. were they accepted or rejected), as well as outcomes from the full student cycle (i.e. did they take up the place, complete the course etc.)

5. Get buy in from universities and provide them with support

There are some excellent examples of work happening outside of admissions – within specific programmes, like widening participation, such as at Goldsmiths, but this work predominantly sits with specific individuals outside of admissions, and although this raises aspirations it struggles to filter through to admissions, where process works as a barrier.

University widening participation teams need training, resources and support so that they can encourage and support applications from people with a criminal record. Access and participation plans provide a vehicle for this and we recommend that the Office for Students looks at how encouraging and supporting applications from people with criminal records can be strategically built into these plans.

More information

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