

A life sentence for young people

A report into the impact of criminal records
acquired in childhood and early adulthood

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Supported by:



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Executive summary

“The caution I got when I was 15.
It’s still affecting me 35 years later.
It’s like a life sentence.”

“I fought to get a degree and get a job in my profession.
And I’ve been crime-free for over a decade.
Yet I still fear that dreaded enhanced DBS check.”

The quotes above are taken from the 318 responses Unlock received to its survey which looked at the impact of criminal records acquired when people were young. The findings of the survey, alongside new data obtained and analysed for this report, paint a stark picture.

For example, in the last 5 years alone on standard/enhanced DBS checks:

1. **Nearly 850,000 people have been affected by the disclosure of a youth criminal record on a standard/enhanced check.**
2. **Over 3.5 million youth criminal records have been disclosed**
3. **Over three-quarters of youth criminal records disclosed (almost 2.75 million) were over 10 years old.**
4. **Over 2.25 million youth criminal records disclosed were over 15 years old.**
5. **Nearly 1 million youth criminal records disclosed were over 30 years old.**

As these figures show, youth criminal records endure throughout adulthood, working life and beyond. To many, it feels like a life sentence. The sheer number of very old and minor criminal records that are routinely and unnecessarily disclosed raises serious questions about the effectiveness of the criminal records regime, and in particular the DBS filtering process.

Although most criminal records become ‘spent’ at some point under the Rehabilitation of Offenders Act 1974, the rate of applications for enhanced DBS checks has increased, along with the availability of media reports of old convictions and a general risk aversion towards people with criminal behaviour in their past. This renders the protections provided by the 1974 Act less meaningful.

Those who acquire a criminal record as a child or young adult can find themselves affected in multiple ways and for a very long time, often for the rest of their lives. From employment, volunteering and studying at university, to travelling abroad and buying home insurance, this report shows how a criminal record represents a significant barrier to the ability to move on and can drag people down, even decades later.

Take Michael (not his real name). When he was 17, Michael was convicted of theft of a coat from a market stall. He was fined £30. Ten months later, 23 days after turning 18, he was convicted of stealing a motor cycle and driving without insurance. He was fined £50 and sentenced to 24 hours at an attendance centre. That was 36 years ago; he’s come a long way since then. He’s now in his fifties. However, Michael’s long-forgotten past has come back to haunt him and he’s concerned about his work as a finance director. He could lose his job and a career that he’s worked hard for.

Then there's Anita (not her real name). When she was 11, she was playing with a cigarette lighter in the girls' bathroom at school and set a toilet roll alight causing around £100 of damage. She was arrested for Arson and told that the reprimand she was given would come off her record when she turned 19. Then after months of being bullied in secondary school, she was involved in a fight. She and the other pupil were both arrested for Actual Bodily Harm. She was encouraged by the police to accept a reprimand rather than challenge it in court and was told it would come off her record in five years. Now nearly in her thirties, she's a qualified English teacher. However, not only was her record not removed like she was told it would be, but her two reprimands come up on enhanced DBS checks and will do under the current DBS rules for the rest of her life. The hopelessness of trying to find work has led her to working abroad and to bouts of depression and anxiety.

Under the current system, Michael & Anita's criminal record will be disclosed for the rest of their lives.

Yet there is significant support for change. From Charlie Taylor's review of youth justice, David Lammy MP's review into the treatment of black and minority ethnic groups in the criminal justice system, the Law Commission's review into the DBS filtering system and the Justice Committee's inquiry into the disclosure of youth criminal records, there is an overwhelming case for change.

So far, the government has been procrastinating. It has been defending litigation in the courts. The High Court ruled in 2016 that the current filtering rules are unlawful and disproportionate. The government lost its appeal in the Court of Appeal in 2017, and is now appealing to the Supreme Court, with the case due to be heard in June 2018 and a judgment expected later in the year.

The wide ranging effects of the current system are clear. This report describes and evidences some of the problems and shows that changes to the system will benefit thousands of people.

Background to the report

This report is part of the charity's *Unlocking Experience* project,¹ which aims to **investigate, highlight and seek solutions to structural barriers that young adults in England and Wales face as a result of criminal records**. The report combines a number of activities that we've carried out as part of our work on this project, including:

1. Freedom of Information requests to the DBS and Disclosure Scotland to better understand the number of people affected by the official disclosure of criminal records through criminal record checks.
2. A survey of people who acquired a criminal record in early adulthood.²
3. Work with the Justice Committee into their short inquiry into the disclosure of youth criminal records.³

To ensure consistency, a number of terms are used throughout this report:

1. **Childhood** – People under the age of 18
2. **Early adulthood** – People aged 18-25
3. **Youth or young people**– People aged 10-25 (a collective term to refer to people in childhood and early adulthood)
4. **Criminal record** – Criminal convictions and cautions

The original focus was to be on a criminal record acquired in early adulthood. However, in the course of undertaking the survey, it became clear that seeking to separate experiences according to whether the offence occurred before or after the age of 18 was a false dichotomy, particularly for those who were convicted both as a child and as a young adult.

As a result, we expanded our focus to include criminal records acquired in childhood and early adulthood. This approach complements other developments around criminal records, such as the Justice Committee's inquiry into the disclosure of youth criminal records (which looked at both children and young adults). It also builds on the review of the youth justice system carried out by Charlie Taylor, within which the impact of criminal records featured prominently. Finally, with an eye to the Supreme Court case later this year, which involves a number of challenges to the DBS's filtering system,⁴ it is hoped that this report serves as a useful addition in demonstrating the need for change.

The overwhelming message from the survey was that people are held back because of old criminal records (particularly on standard and enhanced checks). Given that the survey was unable to provide a sense of the scale of the problem, we carried out some additional research, primarily by making Freedom of Information Act requests to the DBS and Disclosure Scotland.

The data collection exercise provided valuable insight into the number of people affected, and highlighted the wealth of data that is available (and is not published by DBS). **There is scope for further and more detailed research into the numbers and types of people affected by the disclosure of childhood and young adult criminal records.**

¹ More details available at www.unlock.org.uk/projects/unlocking-experience/

² Any personally identifiable details in quotes and case studies used have been altered to protect the privacy of the individuals involved.

³ More details available at www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2015/disclosure-of-youth-criminal-records-16-17/

⁴ More details on this are available from www.unlock.org.uk/policy-issues/specific-policy-issues/filtering/

Background to the criminal records regime

The criminal records disclosure regime in England and Wales is complex.⁵ However, for the purposes of this report it is important to explain some of the key aspects to the regime.

The Rehabilitation of Offenders Act and 'spent' convictions

The regime that sets out the disclosure of criminal records is underpinned by the Rehabilitation of Offenders Act (ROA) 1974,⁶ as amended in 2014.⁷ The Act enables certain criminal records to become spent after a specified period of time. The time it takes for a criminal record to become spent is based on the sentence an individual receives. For example, if an adult receives a 4-month prison sentence, so long as they receive no further convictions in the meantime, it will become spent 2 years after the full 4-month sentence.⁸ Until that point, the conviction is regarded as 'unspent'.

Once it is spent, it no longer has to be disclosed when applying for most jobs, and when applying for things like insurance. It will not be disclosed on basic checks. Subject to a number of exceptions, it is unlawful for employers to take spent convictions into account when considering someone's suitability for employment or volunteering.

Roles exempt from the Rehabilitation of Offenders Act

There are a number of jobs and roles that are exempt from the ROA. The ROA 1974 (Exceptions) Order 1975⁹ covers roles in the medical, pharmaceutical and legal professions, high level positions in the financial services sector, as well as roles that involve work with children or vulnerable adults, amongst other roles. For these roles, the Exceptions Order allows spent convictions and cautions to be disclosed and taken into account (although since 2013, this is subject to the DBS filtering process explained below).

Disclosure and Barring Service checks

The Disclosure and Barring Service (DBS) is a Home Office-sponsored non-departmental public body that processes requests for criminal record checks in England and Wales.

A DBS check may be required by employers as part of pre-recruitment checks or in relation to volunteering.

⁵ Unlock has websites for individuals (hub.unlock.org.uk) and employers (recruit.unlock.org.uk) that provide simple, accurate information on the criminal records regime.

⁶ Available at www.legislation.gov.uk/ukpga/1974/53/contents

⁷ [Section 139 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#). A Private Member's Bill is currently before Parliament (the Criminal Records Bill, sponsored by Lord Ramsbotham), which proposes further reductions in the time before criminal records are spent.

⁸ There are more details on how the law works at hub.unlock.org.uk/roa and www.disclosurecalculator.org.uk

⁹ [The Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975, SI No 1975/1023](#). Amendments to this Order were made in 2013, with further amendments in 2014, 2015 and 2016.

There are three categories of criminal record checks:

1. Basic checks – These are for roles covered by the ROA. Basic checks disclose unspent criminal records.
2. Standard checks – These are for specific roles that are exempt from the ROA, including solicitors and people applying for a licence from the Security Industry Authority. Standard checks disclose all convictions and cautions on the Police National Computer unless they are filtered by the DBS (see below).
3. Enhanced checks – These are for specific roles that are exempt from the ROA, including working with children and vulnerable groups. Enhanced checks disclose the same as standard checks with the additional potential to include information held on local police records (at the discretion of the chief police officer) and also details on whether the applicant is barred from working with children or adults (depending on the type of role the check is being applied).

Although an individual can apply for their own basic DBS check, standard and enhanced checks require a form to go via the employer or third party 'umbrella body' before it is submitted to the DBS. When the individual receives the DBS certificate, this is passed on to the organisation requiring the check. There is no way for an applicant to preview the information that will appear on their certificate, nor can they then appeal against the disclosure of a conviction or caution (although they can apply for an amended certificate if it is inaccurate).

DBS filtering process

Up until 2013, standard and enhanced DBS checks disclosed all convictions and cautions on the Police National Computer. In 2013, the Court of Appeal ruled that it was incompatible with Article 8 of the European Convention on Human Rights (the right to respect for private and family life), because it was disproportionate to the legitimate aims of protecting employers and vulnerable individuals.¹⁰

In response to the judgment, the government quickly introduced a filtering system. It operates strict operational rules, with no right of appeal against individual disclosure decisions. The rules as explained on the GOV.UK website¹¹ are set out below:

For those 18 or over at the time of the offence

- *An adult conviction will be removed from a DBS certificate if:

 - 11 years have elapsed since the date of conviction; and
 - it is the person's only offence, and
 - it did not result in a custodial sentence*
- *Even then, it will only be removed if it does not appear on the list of offences which will never be filtered from a certificate. If a person has more than one offence, then details of all their convictions will always be included.*
- *An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.*

For those under 18 at the time of the offence

- *The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years*
- *The same rules apply as for adult cautions, except that the elapsed time period is 2 years.*

¹⁰ [R \(on the application of T\) v Chief Constable of Greater Manchester and others \[2013\] EWCA Civ 25](#). The case concerned the requirement to disclose, on an enhanced check, two warnings issued to the claimant for stealing bicycles at the age of 11.

¹¹ Available at www.gov.uk/government/publications/filtering-rules-for-criminal-record-check-certificates/filtering-rules-for-dbs-certificates-criminal-record-checks

The number of people affected

This section looks at the number of people affected by disclosure on official criminal record checks of criminal records acquired as children or young adults.

The analysis below is based on data derived from Freedom of Information requests to DBS and Disclosure Scotland.¹² A detailed breakdown of the data can be found in Appendix A of this report.

As these figures below show, a criminal record acquired in youth can, in effect, be a life sentence.

Although the problem may not be new, the sheer number of very old criminal records being disclosed raises serious questions about the effectiveness of the criminal record disclosure regime, in particular the DBS filtering process.¹³

It is also important to note that **more people will have been affected than this data suggests**. In particular, the 'chilling effect' of DBS checks and the shame, embarrassment and stigma of disclosing a past criminal record **puts a significant number of people off from even applying** for roles where their criminal record will come up. This is evident in the survey findings of this report. Although it is difficult to quantify how many people this affects, it is clear through Unlock's work that they represent a **large but hidden proportion of people with a criminal record**.

As young people

The number of checks

- **In the last 5 years, over 6 million criminal records checks have been carried out on young people.**¹⁴
- **Young people make up a significant proportion of people having to undergo criminal record checks.** 3 in 10 basic checks, and 1 in 5 standard/enhanced checks, are on young people.
- **Young people represent the largest specific age group affected by disclosure of unspent convictions on basic checks.** In the last 3 years, over 20,000 young adults had at least one conviction disclosed on a basic check carried out when they were a young adult. Although this is only 2% of basic checks carried out on young adults, it represents 30.1% of the total number of basic checks that contained unspent convictions.

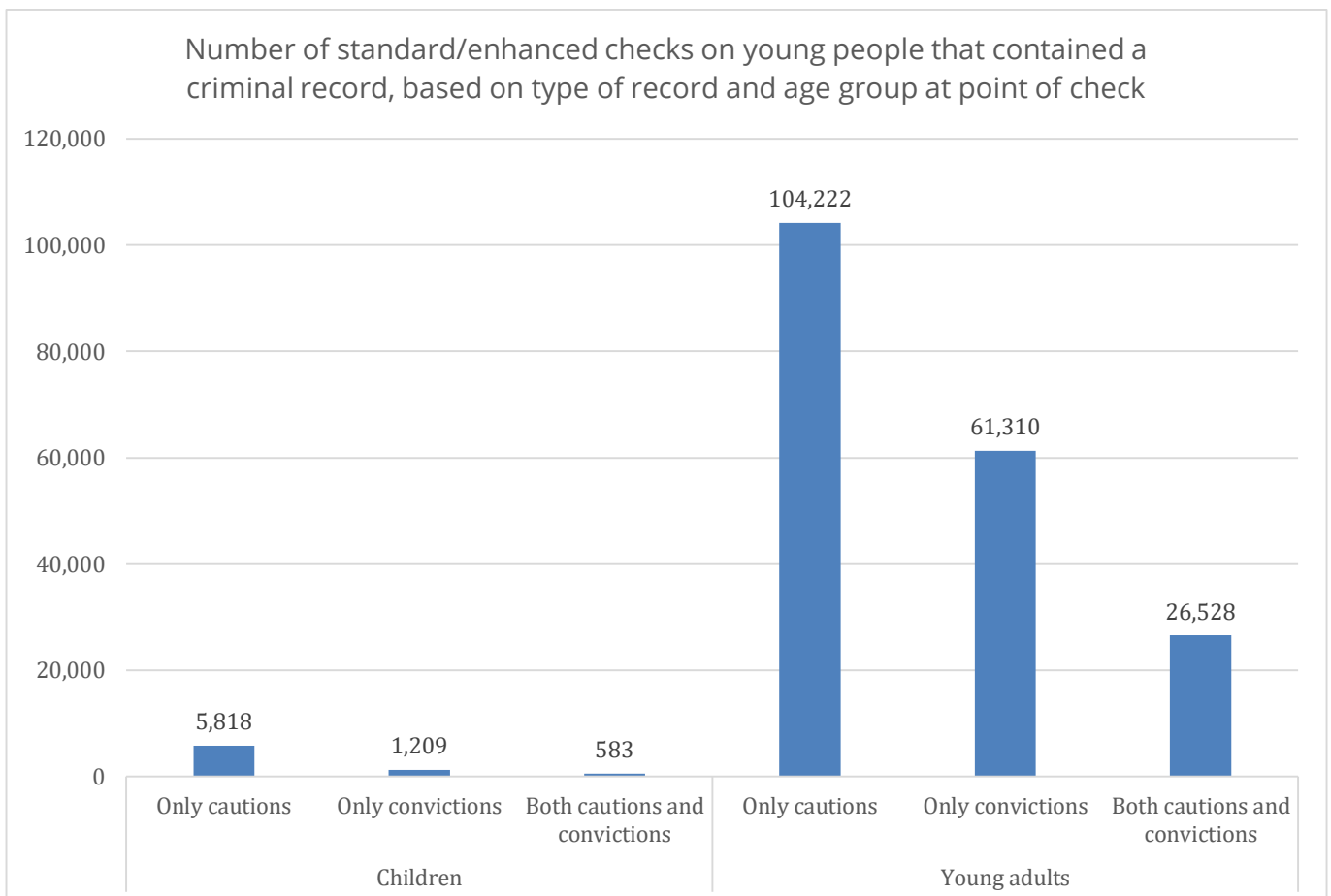
¹² Basic checks were provided by Disclosure Scotland for applicants in England and Wales until late 2017.

¹³ The DBS filtering process is explained in the 'Background to the criminal records regime' section above.

¹⁴ This is based on the total number of basic checks in the last 3 years (47,870 on children and 1,016,310 on young adults) and the number of standard/enhanced checks in the last 5 years (637,773 on children and 4,254,211 on young adults). This totals 5,956,164. The actual number in the last 5 years will therefore be over 6 million.

What they contain

- **Young people are significantly affected by cautions and convictions on standard/enhanced DBS checks.**
 - Of the 7,610 checks on children that contained a criminal record, 76.5% (5,818) contained only cautions, with 15.9% (1,209) containing only convictions, and 7.7% (583) containing both cautions and convictions.
 - Of the 192,060 checks on young adults that contained a criminal record, 54.3% (104,222) had only cautions disclosed 31.9% (61,310) contained only convictions, and 13.8% (26,528) containing both cautions and convictions.



- **Young adults are proportionately affected more by the disclosure of convictions than children.** The 31.9% of checks on young adults that disclosed a criminal record contained only convictions. This is over double the percentage when compared with children (15.9%).
- **More children are affected by the disclosure of cautions rather than convictions.** The 76.5% of checks on children that disclosed a criminal record contained only cautions. This is much higher than the 54.3% for young adults.

Later in life

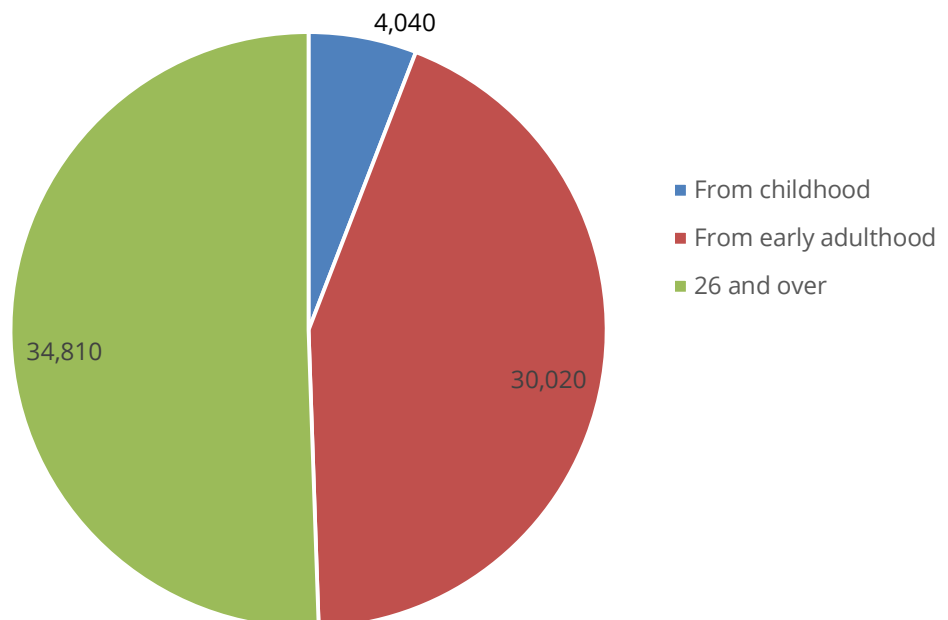
Overall numbers

- **Hundreds of thousands of people have been affected by the disclosure of a youth criminal record.** In the last 5 years, over two-thirds of a million people have been affected by the disclosure on a standard/enhanced check of a criminal record that they acquired as a young adult. In the same period, over a third of a million people have been affected by the disclosure of a childhood criminal record.
- **People are more affected by the disclosure of a youth criminal record on standard/enhanced checks than on basic checks.** For example, in the last 3 years, 30,200 basic checks contained a criminal record that was acquired as a young adult. However, in the last 5 years, 679,914 standard and enhanced checks contained a criminal record that was acquired as a young adult.

Number of basic checks

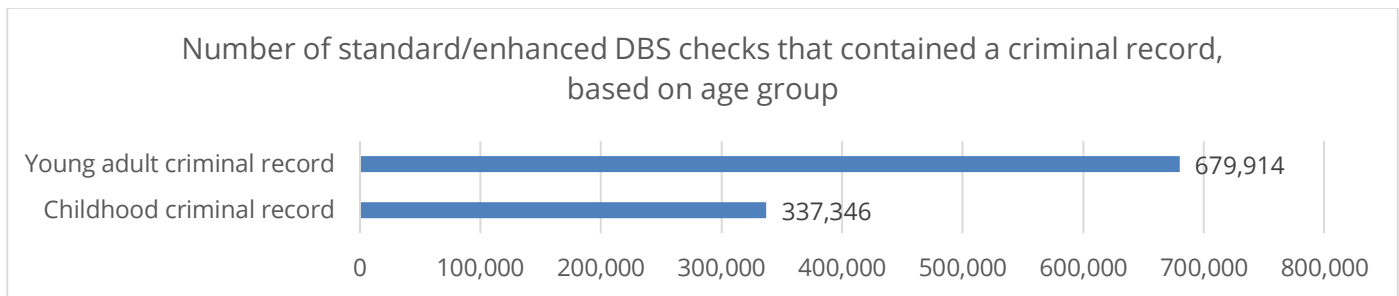
- **Nearly half of all convictions revealed on basic checks were acquired in youth.** Of the 68,860 basic checks in the last 3 years that contained convictions, 49.4% contained convictions from childhood (4,040) or early adulthood (30,020).

Number of convictions disclosed on basic checks, based on when they were received

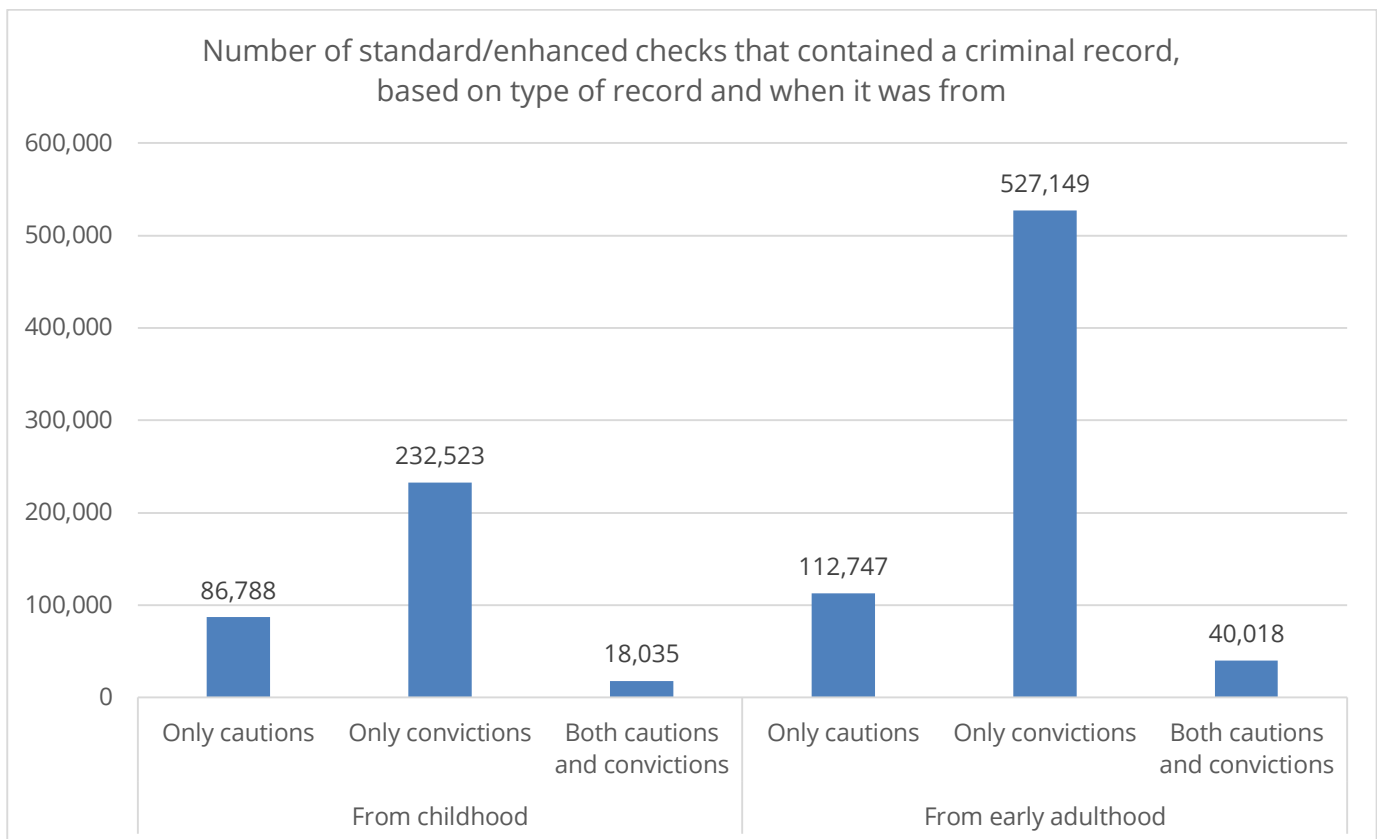


Number of standard/enhanced checks

- **Over a third of a million people have been affected by the disclosure of a childhood criminal record.** 337,346 standard and enhanced checks contained a caution or conviction received when they were a child.
- **Over two-thirds of a million people have been affected by the disclosure of a criminal record acquired as a young adult.** 679,914 standard and enhanced checks contained a criminal record that was given to the individual when they were a young adult.



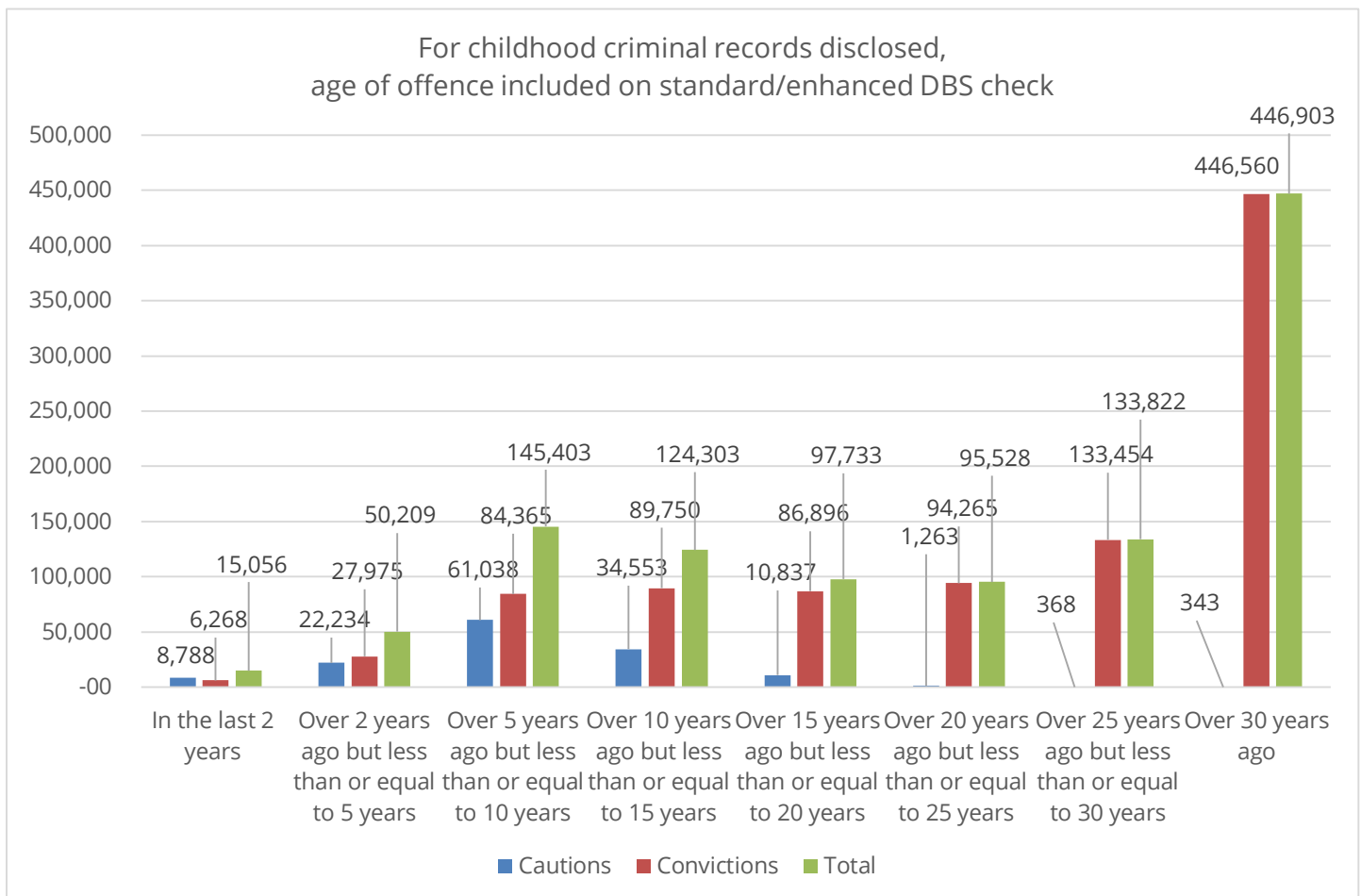
- **Convictions from childhood are more common than cautions.** 68.9% (232,523) of the 337,346 checks that included a criminal record from when the individual was a child contained just convictions, 25.7% (86,788) contained just cautions, and 5.3% (18,035) contained both.
- **Young adult convictions are more common than cautions.** 77.5% (527,149) of the 679,914 checks contained just young adult convictions, 16.6% (112,747) contained just young adult cautions, and 5.9% (40,018) contained both.



Childhood criminal records on standard/enhanced checks

Of the childhood records disclosed:

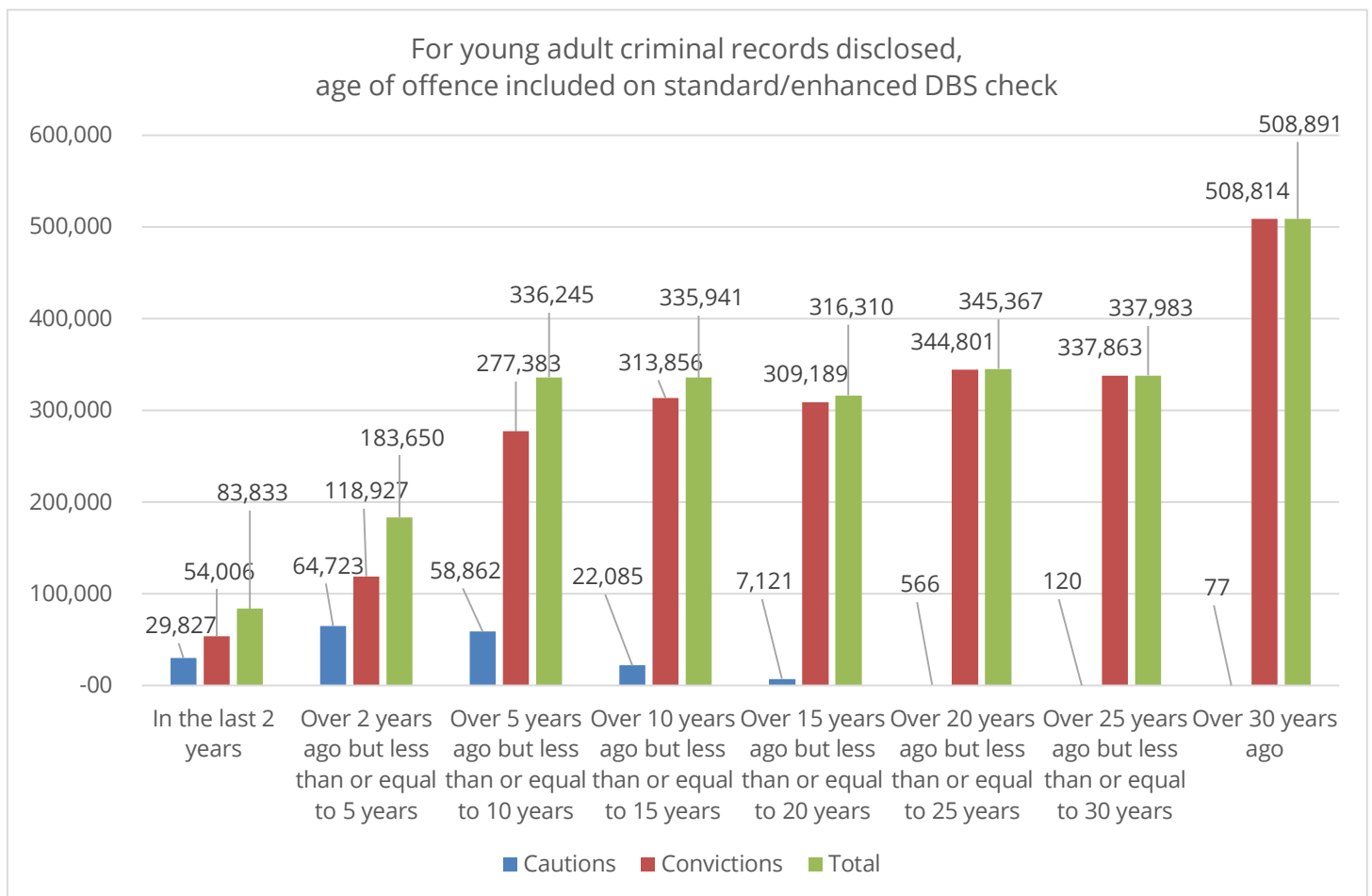
- **Only a very small proportion were recent:** Only 6.3% of the cautions and 0.65% of the convictions were received in the last 2 years.
- **Only a small proportion were received in the last 5 years.** 22.3% of the cautions and 3.5% of the convictions were received in the last 5 years.
- **The majority were over a decade old.** 87.8% (850,925) of childhood convictions disclosed were over 10 years old, and 34% (47,364) of childhood cautions disclosed were over 10 years old.
- **Overall, 81% (898,289) of childhood criminal records disclosed were over ten years old.**
- **Nearly half a million childhood convictions disclosed were more than 30 years old. This represents almost half of all childhood convictions disclosed.** 46% (446,560) of childhood convictions disclosed were more than 30 years old.



Young adult criminal records on standard/enhanced checks

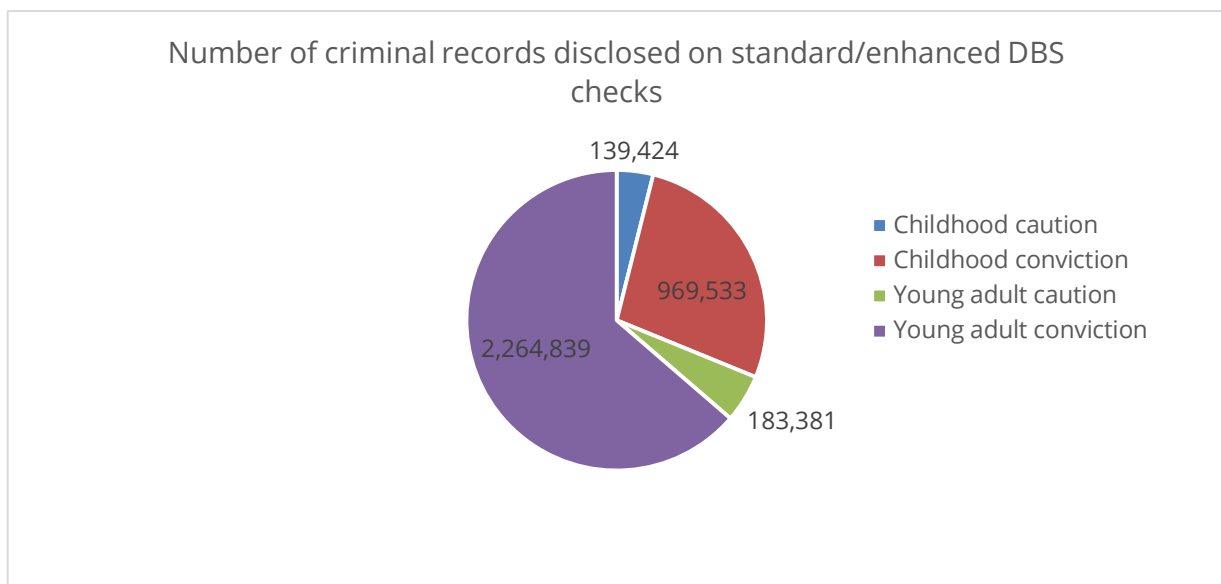
Of the young adult criminal records disclosed:

- **Very few were recent.** Fewer than 1 in 6 young adult cautions (29,827) and fewer than 3% of young adult convictions (54,006) were received in the last 2 years.
- **Fewer than 1 in 13 convictions were received in the last 5 years.** Only 7.6% of convictions (172,933) were received in the last 5 years.
- **The majority were over a decade old.** 80.1% (1,814,523) of the young adult convictions disclosed were over 10 years old, and 16.3% (29,969) of the young adult cautions were over 10 years old.
- **Over three-quarters were over ten years old.** 75.3% (1,844,492) of young adult criminal records disclosed were over 10 years old.
- **Over half a million were more than 30 years old. This represents over 1 in 5 young adult criminal records disclosed.** 22.5% (508,814) of the young adult convictions disclosed were more than 30 years old. 77 young adult cautions that were more than 30 years old were also disclosed.



Overall

- **People are more affected by the disclosure of a youth criminal record on standard/enhanced checks than on basic checks.** For example, in the last 3 years, 30,200 basic checks contained a criminal record that was acquired as a young adult. However, in the last 5 years, 679,914 standard and enhanced checks contained a criminal record that was acquired as a young adult.
- **Hundreds of thousands of people have been affected by the disclosure of a youth criminal record.** In the last 5 years, over two-thirds of a million people have been affected by the disclosure on a standard/enhanced check of a criminal record that they acquired as a young adult. In the same period, over a third of a million people have been affected by the disclosure of a childhood criminal record.
- **Nearly 850,000 people have been affected by the disclosure of a youth criminal record on a standard/enhanced check.** In the last 5 years, 846,096 standard/enhanced checks contained convictions or cautions that were given to the individual when they were aged between 10 and 25. The majority of the checks (71%, 600,839) contained only convictions. 21% (176,764) contained only cautions. 8% (68,493) contained both cautions and convictions.
- **Over 3.5 million youth criminal records (3,557,177) have been disclosed on standard/enhanced DBS checks in the last 5 years.** This is made up of 1,108,957 childhood criminal records and 2,448,220 young adult criminal records.



- **Over three-quarters of youth criminal records disclosed on standard/enhanced checks were over 10 years old.** 77.1% (2,742,781) of youth criminal records disclosed were over 10 years old. This is made up of 898,289 childhood criminal records and 1,844,492 young adult criminal records.
- **Over 2.25 million youth criminal records disclosed on standard/enhanced checks were over 15 years old.** 2,282,535 criminal records have been disclosed on standard/enhanced checks that were obtained by people aged 10-25 and which were over 15 years old at the point of the check being applied for.
- **Nearly 1 million youth criminal records disclosed on standard/enhanced checks were over 30 years old.** 955,794 criminal records have been disclosed on standard/enhanced checks that were obtained by people aged 10-25 and which were over 30 years old at the point of the check being applied for. The 955,794 is made up of 343 childhood cautions, 446,560 childhood convictions, 77 young adult cautions and 508,814 young adult convictions.

Survey findings

The survey findings presented below are the result of responses Unlock received to a survey that was hosted online between 23rd June and 17th July 2017. It was sent to our mailing list (of approximately 5,000 individuals). In total, there were 318 responses.

The main part of the survey collected qualitative experiences, problems and suggestions for change.

The findings in numbers

How long ago was your last conviction/caution?

- Less than 5 years ago 23%
- Between 5 and 10 years ago 25%
- Over 10 years and less than 20 29%
- Over 20 years and less than 30 17%
- Over 30 years ago 7%

Age now

- 18-25 18%
- 26-30 19%
- 31-40 32%
- 41-50 18%
- 51-60 11%
- 60+ 2%

Problems into adulthood

Of those over 26 now, 87% reported that a criminal record from early adulthood had caused them a problem since turning 26.

Types of problems in early adulthood

In answer to a question about the problems faced in early adulthood, responses can be categorised as follows:

- Employment 66%
- University/education 49%
- Stigma/discrimination 35%
- Shame/embarrassment 25%
- Volunteering 24%
- Insurance 17%
- Relationships/friends/family 13%
- Travel 11%
- Information online 9%
- Confidence/worry/anxiety 8%
- Immigration 6%
- Housing 1%

Types of problems later in life

In answer to an open question about the problems faced in life, responses can be categorised as follows:

• Employment	86%	• Travel	21%
• Stigma/discrimination	65%	• Confidence/worry/anxiety	19%
• Shame/embarrassment	45%	• Volunteering	15%
• Insurance	31%	• Information online	11%
• University/education	29%	• Immigration	9%
• Relationships/friends/family	23%	• Housing	4%

Analysis of the survey

A wide range of people responded, with the majority of people having a criminal record that was more than decade old (53%). There was a good age spread amongst responders, while the majority of individuals (63%) were over 31 years old.

Of those over 26 now, almost 9 in 10 (87%) reported that a criminal record from early adulthood had caused them a problem since turning 26.

In early adulthood, the most common problem arising from disclosure related to employment. However, almost half of people referred to problems in accessing education, particularly university, with over a third citing problems with stigma and discrimination. Shame and embarrassment was prominent in a quarter of responders, and difficulties with volunteering were also felt in around a quarter. The range of impacts reported in early adulthood was striking.

Later in life, the overwhelming majority of problems faced related to employment (86%), as compared to 66% in early adulthood. However, almost two-thirds of people (65%) reported issues with stigma and discrimination. This represents a significant increase – almost double – to that of people as young adults, suggesting that the stigma and discrimination that people face, or at least their perception of the problems they face and how it makes them feel, is more prominent later in life. Practical issues, such as insurance, travel and housing, were all more prominent for people later in life, with the exception of university/education which, given their age at that point, was less prominent but still represented a problem for almost 3 in 10 people (29%).

However, if the sheer range of areas of life was significant for people in early adulthood, what is significant for people later in life is the increased presence of the problem. Overall, in percentage terms the problems as young adults totalled 264%, whereas for people later in life it totalled 358%. This is a strong indication that, instead of the problems diminishing over time, people perceive that they faced more problems later in life.¹⁵

¹⁵ This point cannot be made conclusively because detailed analysis of an individuals' own perceptions and how they changed over time was not carried out.

Impact on affected people

The analysis of the numbers shows the wide ranging problems experienced by those in early adulthood and later in life. As part of the survey, responders were asked for their comments on the problems they faced as a young adult, the problems faced later in life, and what they thought needed to change.

This section looks at some of the key areas highlighted and explores how they vary between early adulthood and later in life.

Employment

Employment was the biggest factor across both young adults and those later in life (66% and 86%), although it was much more prominent later in life.

For those in early adulthood, an **unspent conviction presented a challenge:**

“As a young person the employment market can be really competitive. Employers use sifting mechanisms, and I found that most companies used the fact that I ticked the box about convictions as a reason to sift me from the process.”

Even once spent, it still caused problems for people while they were young when trying to find a job in **professions that required enhanced DBS checks:**

“I have been to university and graduated with a 2:1. Even though the sentence is now spent, I'm still having difficulty securing a job. My life has been at a standstill ever since, even though I'm now an upstanding member of the community and not committed any offence or crime since. I'm still paying more and more for the crime I've already paid.”

“I am dreading having to disclose my past as it's not a time I like to revisit due to numerous things that happened in that time. When I qualify I'll have to disclose these crimes and it's not only embarrassing, it's quite distressing to have to mentally revisit that time in my life. I was given a job in care despite the convictions and I've more than proved myself trustworthy and a great carer. But I'm already so worried about when I qualify from my nurse training I won't get a job or I'll find it very difficult too. I've moved on with my life and this conviction really makes me question if it was all worth it because I'll be judged anyway.”

Most of the problems associated with spent convictions and standard/enhanced DBS checks pointed to **problems with the DBS filtering system:**

- Only one conviction but multiple counts they cannot be filtered (see the case studies of Claire, Hilary, Kate and Laura in Appendix B).
- The list of offences that cannot be filtered (see the case studies of Peter, Paul, Maria and Anita in Appendix B).
- Having more than one conviction on record (see the case studies of Richard, Diana, Anita and Michael in Appendix B).
- Prison sentences cannot become filtered (see the case study of Sarah in Appendix B).

86% of survey respondents cited problems in employment later in life. For many, the **recruitment practices of employers** caused problems:

"I've constantly being turned down for jobs that I am qualified for simply because I had to "tick the box" on the form"

The **'not knowing why'** they did not get the job was often cited. As Maria's case study (see Appendix B) shows:

I always disclosed my warning on application forms and there were many times when I never heard anything back from an employer. I'll never know whether it was because of the warning or because there were other more suitable candidates.

Some highlighted the problems it created with **career progression**:

"I work for a big retail company but cannot apply to be a manager in my job even though my employers want me to because by law I cannot be covered under the insurance for locking the building with an unspent conviction or to work in some areas of the business. I'm trapped by a glass ceiling as a result. I will never be paid well and cannot progress in my career - this has equally caused me further problems in my relationships with people who don't know why I cannot progress and my partner who thinks I'm allowing my past to hold me back."

As Kate's case study (see Appendix B) shows, some people **struggle to use their qualifications**:

"I have two offences as part of one conviction which would be eligible for filtering if the system wasn't limited to one conviction/offence. I want to work as a social worker. I'm able to work. I miss working".

This is a similar problem that is highlighted in Anita's case study (see Appendix B):

"Every application form for this profession in the UK requires disclosure of my criminal offences – regardless of how long ago it was – by ticking a box on the application before interview stage. Thus, any employer sifting through can be as partial as they want deciding whether to employ a former criminal. Not only this, once back in the UK, I was told outright by a supply agency that, "schools don't want to hire people with a criminal record."

As Peter's case study (see Appendix B) shows, it's **hard to prove that the problems directly link to their past**:

"You may think I am being over sensitive but it really does affect me privately. I cannot prove it, but it has also held me back on occasions when applying for jobs. I know on at least five job applications I have applied for and met every detail of the job specification, qualifications and experience to do the job and because I was honest (i.e. declared my conviction), I never even got an interview!"

Some suggested they did not apply for jobs that would result in their criminal record being revealed:

"Given the treatment I've had from employers in the past, I simply avoid jobs that involve enhanced DBS checks. Even though my criminal record has no relevance to the sector I'm qualified in, I've instead moved into less well-paid jobs just to avoid having to talk about my past."

This suggests a **'chilling effect'** – i.e. people do not apply for jobs. The impact of this is that the number of people affected will be much larger than what is reflected in the number of criminal record checks having information on them, as many people will simply not be putting themselves forward.

The **frequent changes to the disclosure rules** had also caused problems for some. As Paul's case study (see Appendix B) show:

"It now looks like I lied on my disclosure form (I did not disclose this stepped down offence) and may lose this job – which I have been doing successfully on a temporary basis for 7 months. I am devastated and extremely anxious about the results of the check."

University and education

University and education difficulties were more common for people in early adulthood (49% compared with 29% in later life).

For those in early adulthood, it had a detrimental impact on their **motivation to study**:

"Whenever I try to envision my future, I also see how that incident in the past is going to make life difficult for me when travelling or going on business trips. Also things like passing security clearance is important in my desired field of study. I really love physics and engineering, and I want to become an aerospace engineer. I find it so damaging to my mind knowing that this minor incident that occurred so long ago will cause me so many problems in the international environment, as the police never really removes it nor even attempts to give a fair playing field after enough time has passed and no other offences have been committed. I really want to go to university while I'm still young, but I don't want to feel like I am going to be wasting my time and living the rest of my life with difficulties, it's so unforgiving."

The impact of the **approach taken by UCAS** (Universities and Colleges Admissions Service) was also a feature:

"I grew up in the care system and, as a black man, never thought that university was for me. I met an inspirational person at school who encouraged me so I went to college and then wanted to study law at university. But when I got to the online UCAS form, I was devastated to see the section about criminal records. I very nearly didn't apply, but my college tutor supported me to. I was shocked to see that the first letter I had about my application was to ask for more details about my criminal record. This made me feel like that's all they were bothered about – was I a risk? Fortunately, I stuck with it and managed to get through their risk assessment process, but that was a traumatic process."

Stigma and discrimination

Stigma and discrimination was felt much more prominently later in life (65% compared with 35% in early adulthood).

For those in early adulthood, the **'criminal' label** can have a significant impact:

"The past is a label imposed upon you even when there are mitigating circumstances. I spent much of my childhood in foster care, then spent most of my teenage years vulnerable and adult life dealing with society's problems. The label 'criminal' is debilitating in all ways possible which the fortunate ones use to suppress the vulnerable and weak, almost portraying a 'dog eat dog' society. What I did was wrong, but not everybody needs to know about it."

The issue of stigma seemed to be **more pronounced for people later in life**:

- *“Stigma is the biggest problem because your criminal past never leaves you whether it be in your private or professional life. Cultivating the will to overcome such a stigma is a battle in itself.”*
- *“My criminal record has held me back in every way as an adult. Emotionally, it makes me feel inferior regardless of how hard I work. It makes me feel like a fraud as the person I am would never commit any crime and certainly not one against another person. I hold myself back professionally as I know I can't travel to certain countries despite working for a global company. I keep this from close friends and colleagues and feel like my opportunities are limited in every way. I get married in a few months and would love to go to USA for my honeymoon but my fear of disclosing my criminal record prevents me from applying for a visa. My criminal record is not a reflection of me as a person, yet, I continue to feel judged and held back by one night that changed my life in every way.”*
- *“I feel I can't move on with my life, and as it's more than one conviction, I know it'll be there for life, which is really depressing and unfair, in my opinion.”*
- *“Changing your character in life and then having a past that you cannot relate to as being your own is really difficult to deal with. No longer being involved with people who get in to trouble, growing up a lot and trying to succeed with what I call 'my backpack of life' permanently on my shoulders is not easy.”*
- *“When I arrived for the visit the Director's first words to me were 'so you're our criminal...'. I was completely floored by this and spent the next few minutes trying to explain events relating to this event which had happened 25 years ago.” (see Laura's case study in Appendix B)*

The stigma associated with other factors related to the offence, such as **being brought up care**, can also cause problems:

- *“In one children's home, I had an argument with another boy not long after I'd moved there. Neither of us were seriously injured – it was no more than what two brothers probably get up to on a weekend. Yet because I was new, the care worker insisted on calling the police. We both ended up accepting cautions for ABH. I was told it wouldn't have any affect once I'd turned 18. Now I'm in my early 30's and I want to be a primary school teacher. Yet I'm still having this ABH caution disclosed on my enhanced DBS. Not only does that hold me back in itself, but it also means I've got to explain that I was brought up in care, which is something I know I get judged for.” (see David's case study in Appendix B)*

Shame and embarrassment

Much like stigma and discrimination, problems with shame and embarrassment were much more common in people later in life (45% compared with 25% in early adulthood):

- *“My own sense of shame is the biggest problem. For over 30 years I have not dared to apply for any jobs involving a check or volunteer for anything.”*
- *“The main one is embarrassment - it has put me off going for certain jobs and voluntary positions. Even though I know it shouldn't count against me I don't want to put myself through an awkward situation of having to go over a single incident that happened in my youth.”*

Insurance

Problems with buying insurance were felt more by people later in life (31% compared with 17% in early adulthood). For those in early adulthood, the **impact on family** was highlighted:

“When I came out of prison at 17, I never dreamt it would have an impact on my parents’ house insurance. How strange is that? My theft offence has nothing to do with the risk that their house will burn down or be flooded. It’s ludicrous.”

For those moving into their own accommodation, the **lack of mainstream provision** to people with unspent convictions caused a problem:

“I never realised that a speeding conviction I got when I was 18 would have such a long impact on me getting insurance to cover the contents in my flat. I managed to get somewhere when I was 22 yet I found myself excluded from most mainstream insurers simply because I had to tick the box about convictions.”

Not reaching potential

A theme that was particularly strong amongst those in later adulthood was how people felt they were **not able to reach their potential** with their criminal record acting as a **‘glass ceiling’**:

- *“I went on to do a degree in psychology and a post-graduate diploma in applied psychology and over 10 years of volunteering to show my character but I lost confidence in applying for jobs after I graduated as I had to always declare the convictions and I was deeply embarrassed. I was perceived as being rehabilitated but I was never able to move on I was always reminded of the convictions which happened in a time in my life I did not wish to remember anymore. I was employed as a bank nursing assistant after volunteering 7 hours a week for a year but I had to start at the very bottom minimum wage band with young people with no degree. My degree and diploma meant nothing; waste of time and money to be honest.”*
- *“My criminal record and the impact it has had on me over the years has not changed. I’m scared to leave my current role/organisation because of it, I know that because it is fraud related I’m not perceived as trustworthy. You are never reformed in the eyes of the law.”*
- *“My employer doesn’t know about my record as my role didn’t require me to disclose on recruitment. After several years of working for the company a new project almost meant it needed to create a charity arm to provide a certain service. This would have required me to disclose and I was close to leaving my role rather than being forced to do so. This may seem like an excessive response but I felt like I had spent years building up my reputation in the company/industry and my record could have undone all of that in an instant.”*
- *I studied Law at university and qualified with a first class degree. I was top of my class in most subjects but could not obtain a training contract due to my only conviction when I was 19 years old (at this point I was 29) and a drink driving conviction at 21 the day after a night out when I believed I was legal to drive. I also lost my first graduate job with a bank and was walked off site and humiliated because I answered honestly about a spent conviction. I also have friends in USA that I have never been able to visit due to visa restrictions.”*
- *“I have been asked over the years by employers to go for positions that have been one step up from where I am but I have refused because I have not wanted them to see my criminal record, the embarrassment of it.”*

As Hilary’s case study (see Appendix B) shows, it **affects confidence**:

“Needless to say this affected my confidence in a huge way and ever since then I have deliberately avoided applying for jobs where I know I would have to disclose my dreaded conviction in fear of being judged and rejected.”

A 'life sentence'

What was striking from both the survey we carried out, and the data we have analysed, is how much people, especially later in life, feel like they have **effectively received a sentence that never ends**:

- *"I cannot recognise the person I was 27 years ago and feel stifled in life and opportunities for behaviour that I was punished for at the time."*
- *"The caution I got when I was 15. It's still affecting me 35 years later. It's like a life sentence"*

As Sarah's case study shows (see Appendix B), people want to be able to see the **light at the end of the tunnel**:

"It's been over 15 years since my release, I'm now married with 3 children. I've never been in trouble again and I am pleased to say that I live a peaceful and relatively comfortable life. I made a very costly mistake and paid a heavy price for it. However, so many years on I still encounter regular discrimination and upset because of it. A prison sentence of over 4 years means it will never be spent so I have to regurgitate and share offence details on any form that asks, whether the document or institute is exempt from the Rehabilitation of Offenders Act 1974 or not. This 'never spent' law for me has caused refusals for jobs (I've only referred here to the jobs I got, I didn't bother to mention the ones I didn't), refusal or extortionately high prices for car and house insurance, refusal of admission to certain countries no matter the circumstances. This situation for me has led to stress, anxiety and depression."

When comparing the problems for young people with those of adults later in life, a criminal record has overall a **longer impact on young people** than it does on those who acquire a criminal record later in life:

"I feel like I've been given a life sentence. I was convicted when I was 20 and I'm now 35 and looking at where to go. It's a toxic form of punishment to keep punishing people forever, and especially one that effectively ends up punishing young people for longer. If I live until I'm 80, I'll have been punished for 60 years, yet someone who gets convicted in later life will face much less time feeling the effects of their criminal record. There should be set periods of time, after which you can draw a line under your criminal record."

Other issues for people in early adulthood

There was a sense that it created a **feeling of injustice which turned people against society**:

"I was treated harshly by probation for attempting to steal a cardigan from Primark when I was 13. This created in me an anger at authorities which got increasingly worse as I got older."

Some people reported how it impacted on their **own sense of belief and inspiration**:

"Initially I would have said finding work, or more specifically, meaningful work, was the biggest problem. But in hindsight, I would say the biggest problem was believing in myself that I was more than just a criminal record. Growing up in quite a deprived area I think it's so easy to become a product of your environment. I made a stupid, albeit huge mistake as a cocky teenager and it took years to recover from the consequences. I think the main reason was because I was effectively carrying round a piece of paper that was like the mark of Cain."

In some instances, people were unable to act as witnesses as they were **not considered to be 'of good character'**:

- *"I was unable to be a witness in my own case against my stepfather who had sexually abused me for ten years. I was seen as a deviant and unreliable witness and he had never had a criminal record so was seen as a good person. My case was not taken further by the CPS for this reason."*
- *"I work in a fast food restaurant and I have witnessed some really unpleasant incidents. However, when asked if I would act as a witness, I have felt that I have had to decline. The reason being I am not considered to be of good character, and could not bear to have the past brought up, mainly because I would not like to think I could do more harm than good to a case, due to my past."*

Other issues for people later in life

There was a sense that some people had been **put off from volunteering**:

"I am a keen volunteer and have been required to complete an enhanced CRB/DBS for almost all roles I have applied for, e.g., going into schools to talk about my job (when a teacher will always be in the room) or helping on a community garden. This often feels excessive for the work I would be doing and has sometimes stopped me from wanting to help out especially if I already know people at the organisation. I find it easier to tell strangers for some reason."

Some people reported having very few problems early on in life after their criminal records, but that they **experienced problems much later**:

- *"I had no problems until I graduated in my late 40s and looking for a professional career. All my convictions go back to 1976."*
- *"To be honest my convictions didn't hinder me in my youth. It's more now that is the problem. I have to write a statement about my convictions even though they are years old and basically swear that I am a good person and I'm sorry for my past which I'm not as my past has shaped me for what I am today. I was 15 years old when my mother up and left and it was like a battle of survival. I could have gone down a route of no return but I have walked through that tunnel and saw a light at the end of it. There is no book on life. I can't dwell on the past; I look to the future. I am now married, have a gorgeous teenage son and he doesn't know about my past. Not needed! Why do people need to judge me and scrutinise my DBS? I've never hurt anybody; I've worked in a school and have spent 11 years as a support worker. My convictions are spent. I would apply for other jobs as I know I could put my hand to many things. When my son was born in 2003 I rang the CRB they told me that the convictions would be removed in around 2012 as a result of step-down. But that's no longer happening."*

What needs to change?

This section brings together the recommendations made by survey respondents. They have been grouped into key themes.

Reduce the time it takes to become 'spent'

- *"There should be a shorter time for convictions to become spent."*
- *"Shorter rehabilitation periods (so the conviction becomes spent quicker)."*
- *"Sentences of over 4 years should be capable of becoming spent at some point – even if it's decided on a case-by-case basis"*

Treat young people differently

- *"There should be three categories under the Rehabilitation of Offenders Act 1974 – childhood records, youth criminal records, then adult records."*
- *"Young people shouldn't be affected long into their adulthood, and sometimes for life, because of a conviction when they were young. They should be treated differently to older adults, even though they're not children"*

Change the DBS filtering rules

- *"Change the rule that means two offences in one court appearing is still showing on a DBS forever. At the moment it's ridiculously unfair."*
- *"Get rid of the ridiculous law that means if you have more than one minor conviction, but only went to court once, it stays on your record forever. It is so incredibly unfair when you haven't even had a custodial sentence and pose no harm to the public whatsoever."*
- *"Consider some sort of filtering after the conviction has become spent. I'm not excusing what I did but I was 23 at the time and now 16 years later I'm still having to declare this conviction on standard checks."*

Have some kind of intervention that looks at whether things should still be disclosed

- *"Have assessments to see if minor convictions should be filtered so as not to disrupt the future of the person in question"*
- *"A chance to have convictions become spent. I don't mean an automatic expiry after a certain amount of time, but some kind of review. As a young adult, I was extremely naive and stupid. I sincerely regret my actions, and as a 35-year-old would never dream of making the same decisions as I did then. I believe if I was to sit down in front of someone they would see this and see that I was no threat to society and so decide that there was no need for this to haunt me for every job that I apply for."*
- *"The right to be heard by an independent body like in Northern Ireland. My caution looks serious so I will never get through the DBS but if heard I may get leniency. I have never been arrested for anything else ever and am in a loving stable relationship and have three children."*
- *"I was rejected for a taxi licence for what appears serious offence (possession of class A drug). I have kept out of trouble for 10 years but still it shows on checks. I am not a concern to the police or public, I am just trying to get on with my life, where nothing is shown, providing my local police agrees I am no concern/threat to them or the public."*
- *"An independent organisation which could advise whether you are suitable for a role rather than the employer seeing your full history and picking someone else because of something minor which happened years ago."*

- *"Instead of the DBS, an employer can say what the job is, then get a reply accordingly. If a theft offence occurred when you're a teenager and you're now 30+ why should it be mentioned if you want to work in a hospital? Merit should be given to people who turn their life around. We don't want a pat on the back for being bad kids and now behaving responsibly, just not be held accountable all our lives."*

Introduce policies that wipe records

- *"It should only be kept for 20 years maximum. Anyone who has stayed out of trouble for 20 years should not have to have the stigma with them for life. Exceptions to this should be any sexually related offences or murder."*
- *"Treat early adulthood offending differently. The record should be wiped at 25. Records for under 25's should be treated differently to those for over 25's."*
- *"All offences should be wiped from the DBS records after 15 years. There should also be a right to go to a tribunal to argue for the offences to be wiped from the record before then if no other offences have been committed."*
- *"As opposed to having a criminal record cleared at 100 years old (which most of us will never reach!) a fairer system would be a clear period of years free of any offences as once a person can demonstrate say 25-30 years incident free then they should be classed as law abiding and the offences should automatically be cleared from a criminal record."*
- *"An expungement system or pardon that allows one to be judged as "deemed rehabilitated" similar to the Canadian system."*
- *"A complete overhaul of the outdated rehabilitation act to allow law abiding people with convictions to be treated/judged the same as a law abiding person without a conviction. It is punishment enough to be convicted/sentenced, but to still be feeling the consequences of your actions almost 30 years later is harsh. I cannot recognise the person I was 27 years ago and feel stifled in life and opportunities for behaviour that I was punished for at the time."*
- *"I am now 53 years old, I served my penalties many years ago and just want to enjoy the rest of my life."*
- *"Things should drop off and be wiped off your record after a period of say a decade / 15 years. I have convictions from 1995 that still show on an enhanced disclosure."*
- *"Allow us to apply to have the record sealed or expunged following a period of 5-10 years without reoffending and if the application can be supported by good character references from people of standing (e.g. former employers, family friends in positions of standing such as doctor, firefighter, police officer, lawyer etcetera). I am thirty-four years old and it is beyond absurd that I and my partner are judged for something I did sixteen years ago, when I was barely an adult and under the influence of alcohol plus medication."*

Establish a judicial process for wiping record

- *"The ability to have records judicially expunged so that they never have to wonder if they're lying when asked on forms about "ever" committing an offence."*
- *"After a period of time the records should be expungable, subject to review by magistrates or an independent judicial review board."*
- *"To stand in front of a judge for him or her to decide if the person is rehabilitated or not. To get the stamp of approval in some way."*

Bring an end to the punishment after a certain point in time

- *"The worst thing is that there's no line, no end date, no "you can forget about that, it was so long ago".*
- *"If a person rehabilitates themselves, give them a chance to live their life without convictions hanging over them and determining everything in their life."*

- *"I find it slightly ironic that I may still be negatively judged for something I did over half my life ago, when actually it was one of the things that made me who I am today - a person with a social conscience who finds it hard not to tell the truth and wants to spend my time helping others. The act of being charged with the offence was enough for me to be 'rehabilitated' and learn from my mistakes but I will continue to be accountable for it for the rest of my life."*
- *"After 30 years, there should be no need for any disclosure at all; a kind of reverse Official Secrets Act. Only the police and the courts should have access to criminal records for crime detection and sentencing purposes; employers and educators have far too many rights of access."*
- *"If convictions from before you were 21 could be wiped completely after a period of time (thus enabling people to completely move beyond their past convictions, rather than having them continually following them like a shadow)."*
- *"I made a mistake in my youth and am still paying the price for it, even though I'm a completely different person now. I'd just like a second chance."*
- *"It should be removed from your records, not carried for life."*
- *"If punishment is the ultimate goal, I can honestly say that I continue to be punished and my punishment far outweighs my crime. To genuinely allow individuals to better themselves we cannot continue to brand a person a "criminal" indefinitely."*

Disclose only relevant information

- *"A DBS check should be for the role applying for and not show everything when it's irrelevant."*
- *"A caution shouldn't be classed the same as criminal conviction."*
- *"A caution shouldn't be on your record long."*

Improve employer practices

- *"Stop companies asking about convictions on application forms. It would give people a chance to explain in person and give us a chance of being considered."*
- *"Make it so that employers are obliged to give you the opportunity to explain."*
- *"Consider offering employers of people with criminal records some kind of incentive."*
- *"More employers should be trained on how to deal with applicants who disclose criminal convictions, as I have been made to feel judged and upset after interviews before."*

Criminal record disclosure rules: The case for change

Children and young adults who have been in trouble with the law should be given an opportunity to put their past behind them and be able to move on positively in their lives free of the stigma a criminal record.

Criminal records only become a problem for individuals when they try to turn their lives around; an individual who plans to defraud an employer will not disclose their past criminal record. However, those who are honest and up-front when applying for university courses and jobs find that their criminal record can be a significant barrier. It can feel like an additional punishment to those who are trying to change and lead law-abiding lives.

The current criminal record disclosure system acts as a significant barrier in several aspects and can have profound effects well into adulthood, and often indefinitely. Through Unlock's helpline, we speak to around 8,000 people every year who are encountering barriers as a result of their criminal record, often acquired in childhood or early adulthood. The **data in this report** show that hundreds of thousands of people are being affected every year, and often many decades later, because of a youth criminal record. The **case studies in this report** highlight the talent that is being wasted because of the current system. There are regular newspaper headlines about how youth criminal records affect all sorts of people – for example, in May 2016, the Northern Echo published an article with the title "Anger as pensioner claims 50-year-old juvenile conviction scuppered job application"¹⁶.

Changes to the system of criminal records disclosure in 2013 (the introduction of filtering) and 2014 (changes to the Rehabilitation of Offenders Act 1974) were of significant benefit to many people. However, the introduction of filtering was the government's technical response to attempt to comply with a legal ruling, rather than starting from the questions of 'what system is fair and proportionate'?

For roles that involve standard/enhanced checks, Unlock believes that the automatic filtering rules should be based on the sentence and disposal, not a list of offences; and the filtering limit of 'one conviction only' should be abolished. Alongside the automatic rules, there should be a more nuanced approach that allow consideration of individual cases.

For roles that involve basic checks, the changes to the Rehabilitation of Offenders Act 1974 did not go far enough; offences remain 'unspent' for too long, and there are fundamental questions as to how effective the legislation is in a society where information can be found online and employers regularly ask people to disclose spent convictions even if they are not entitled to know about them.

Taken together, despite these changes, it remains the case that mistakes made by children and young adults will blight their lives well into adulthood, and often for the rest of their lives.

¹⁶ The original article is available at www.thenorthernecho.co.uk/news/14523600.Anger_as_pensioner_claims_50_year_old_juvenile_conviction_scuppered_job_application/

The case for a distinct system for children

Currently, the criminal record disclosure system applies to children and adults alike, save for reduced rehabilitation periods and filtering periods for those convicted before they turn 18. As an active member of the Standing Committee for Youth Justice (SCYJ), Unlock supports the position put forward to the Justice Committee by SCYJ¹⁷ that there is a need for a distinct system for children as a result of the disproportionate burden that the current system places on childhood criminal records in England and Wales. In their recent report, SCYJ highlighted how there is significant evidence to suggest that the current disclosure framework for childhood convictions works against rehabilitation.¹⁸

Many children go through difficult times while they are young, and in some ways their actions can be linked to these difficult circumstances. However, a significant number of children are just being children – they’re testing the boundaries, they being kids and they’re not thinking about the consequences. There’s an argument that all children commit crimes when they are young – it’s normal teenage behaviour – and it’s just the unlucky ones that get caught.

Whilst it is important to ensure that employers and the public are protected, the current system allows for disclosure of significantly more information than would be required to achieve this. International comparisons¹⁹ indicate that far less punitive systems are possible, with no compromises on public or employer protection. The current system involves disproportionate, lengthy and wide disclosure which is unnecessary and actively unhelpful to children in building positive lives in adulthood.

However, it is clear that the number of people affected by the disclosure of childhood criminal records is significantly lower than the number of people affected by the disclosure of criminal records acquired as young adults.

The case for a nuanced approach to young adults

The Justice Committee published its report into young adults in the criminal justice system,²⁰ which establishes a significant case for change to the treatment of young adults. There are several compelling arguments for treating the criminal records of young adults differently to those acquired later in life.

Most obviously, there appears to be a growing scientific consensus that the maturation of young adults (and young men in particular) occurs over a much longer period than previously recognised – often extending into the mid-twenties. It is no coincidence that this period overlaps with the peak age at which individuals are involved in criminal offending and that the onset of ‘desistance’ from crime often occurs in the mid- to late-twenties. The process of maturation appears to result in many people ‘growing out of crime’, and this raises questions about whether criminal records acquired in youth or early adulthood are of much use in predicting

¹⁷ Available at data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/disclosure-of-youth-criminal-records/written/43221.html

¹⁸ See scyj.org.uk/wp-content/uploads/2017/07/Growing-Up-Moving-on-A-report-on-the-childhood-criminal-record-system-in-England-and-Wales.pdf

¹⁹ See scyj.org.uk/wp-content/uploads/2016/04/ICRFINAL.pdf

²⁰ Available at www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2015/young-adult-offenders/

the 'risk' of future offending after the age of about 25. We support the approach to 'maturity' as set out by the Transition to Adulthood Alliance on their website:

"Blowing out the candles on an 18th birthday cake does not transform anyone into a fully functioning and mature adult. For those who have experienced disadvantages in life, as many young adult offenders have, this is even more the case. With a tailored criminal justice intervention – one that takes account of the developmental maturity and particular needs of young adults – research has found that young adult offenders are far more likely to 'grow out of crime'. For the 18-25 age group, T2A has found that the level of maturity of an individual must be taken into account when sentencing and delivering interventions to help keep them out of criminal activity."

As well as the process of maturation, desistance from crime has also been linked to other factors such as stable employment, housing, access to education and civic participation. Intervening positively to reduce the burden of criminal records disclosure (particularly in relation to children and young adults) also removes obstacles to factors which are known to promote desistance. This reduces the potential for patterns of criminal offending to become 'embedded' due to the systematic discrimination that people with convictions often face. More than half of all young adults who finish a custodial or community sentence are reconvicted within a year. Nevertheless, young adults are also the age group most likely to 'grow out of crime', and young people who commit crime typically stop doing so by their mid-20s. A positive intervention at this stage can assist a young adult back onto the right track and enable them to become law-abiding members of society. Thus, restricting the disclosure of criminal records for certain purposes might be seen as having considerable utility in the reduction of recidivism.

In addition to the removal of barriers to desistance, a reduction in the burden of disclosure may also improve the perceived legitimacy of the criminal justice system amongst children and young adults with convictions. That is, when a person who has already been punished by the criminal justice system continues to suffer discrimination (from potential employers and others) after their sentence has ended, they are unlikely to perceive this as legitimate. This sense of injustice is likely to be felt particularly keenly by those who have successfully desisted from offending or who are making a genuine effort to cooperate with rehabilitative interventions.

A related argument concerns the disproportionate exposure to potential discrimination faced by those who receive convictions at a younger age. This is particularly so for offences which cannot benefit from becoming spent or the 'filtering' system. For example, a 20-year-old who receives a conviction has a longer working life ahead of them than a person convicted at the age of 40. If both receive a conviction for an offence which cannot currently be filtered, there is a disproportionate impact on the younger person who has more years of working life ahead of them. Thus the receipt of a criminal record at a younger age can be seen as potentially structuring social inequality in the longer-term. This is particularly concerning when considered in relation to the over-representation of people from black and minority ethnic (BAME) communities and children in care at many stages of the criminal justice system.

Overall, the criminal records regime is in desperate need for reform. This report highlights the particular need for a distinct system for children, and a nuanced approach to young adults, as part of a broader range of reforms that are needed to achieve a fairer and more proportionate system where people's lives are not blighted for the rest of their lives.

Support for change

Alongside an overwhelming case for change, there has been mounting support for change in recent years. The most prominent examples of these are described in brief below.

Justice Committee inquiry

In the most comprehensive examination in recent times of the criminal records regime as it applies to youth criminal records, the Justice Committee published a report in October 2017²¹ following its inquiry into the disclosure of youth criminal records. Unlock lobbied the committee to hold the inquiry and provided written and oral evidence. Unlock also facilitated a private session for committee members with affected individuals, whose experiences were featured in the committee's final report.

The committee made a number of recommendations, including:

- Enacting Lord Ramsbotham's Criminal Records Bill to reduce rehabilitation periods under the Rehabilitation of Offenders Act 1974
- An urgent review of the filtering regime, to consider removing the rule preventing the filtering of multiple convictions; introducing lists of non-filterable offences customised for particular areas of employment, together with a threshold test for disclosure based on disposal/ sentence, and reducing qualifying periods for the filtering of childhood convictions and cautions;
- Considering the feasibility of extending this new approach, possibly with modifications, to the disclosure of offences committed by young adults up to the age of 25;
- Allow chief police officers additional discretion to withhold disclosure, taking into account age and the circumstances of the offences, with a rebuttable presumption against disclosure of offences committed during childhood;
- Giving individuals the right to apply for a review by the Independent Monitor of police decisions to disclose convictions of cautions.

In launching its report, Committee Chair Bob Neill MP said:

"According to the Children's Commissioner for England there is no evidence to suggest that having committed more than one offence is predictive of a greater risk of continued offending in adulthood; on the contrary there is considerable evidence that most children stop offending as they mature. Yet we still have a system which works to prevent children from moving on from their past and creates a barrier to rehabilitation.

"The Government confirmed to us that its primary objective in youth justice is to stop people being drawn into crime, with consequent blighting of their life chances, as well as harm being caused to victims and communities. But these laudable aims are systematically undermined by the current disclosure regime; mistakes made as a teenager can follow someone around for decades and create a barrier to rehabilitation, as well as profound problems with access to employment and education."

²¹ Available at www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2015/disclosure-of-youth-criminal-records-16-17/

The Lammy review

In September 2017, David Lammy MP's review²² into the treatment of BAME groups in the criminal justice system highlighted the significant barrier that a criminal record can cause, especially for young people;

"It must be recognised that a job is the foundation for a law-abiding life for ex-offenders, but that our criminal records regime is making work harder to find for those who need it the most. The system is there to protect the public, but is having the opposite effect if it sees ex-offenders languishing without jobs and drawn back into criminality. A more flexible system is required, which is capable of recognising when people have changed and no longer pose a significant risk to others."

Court of Appeal judgement

In May 2017, the Court of Appeal ruled²³ that the current criminal record disclosure scheme has insufficient safeguards to be lawful, and that the scheme is disproportionate. In one case, a man was convicted of ABH as a 16-year-old in the 1980's and received a conditional discharge. The President of the Queen's Bench Division, Sir Brian Leveson, said in his judgment:

"It is difficult to see how publication of this detail, 31 years on, is relevant to the risk of the public, or proportionate and necessary in a democratic society."

The cases involved in the legal challenge (where the individuals received their criminal record as a child or young adult) are summarised below.

Case of G

Mr G is in his early 20's. In 2006, when he was 13 years old, he was issued with two reprimands by an officer of Surrey police for offences of sexual assault on a male under 13. The offences mainly took place when he was 12 against two children that were 9. When G was interviewed by the police, he admitted that mutual masturbation had taken place, graduating to 'bum sex'. He said he had not forced the others to do anything – at times they had approached him to suggest sexual acts, and at other times it was he who suggested it.

At the time of the reprimands, G's mother was given a leaflet that told her the consequence of the reprimand was that G would have a record for five years or until he reaches 18, whichever was longer, suggesting his reprimands would be removed in 2011. In 2011, G worked for an employment agency at the library of a local college. He was asked to apply to the CRB for an enhanced disclosure. He was contacted by the police informing him that the reprimands would be disclosed. This led to him withdrawing his application.

This case was successful in the High Court in 2016. The government appealed to the Court of Appeal. The appeal was rejected in a ruling handed down in May 2017. The government has appealed and the case will now be heard in the Supreme Court in June 2018.

²² Available at www.gov.uk/government/organisations/lammy-review

²³ Available at www.judiciary.gov.uk/wp-content/uploads/2017/05/p-v-home-secretary-judgment.pdf

Case of W

Mr W is 47 years old. In 1982, when he was 16, he was convicted of ABH; he was given a 2-year conditional discharge and bound over to keep the peace for 12 months. He has since made a success of his life. He wants to obtain a qualification to teach English as a second language and in 2013 began a college course through which a DBS check showed his conviction.

This case failed at the High Court. It was successful in the Court of Appeal in a ruling handed down in May 2017. The government has appealed and the case will now be heard in the Supreme Court in June 2018.

Case of A

Mr A is now 51 years old. In 1981, when he was 17, he was convicted of theft of a coat from a market stall. He was fined £30. Ten months later, 23 days after turning 18, he was convicted of stealing a motor cycle and of driving without insurance. He was fined £50 and sentenced to 24 hours attendance at an attendance centre.

He's concerned that his family might learn of the convictions and that his work as a finance director and project manager might require due diligence checks or might engage the Financial Services Authority aspects of the scheme for disclosure of convictions on a standard DBS check.

This case was successful in the High Court in 2016. Appeal has been stayed pending the outcome of the other cases.

A more detailed summary of the cases subject to litigation are available on Unlock's website.²⁴ The government has appealed to the Supreme Court and it is expected to be heard in June 2018.

Law Commission review of DBS filtering

In a detailed report published in February 2017,²⁵ the Law Commission recommended a wider review of the criminal record disclosure system. In the most comprehensive operational assessment of the DBS filtering process to date, they concluded:

"Given the vast array and magnitude of the problems identified by our provisional assessment of the disclosure system as a whole, there is a compelling case to be made in favour of a wider review. Our conclusion is that the present system raises significant concerns in relation to ECHR non-compliance and, what may be considered to be, the overly harsh outcomes stemming from a failure to incorporate either proportionality or relevance into disclosure decisions. An impenetrable legislative framework and questions of legal certainty further compound the situation. This is an area of law in dire need of thorough and expert analysis. A mere technical fix is not sufficient to tackle such interwoven and large scale problems."

Their review had a specific focus on the current 'list of offences that cannot be filtered'. On that, the report stated that "the choice of offences in the list appears to lack coherence and a clear basis".

²⁴ Available at www.unlock.org.uk/policy-issues/specific-policy-issues/filtering/cases-challenging-dbs-filtering-system/

²⁵ Available at www.lawcom.gov.uk/project/criminal-records-disclosure/

The Taylor review

In his review of the youth justice system,²⁶ the now Chair of the Youth Justice Board highlighted the issue of criminal records in his report published in December 2016:

"It remains the case that a criminal record acquired in childhood can have far-reaching effects that go well beyond the original sentence or disposal. Certain sentences will never become spent, and certain convictions or cautions will always be disclosed when an individual seeks employment in a particular field. A key principle underpinning my approach to the review is that children who break the law should be dealt with differently from adults. In my view the current system for criminal records lacks a distinct and considered approach to childhood offending."

He proposed that the Ministry of Justice and the Home Office should "develop a distinct approach to how childhood offending is treated by the criminal records system." He said that this should include:

- consideration of distinguishing between under-15s and 15-17 year olds in terms of the retention and disclosure implications of offending
- further reductions in the periods before which childhood convictions become spent
- all childhood offending (with the exception of the most serious offences) becoming non-disclosable after a period of time
- the circumstances in which police intelligence on childhood conduct can be disclosed being further restricted. The Home Office should consider the introduction of a presumption that police intelligence dating from childhood should not be disclosed except in exceptional circumstances.

Standing Committee for Youth Justice report on childhood criminal records

The SCYJ, of which Unlock is a member, published a report²⁷ in 2016 which looks at the childhood criminal records system in England and Wales. It found that children in England and Wales are more likely to receive a criminal record than their international counterparts, and these records have a longer and more profound effect on their lives.

The comparison with 16 other jurisdictions highlighted how far England and Wales have to travel in order to match the progress made by other countries in their treatment of childhood criminal records. The report found the system in England and Wales to be in a class of its own in awarding tens of thousands of criminal records to children, all of which will adversely impact on their life chances. International comparison shows that less punitive systems can promote successful rehabilitation.

²⁶ Available at www.gov.uk/government/publications/review-of-the-youth-justice-system

²⁷ Available at scyj.org.uk/wp-content/uploads/2017/07/Growing-Up-Moving-on-A-report-on-the-childhood-criminal-record-system-in-England-and-Wales.pdf

A message to government

The Justice Committee's report in October 2017 on the disclosure of youth criminal records gave a blueprint for the government to act upon. In response to its launch, Unlock called on the government to drop its Supreme Court appeal and instead focus its resources towards reforming the current criminal records regime.

Unfortunately, the government's response in January 2018²⁸ showed that it is in fact ducking behind the Supreme Court case as a reason for not doing any proactive work in this area. But it is a red herring to suggest that the case delays any work on reform. It is correct that a Supreme Court judgment could put beyond doubt how and why the current regime is unlawful. However, the government is not restricted by a judgment – it is open to the government to review the regime anyway.

As this report highlights, there is overwhelming evidence that the current regime is disproportionately damaging to the prospects of people who acquired a criminal record in their youth. The fact in the last 5 years nearly 1 million 30-year old youth criminal records were disclosed shows that there is a serious problem which the government should take immediate steps to rectify.

While some issues raised in this report do link with the Supreme Court case, many issues (such as the time it takes for convictions to become spent) could be taken on by the government for the benefit of many thousands of people each year. However, as evidenced by its recent response to Lord Ramsbotham's Private Members Bill on criminal records,²⁹ the government is using the legal case as a reason to avoid making any amendments to the length of time that it takes for convictions to become spent. This is even though, as the government has acknowledged, the Rehabilitation of Offenders Act 1974 is not subject to legal challenge (the Supreme Court case focuses on employment roles that are exempt from the Rehabilitation of Offenders Act 1974 – such as teachers, social workers and carers). Lord Ramsbotham's Private Members' Bill focuses on an entirely different set of employment positions – such as roles in restaurants, hospitality and warehouses.

The government states that *"it is important to consider the Committee's recommendations regarding different aspects of the disclosure system in the round"*. This suggests that the government is looking at taking action to consider the recommendations, examining both the rehabilitation periods and the filtering system. This is what Unlock has recommended. Any work to change the system must learn from the mistakes made in 2013 when the government hastily formulated the filtering system – the very system now subject to legal challenge.

Regardless of the outcome in the Supreme Court, Unlock calls on the government to instigate a review of the current system and to implement a more proportionate regime. Although this will mean that changes to the system may not happen overnight, a more measured and considered approach is one that Unlock supports.

²⁸ Available at www.parliament.uk/documents/commons-committees/justice/JC-criminal-records-response.pdf

²⁹ Second reading, 23rd February 2018, available at [hansard.parliament.uk/lords/2018-02-23/debates/B18F7A89-527B-4A21-BBED-B763DBFE814E/CriminalRecordsBill\(HL\)](https://hansard.parliament.uk/lords/2018-02-23/debates/B18F7A89-527B-4A21-BBED-B763DBFE814E/CriminalRecordsBill(HL))

Appendix A – Number of people affected

The data presented in this appendix is derived from Freedom of Information requests made to the DBS³⁰ and Disclosure Scotland.³¹ The aim is to establish a quantitative understanding of the number of people in England and Wales affected by the disclosure of cautions and convictions on criminal record checks.

The intention was to obtain data for the last 5 financial years (1st April 2012 to 31st March 2017). However, basic checks have only been issued by Disclosure Scotland in line with the laws in England and Wales since 10th March 2014³². As a result, accurate data for basic checks is only available for 3 financial years (1st April 2014 to 31st March 2017). Figures for the most recent financial year (2017-18) have been excluded because, during that year, basic checks transferred from Disclosure Scotland to the DBS. The DBS started providing basic checks in late 2017 and took over full responsibility from Disclosure Scotland in early 2018. Therefore, the data is split between basic checks and standard/enhanced checks. **Overall, there have been over 6 million criminal records checks on young people.**³³

The data relating to children and young adults is presented separately because some of the data was not able to be meaningfully combined. For example, an adult could have had two convictions disclosed – one that related to their childhood and one that related to their early adulthood. As a result, they would feature in both the childhood and the young adult figures. Consequently, the figures below should be treated separately. It is also important to note that where statements are made about number of people, this may include individuals that are counted more than once because they had more than one check done during the period.

The data collection exercise provided valuable insight into the number of people affected, and highlighted the wealth of data that is available (and is not published by DBS). **There is clearly scope for further and more detailed research into the numbers and types of people affected by the disclosure of childhood and young adult criminal records.**

³⁰ DBS (2017) Response to a Freedom of Information request, [FOI reference 1586](#)

³¹ Disclosure Scotland (2018) Response to a Freedom of Information request, [reference FOI1800682](#)

³² Prior to this point, basic checks by Disclosure Scotland were issued in accordance with the disclosure rules that applied in Scotland.

³³ This is based on the total number of basic checks in the last 3 years (47,870 on children and 1,016,310 on young adults) and the number of standard/enhanced checks in the last 5 years (637,773 on children and 4,254,211 on young adults). This totals 5,956,164, however given the number of basic checks is based on the last 3 years rather than 5, the actual number in the last 5 years will therefore be over 6 million.

Basic checks

The data from Disclosure Scotland focuses on **basic checks over 3 financial years** (1st April 2014 to 31st March 2017), unless otherwise indicated.

Number of basic checks on children and young adults

- **Children are undergoing basic criminal record checks.** Nearly 50,000 (47,870) basic checks were carried out on those under 18.
- **Over one million basic checks were on young adults. This represents over a quarter of all basic checks.** 1,016,310 basic checks were on young adults, which is 28% of all basic checks.
- **Overall, 3 in 10 basic checks are on young people.** Of the 3,626,490 basic checks on people in England & Wales, 29% (1,064,150) were on children and young adults.

Impact of basic checks on young people with criminal records

Impact of a criminal record in childhood

- **Children are having criminal records disclosed on basic checks.** 210 children had at least one conviction disclosed on a basic check. This represents 0.4% of the total number of basic checks on children (47,870) and 0.3% of the overall number of basic checks that contain unspent convictions (68,860).

Impact of a criminal record as a young adult

- **Over 20,000 young adults received basic checks containing an unspent conviction.** 20,720 young adults had at least one conviction disclosed on a basic check that was carried out when they were a young adult. This represents 2% of the total number of basic checks on young adults (1,064,150) and 30.1% of the overall number of basic checks that contained unspent convictions (68,860).

Impact of basic checks on people with youth criminal records

Impact of a childhood criminal record later on in life

- **Over 4,000 people received basic checks containing a childhood conviction.** 4,040 basic checks contained a conviction that was acquired in childhood.
- **Around 6% of convictions revealed on basic checks are childhood convictions.** Of the 68,860 basic checks that contained convictions, 5.9% (4,040) related to convictions acquired in childhood.

Impact of a young adult criminal record later on in life

- **Over 30,000 people received basic checks containing convictions acquired as a young adult.** 30,200 basic checks contained a conviction that was acquired as a young adult.
- **Around 44% of convictions revealed on basic checks are young adult convictions.** Of the 68,860 basic checks that contained convictions, 43.6% (30,020) related to convictions acquired as a young adult.

Overall

- **Nearly half of all convictions revealed on basic checks were acquired in youth.** Of the 68,860 basic checks that contained convictions, 49.4% contained convictions from childhood or early adulthood.

Standard/enhanced DBS checks

The data from the DBS focuses on **standard and enhanced DBS checks over the last 5 financial years** (1st April 2012 to 31st March 2017), unless otherwise indicated.

The DBS filtering rules came into effect on the 29th May 2013, so most of the data relates to the period since then.

Number of standard/enhanced checks on children and young adults

- **Children are undergoing standard/enhanced checks.** Over 600,000 (637,773) standard/enhanced checks were carried out on children. Although the vast majority were on 16 and 17 year olds (98.9%, 630,705), there were 7,068 on under 16's, including three on 10-year olds, three on 11-year olds and 32 on 12-year olds.³⁴
- **One in five standard/enhanced checks are carried out on young adults.** Over 4.25 million (4,254,211) people aged 18-25 had a standard/enhanced DBS check. This is 20.6% of the total number of checks carried out during the period (20,677,120).
- **Overall, nearly 5 million standard/enhanced checks were carried out on young people. 4,891,984 standard/enhanced checks were on young people.** This is 23.7% of the total number of checks carried out during the period (20,677,120).

Impact of standard/enhanced checks on young people with criminal records

Impact of a criminal record in childhood

- **Children are having criminal records disclosed on standard/enhanced DBS checks.** Over 7,600 (7,610) children had at least one caution or conviction disclosed. This includes ten 14-year olds (at the time of the check being carried out). Overall, 1.2% (7,610) of DBS checks undertaken on children (637,773) contained a criminal record.
- **Most children are affected by the disclosure of cautions.** Of the 7,610 checks on children that contained criminal records, 76.5% (5,818) contained only cautions, with 15.9% (1,209) containing only convictions, and 7.7% (583) containing both cautions and convictions.
- **More children are affected by the disclosure of cautions rather than convictions.** The 76.5% of checks on children that disclosed a criminal record contained only cautions. This is much higher than the 54.3% for young adults (see below).

³⁴ It is unclear from the data when these checks were carried out. Changes were made as a result of the Protection of Freedoms Act 2012 that meant that under 16's should not be subject to DBS checks.

Impact of a criminal record as a young adult

- **Almost 200,000 young adults were affected by the disclosure of their criminal record on a standard/enhanced DBS check.** 192,060 people aged 18-25 that had a standard/enhanced DBS check had a caution or conviction disclosed.
- **A higher percentage of young adults that have DBS checks are affected by the disclosure of a criminal record (when compared with children).** 4.5% of checks on young adults (192,060 out of 4,254,211) contain cautions or convictions, when compared with 1.2% of checks on children.
- **Young adults are affected more by the disclosure of convictions than children.** Of the 192,060 checks on young adults that contained criminal records, 54.3% (104,222) contained only cautions, with 31.9% (61,310) containing only convictions, and 13.8% (26,528) containing both cautions and convictions. The 31.9% of checks on young adults that disclosed a criminal record contained only convictions. This is over double the percentage when compared with children (15.9%).

Impact of standard/enhanced checks on people with youth criminal records

Impact of a childhood criminal record later on in life

The number

- **Over a third of a million people have been affected by the disclosure of a childhood criminal record.** 337,346 standard and enhanced checks contained a caution or conviction that was given to the individual when they were a child.
- **Convictions (rather than cautions) from childhood affect the most people.** 68.9% (232,523) of the 337,346 checks that included a criminal record from when the individual was a child contained only convictions, 25.7% (86,788) contained only cautions, and 5.3% (18,035) contained both.
- **Thousands of people are affected by the disclosure of criminal records from their childhood.** For example, 97,953 standard/enhanced checks contained criminal records from when the individual was 15 years old.

In the last 5 years, the following number of standard/enhanced checks contained cautions and convictions from when the individual was a certain age as a child:³⁵

Criminal record from:	Number of checks that contained:			Total number of checks
	Cautions	Convictions	Both	
Aged 10 years old	903	2,795	15	3,713
Aged 11 years old	2,639	5,881	46	8,566
Aged 12 years old	6,489	12,476	153	19,118
Aged 13 years old	13,076	23,752	474	37,302
Aged 14 years old	20,830	45,430	1,016	67,276
Aged 15 years old	25,116	71,424	1,413	97,953
Aged 16 years old	22,051	90,579	1,290	113,920
Aged 17 years old	19,510	127,117	1,639	148,266

- **In total, over 1.1 million childhood criminal records were disclosed.** 1,108,957 childhood cautions and convictions were disclosed on standard and enhanced checks. The overwhelming majority were childhood convictions (969,533, 87.4%) and 12.6% (139,424) were childhood cautions.

³⁵ These are the number of checks (as opposed to the number of criminal records). The figures cannot be added together because one check can contain multiple offences where the applicant was at different ages for each of the offences. For example, if someone had offences from when they were 15, 16 and 17, they would appear in each of those rows.

The length of time

The table on page 44 has a full breakdown of the number of childhood criminal records disclosed on standard/enhanced DBS checks, based on how old the offence was at the time of applying for the check. Key findings are that:

- **Only a very small proportion of childhood criminal records disclosed were recent.** 6.3% (8,788) of the childhood cautions disclosed were relating to cautions received in the last 2 years, and only 0.65% (6,268) of the childhood convictions disclosed were received in the last 2 years.
- **Fewer than a quarter of the childhood cautions disclosed were received in the last 5 years.** 22.3% (31,022) of the childhood cautions disclosed were received in the last 5 years.
- **Only a small proportion of the childhood convictions disclosed were received in the last 5 years.** 3.5% (34,243) of the childhood convictions disclosed were received in the last 5 years.
- **The majority of childhood criminal records disclosed were over a decade old.** 87.8% (850,925) of the childhood convictions disclosed were over 10 years old, and 34% (47,364) of childhood cautions disclosed were over 10 years old.
- **In total, over 8 out of 10 childhood criminal records disclosed were over ten years old.** 81% (898,289) of the childhood criminal records disclosed were over 10 years old.
- **Over three-quarters of a million childhood convictions have been disclosed on standard/enhanced DBS checks that were more than 15 years old. 761,175 childhood** convictions disclosed were over 15 years old. This represents 78.5% of all childhood convictions disclosed. This means that hundreds of thousands of people are being affected well into middle-age a result of mistakes they made when they were a child.
- **Nearly half a million childhood convictions were disclosed that were more than 30 years old. This represents almost half of all childhood convictions disclosed.** 46.1% (446,560) of the childhood convictions disclosed were more than 30 years old. 343 childhood cautions that were more than 30 years old were also disclosed.

Impact of a young adult criminal record later on in life

The number

- **Over two-thirds of a million people have been affected by the disclosure of a criminal record that they acquired as a young adult.** 679,914 standard and enhanced checks contained a criminal record that was given to the individual when they were a young adult.
- **Young adult convictions (rather than cautions) affect the most people.** 77.5% (527,149) of the 679,914 checks contained only young adult convictions, 16.6% (112,747) contained only young adult cautions, and 5.9% (40,018) contained both.
- **Thousands of people are affected by the disclosure of criminal records from their early adulthood.** For example, 174,756 standard/enhanced checks contained criminal records from when the individual was 18 years old.

In the last 5 years, the following number of standard/enhanced checks have contained cautions and convictions from when the individual was a certain age as a child:³⁶

Criminal record from:	Number of checks that contained:			Total number of checks
	Cautions	Convictions	Both	
Aged 18 years old	27,182	144,757	2,817	174,756
Aged 19 years old	24,140	144,926	2,268	171,334
Aged 20 years old	21,672	135,446	2,022	159,140
Aged 21 years old	18,927	122,845	1,641	143,413
Aged 22 years old	17,185	110,659	1,564	129,408
Aged 23 years old	14,726	99,716	1,276	115,718
Aged 24 years old	13,625	90,427	1,125	105,177
Aged 25 years old	12,104	81,058	970	94,132

- **In total, nearly 2.5 million young adult criminal records were disclosed.** 2,448,220 young adult cautions and convictions were disclosed on standard and enhanced checks. The overwhelming majority were young adult convictions (2,264,839, 92.5%) and 7.5% (183,381) were young adult cautions.

³⁶ These are the number of checks (as opposed to the number of criminal records). The figures cannot be added together because one check can contain multiple offences where the applicant was at different ages for each of the offences. For example, if someone had offences from when they were 18, 19 and 20, they would appear in each of those rows.

The length of time

The table on page 44 has a full breakdown of the number of young adult criminal records disclosed on standard/enhanced DBS checks, based on how old the offence was at the time of applying for the check. Key findings are that:

- **Fewer than 1 in 6 young adult cautions and fewer than 3% of young adult convictions disclosed were recent.** 16.3% (29,827) of the young adult cautions disclosed were received in the last 2 years, and only 2.8% (54,006) of the young adult convictions disclosed were received in the last 2 years.
- **Around half of young adult cautions disclosed were received in the last 5 years.** 51.6% (94,550) of the young adult cautions disclosed were received in the last 5 years.
- **Fewer than 1 in 13 young adult convictions disclosed were received in the last 5 years.** Only 7.6% (172,933) of the young adult convictions disclosed were received in the last 5 years.
- **The majority of young adult criminal records disclosed were over a decade old.** 80.1% (1,814,523) of the young adult convictions disclosed were over 10 years old, and 16.3% (29,969) of the young adult cautions were over 10 years old.
- **In total, three-quarters of the young adult criminal records disclosed were over ten years old.** 75.3% (1,844,492) of young adult criminal records disclosed were over 10 years old.
- **Over 1.5 million young adult convictions have been disclosed on standard/enhanced DBS checks that were more than 15 years old.** 1,508,551 young adult convictions disclosed were over 15 years old. This represents 66% of all young adult convictions disclosed. This means that hundreds of thousands of people are being affected well into middle-age as a result of mistakes they made when they were young.
- **Over half a million young adult convictions were disclosed that were more than 30 years old. This represents over 1 in 5 young adult criminal records disclosed.** 22.5% (508,814) of the young adult convictions disclosed were more than 30 years old. 77 young adult cautions that were more than 30 years old were also disclosed.

Number of criminal records contained on standard/enhanced DBS checks

The table below sets out the number of cautions and convictions disclosed on standard/enhanced DBS checks, based on how old the offence was at the time of applying for the check and broken down between whether it was a childhood or young adult criminal record which was disclosed.

Age of offence ³⁷	Childhood criminal records disclosed			Young adult criminal records disclosed		
	Cautions	Convictions	Total	Cautions	Convictions	Total
In the last 2 years	8,788	6,268	15,056	29,827	54,006	83,833
Over 2 years ago but less than or equal to 5 years	22,234	27,975	50,209	64,723	118,927	183,650
Over 5 years ago but less than or equal to 10 years	61,038	84,365	145,403	58,862	277,383	336,245
Over 10 years ago but less than or equal to 15 years	34,553	89,750	124,303	22,085	313,856	335,941
Over 15 years ago but less than or equal to 20 years	10,837	86,896	97,733	7,121	309,189	316,310
Over 20 years ago but less than or equal to 25 years	1,263	94,265	95,528	566	344,801	345,367
Over 25 years ago but less than or equal to 30 years	368	133,454	133,822	120	337,863	337,983
Over 30 years ago	343	446,560	446,903	77	508,814	508,891
Total	139,424	969,533	1,108,957	183,381	2,264,839	2,448,220

³⁷ This is the time between the caution/conviction and the point at which the DBS check was issued.

Overall

- **Nearly 850,000 people have been affected by the disclosure of a youth criminal record on a standard/enhanced check.** In the last 5 years, 846,096 standard/enhanced checks contained convictions or cautions that were given to the individual when they were aged between 10 and 25. The majority of the checks (71%, 600,839) contained only convictions. 21% (176,764) contained only cautions. 8% (68,493) contained both cautions and convictions.
- **More people are affected by the disclosure of young adult criminal records than childhood criminal records.**
 - Over two-thirds of a million people (679,914) have been affected by the disclosure of a criminal record that they acquired as a young adult.
 - Over a third of a million people (337,346) have been affected by the disclosure of a childhood criminal record.
- **Over 3.5 million youth criminal records (3,557,177) have been disclosed on standard/enhanced DBS checks in the last 5 years.** This is made up of 1,108,957 childhood criminal records and 2,448,220 young adult criminal records.
- **The vast majority (77.1%, 2,742,781) of youth criminal records disclosed on standard/enhanced checks were over 10 years old.** 77.1% (2,742,781) of youth criminal records disclosed were over 10 years old. This is made up is 898,289 childhood criminal records and 1,844,492 young adult criminal records.
- **Over 2.25 million youth criminal records that are over 15 years old have been disclosed on standard/enhanced checks in the last 5 years.** 2,282,535 criminal records have been disclosed on standard/enhanced checks that were obtained by people aged 10-25 and which were over 15 years old at the point of the check being applied for.
- **Nearly 1 million youth criminal records that are over 30 years old have been disclosed on standard/enhanced checks in the last 5 years.** 955,794 criminal records have been disclosed on standard/enhanced checks that were obtained by people aged 10-25 and which were over 30 years old at the point of the check being applied for.

Appendix B - Case studies

The case studies below have been provided to Unlock by individuals. The case studies are referred to at various points in the report. Names and personal details have been changed to protect the identities of those involved.

Case study 1 – Peter

The unfairness of the list of offences that can never be filtered

“I was convicted of ABH 37 years ago. On paper it sounds really bad, but in practice it was in self-defence protecting a pregnant woman from assault. I was 18 years old at the time. The magistrate said it was commendable, however I took the law in to my own hands. I received a 1-year conditional discharge and a fine of £75.

“According to the filtering list, this offence has to stay on my enhanced DBS forever. Why? It was 37 years ago and I have never been in trouble since. I got educated so I could get well paid and look after my loved ones. I feel so bad about this being disclosed as I work in private education and recently I had to do a self-certification for the school. They knew about my conviction because it came up on the DBS prior to appointment. You may think I am being over sensitive but it really does affect me privately. I cannot prove it, but it has also held me back on occasions when applying for jobs. I know on at least five job applications I have applied for and met every detail of the job specification, qualifications and experience to do the job and because I was honest (i.e. declared my conviction), I never even got an interview!

“I understand the police wish to keep it on their PNC and oddly enough I agree with that. But surely after 37 years I shouldn't have to declare the offence on a DBS. I am completely rehabilitated, a happy family man who made one error when I was 18 years old. I did manage to have it removed with the old system. Then the rules changed again in 2010 and the police refused to delete it based on the new law. I still have that old check with no offences on and I wish it still applied. I have to fill in this self-declaration form annually for the school. I am so embarrassed about it, even though I have declared it to the school. It just seems so unfair.”

Case study 2 – Richard

The ‘more than one conviction’ rule

Despite having enjoyed a successful 40-year career in the private sector, and having raised his children, Richard was surprised to discover that his record branded him as a criminal with two previous convictions: one for possessing “dangerous drugs” and the other for “theft from an employer”. The records surfaced around 40 years on when Richard’s son wanted to join a choir and as a dad, Richard needed to pass an enhanced DBS check.

In the 1960’s, aged 16, Richard had been prosecuted for the possession of marijuana and was given a one-year conditional discharge. He was never a habitual drug taker; the offence resulted from a one-off mistake when he was approached by a dealer the police wanted to trap. Richard got into trouble again, a few years later, while a student. He was convicted of taking an item of food from a warehouse where he had a job stacking shelves. Again, he was given a one-year conditional discharge and put the mistake behind him.

After graduating, Richard found private sector jobs throughout the years without anyone wanting to know if he had a criminal record. He was given positions of responsibility and had a productive career. Had anyone asked him, he would have said that he had no convictions. He had been discharged by the courts and understood that his record was clear. However, approaching sixty, he suddenly discovered that even after forty years of good behaviour, the police were listing his youthful mistakes as criminal convictions on an enhanced DBS check. Richard now feels he is being punished for events that should have been forgotten decades ago.

Richard says:

“When you look at this record, it looks dreadful. But I was never really the drug taking thief that it suggests – I was a young person who made a couple of silly mistakes. But it’s harder than you would ever believe to correct the impression this record creates, even though no-one apart from me knows or should care about what happened over forty years ago.”

Because of this “new” old record, Richard feels unable to apply for third sector work he would like to do. He thinks he is being prevented from contributing in a way the justice system never intended: *“I thought that conditional discharges were invented to help people get back on track – but since the invention of the CRB/DBS, people like me are shackled with old records they cannot get deleted. This creates a problem that never goes away.”* Richard believes that, realistically, he will never be chosen to do voluntary or third sector work for charities etc. He is inhibited about making applications requiring checks because he knows he will be required to explain away his mistakes to people who would largely prefer not to hear, or be asked to think deeply, about a senior applicant’s juvenile problems.

Richard believes that the government needs to make decisive changes to the law so that checks stop listing youthful mistakes that resulted in conditional discharges decades ago. Richard concludes:

“We have lost faith in the capacity of people to learn from their mistakes and to change for the better. The present system is preventing people like me from participating.”

Case study 3 - Paul

A ‘sexual’ offence that had been removed is now there forever

“In 1980 I was convicted of indecent exposure – basically, I had a wee in public on a night out - and received a fine of £75. This stupid behaviour was a ‘one off’ and I have since worked for 30 years in public service as a community officer and manager. Most of these posts involved working with vulnerable adults and children to some extent but didn’t require a disclosure at the time. I also coached my son’s junior football team for 4 years in the 90’s. I have clearly not been a risk to children or vulnerable adults for over 30 years.

“In October 2009 I was made redundant and, looking for other work/volunteering opportunities, queried what would be disclosed and learnt about the step down procedure. I was advised that this conviction would be stepped down, would not show on a standard disclosure, and, given the length of time, would not be likely to be deemed ‘relevant’ on an enhanced check. I have recently gained permanent employment as a deputy managing director at a subsidiary and the company policy is to carry out a check on all employees. I am not sure whether this is standard or enhanced but the reinstatement of stepped down offences mean this will be revealed on either.

“It now looks like I lied on my disclosure form (I did not disclose this stepped down offence) and may lose this job – which I have been doing successfully on a temporary basis for 7 months. I am devastated and extremely anxious about the results of the check.”

Case study 4 - Maria

A fight in the playground

"Like many teenagers, I suffered at the hands of the school bully and like many teenagers, the day came when I finally decided that enough was enough and retaliated. The result was a fight in the school playground when I was 15 years old. The police were called and I was taken to the local police station. The police officer dealing with my case listened to my side of the story and seemed genuinely concerned about me. He suggested that the best thing would be for me to accept a warning for assault occasioning actual bodily harm. He told me that if I did, I'd be able to go home quickly, wouldn't have the hassle of going to court and in any case, it would be wiped from my record when I was 18. It seemed the best option at the time. The year was 2003 and I'd never been in any trouble before and I've not been in any trouble since.

"My troubles only really started in 2010 when I decided that I wanted to work in healthcare. I'd received an offer from one of the top universities in the country but, once the university received copy of my CRB (now a DBS) certificate, they revoked the offer. Desperate to get work, I looked to go into the security industry but found it really, really hard to get my SIA badge. Initially I was rejected but, a very supportive employer wrote a fantastic letter of support and I eventually got my badge. I went on to work at some very high profile events.

"As a caring individual, I knew I couldn't give up on my ambition to be a nurse and decided to go through the university's appeals process. This was the first of many times that I'd have to write out a disclosure statement explaining to an interview or risk assessment panel how I'd ended up with this warning on my record. Disclosure has never gotten any easier for me – each time as traumatic as the first because it takes me back to a really bad time in my life that people just won't let me move on from. Thinking back to what was going on in my life back then reduces me to tears.

"I worked really hard, finished my nursing course and started applying for jobs. I always disclosed my warning on application forms and there were many times when I never heard anything back from an employer. I'll never know whether it was because of the warning or because there were other more suitable candidates. Eventually, I received a job offer. I had to write another disclosure statement which was read by so many people – people that I would potentially have to work with!! I had to have a further telephone interview with my manager where I had to explain the warning all over again. Eventually I thought I had things settled.

"Sadly this was not to be the case. As well as my main job, I wanted to apply to join the hospital's 'bank list' which would have enabled me to do overtime shifts around the hospital. Yet another application form asked me to disclose details of my criminal record. After yet another discussion about the warning, my manager refused to sign off my application form stating that she 'didn't think I was ready for this'. However, I knew that several of my co-workers (who had considerably less experience than me), had been signed up really quickly and were already doing overtime shifts.

"Over time, I've noticed how differently I've been treated from my co-workers and how my manager rarely makes eye contact with me. Sometimes I'd like to shout out "Just because I've got assault on my record, doesn't mean I'm dangerous". Recently I applied for a job with another nursing agency and as usual, disclosed my warning on the application form. However, once the agency had reviewed my references and my DBS certificate, the job offer was rescinded. I'm now at the point where I feel employers and agencies only offer me interviews to stop them being accused of discrimination. However, once they see details of my record in black and white, my CV/job offer goes in the bin. I've really struggled to move on with my life because something I did as a child is always hanging over my head. It's been over 12 years since that stupid fight in the playground but, because my offence is a violent one, it will never be filtered from DBS certificates and will stay with me for life."

Case study 5 – Hilary

Possession of a firearm

“I have not had a great past in terms of childhood experiences. Then in my late teens, something happened which would further blight my life. I landed myself a criminal conviction. At the young and naive age of 19, I was found in possession of a prohibited weapon and prohibited ammunition.

“At the time I was in a relationship with someone who had obtained a firearm. The weapon was a 9mm revolver, which apparently he believed to be a replica. One evening, as we were travelling in his car he realised the police were going to pull him over. I noticed him start panicking and then, whilst he was still driving, he revealed the weapon to me and told me to hide it. I was very scared, confused and worried and had no idea what to do. He insisted that I conceal it in my handbag, reassuring me that all would be OK. Sure enough, the police stopped us and his vehicle was searched along with my handbag. The weapon was quickly discovered. The police arrested me and I was later charged with offences committed under the Firearms Act 1968. I was absolutely devastated and couldn't believe this was happening to me. With legal advice, I accepted responsibility for my part and my ex also admitted his guilt.

“The relationship ended and after a long stressful 6 months of attending court hearings, I received my sentence – a 2-year conditional discharge. At the time, I was studying Law at university and had hoped to pursue a career in the legal field. I was extremely worried that this conviction would jeopardise my future career plans. My legal representative told me he would be willing to write to the Law Society to confirm my suitability for the profession but in my heart I had already given up on this career path.

“Needless to say this affected my confidence in a huge way and ever since then I have deliberately avoided applying for jobs where I know I would have to disclose my dreaded conviction in fear of being judged and rejected. After spending about 8 years going from one mediocre job to another with periods of unemployment in between, I finally discovered something I felt truly passionate about – helping people make positive decisions about their lives through talking therapy. I took a short course in counselling skills which I successfully completed and passed. I really wanted to progress with my studies but I knew there would be quite a big financial outlay and I did not want to waste time, effort and money embarking on something if it meant that my conviction was going to get in the way of my practising.

“In May 2013 when the DBS filtering system was brought in, I started to think ‘Does this mean I will finally be free of my conviction and the past?’ I could see from the list of offences that would never be filtered that the offences I had been convicted of were not included. I felt hopeful but I wanted to be certain and so I contacted the DBS only to find out that although I had only one conviction and the offences were indeed eligible for filtering, I would still be required to disclose as I had been charged with two offences. My heart sank.

“I continued to do further studying and as much as I have tried to tell myself to just go after what I want, regardless of my conviction, from time to time I still worry that I may just be wasting my time and will be left feeling disappointed again. There are job opportunities that I just allow to pass me by without even trying because of my belief that I will be judged and discriminated against. I am 33 years old now, in a stable and loving relationship and have a 3-year-old son and I hate that this has happened to me. I hate having to relive it every time I attend a job interview.

“I really would like the DBS filtering system to be reviewed and reformed to allow people like myself to move on from their past and not to be haunted by it every time the opportunity to pursue a dream job comes up.”

Case study 6 – Kate

Qualified to work but old convictions are the barrier

At the age of 16, Kate took the decision to move out of her family home. She began renting a room from somebody she'd met through a friend. After she'd been there for three months and, without any warning, she returned home from college to find that her landlady had thrown most of her possessions out of the house and onto the street.

Realising that not all of her possessions had been returned, Kate went back to the house to pick them up. This resulted in an argument with her former landlady and Kate leaving empty handed after the landlady started to physically attack her. Several days later her parents received a phone call from the police asking Kate to report to the police station as soon as possible.

Kate said: "My father accompanied me but was not allowed in the interview room. We asked if I needed legal representation and was advised by the policeman that I would get home a lot quicker without it and that it wasn't necessary. I gave the police a detailed and honest account of events but it was apparent that the woman whose room I had rented had not and I was subsequently arrested for common assault".

In court Kate was found guilty of using violence to enter the premises and battery and had to pay compensation of £100.

That was over 10 years ago now. Since then, Kate has successfully completed a degree in social work at university. She has applied for several social work positions and been invited to interviews where she has been told that she was an outstanding candidate and been offered the job. However, as her convictions do not meet the eligibility for filtering (she has two) every job offer has been revoked as soon as she has disclosed her convictions.

Kate said: "I have two offences as part of one conviction which would be eligible for filtering if the system wasn't limited to one conviction/offence. I want to work as a social worker. I'm able to work. I miss working".

Case study 7 – David

Growing up in care

I spent most of my childhood in the care system. Between the ages of 11 and 17, I kept on getting moved between foster carers and residential children's home. In one children's home, I had an argument with another boy not long after I'd moved there. Neither of us were seriously injured – it was no more than what two brothers probably get up to on a weekend. Yet because I was new, the care worker insisted on calling the police. We both ended up accepting cautions for ABH. I was told it wouldn't have any affect once I'd turned 18.

Now I'm in my early 30's and I want to be a primary school teacher. Yet I'm still having this ABH caution disclosed on my enhanced DBS. Not only does that hold me back in itself, but it also means I've got to explain that I was brought up in care, which is something I know I get judged for. Although I've managed to complete my initial teacher training and placement, I'm worried about future job applications and I feel sick at the thought of having to disclose this for the rest of my life.

Case study 8 – Diana

Convictions from 25 years ago threaten chances of fostering

Whilst she was still at school, Diana was convicted of seven counts of theft from the school changing room and was sentenced to a 12 months' conditional discharge and fines ranging from £1 to £14. Up until then, her childhood had been very chaotic having been taken into local authority care following regular abuse and neglect at the hands of her father. Desperate to make friends and fit in at school, Diana had committed her offences as a result of bullying and peer pressure.

She was told by her solicitor that, as she was a juvenile at the time of her convictions, she wouldn't need to disclose them to anybody providing she did not re-offend. She was never made aware of any exceptions and for that reason, hadn't declared it for 25 years.

Diana was eventually fostered by a wonderful couple and began to turn her life around. She gained two degrees and worked very successfully with elderly people in the care industry and schools. The only time she was asked to disclose her criminal record was when applying for a personal licence to manage a nightclub – although the police later told her that as her convictions were spent, she had not needed to tell them.

Now married with two children, Diana recently applied to do some voluntary work at her children's school. She agreed to an enhanced DBS check but was devastated to see that all seven of her convictions had been disclosed on it. Worried about how this would be viewed by the school, Diana withdrew her application.

At around the same time Diana and her husband had started the process of fostering and although they knew that the fostering agency would need to do a criminal record check, Diana had been unaware of the information that would be disclosed about her. She started to research the filtering legislation that had come into force in May 2013 and realised that although a theft offence would be eligible for filtering, the fact that she had seven convictions (one for each of the seven items she had stolen) meant that hers would not be.

Diana now believes that the presence of these convictions on her criminal record check is likely to close the door to any chance of her being a foster carer.

Diana said:

“The current system does not take into account a person's past or circumstances which led to their offending as a child – as a child we are all guilty of making mistakes, it's part of the learning curve. Why make a definition between a juvenile and an adult in law if we are making a juvenile criminally responsible and liable for the whole of their lives. I can't sleep, I feel so sick. I wake up crying and thinking about it, I'm totally ashamed and embarrassed about my past and having to relive something I thought I'd buried 25 years ago”.

Case study 9 – Sarah

Prison sentence from early 20's can never become spent

"At the age of 20, I found myself sitting in a dingy council flat with a 2-year-old, a part time job in a supermarket and no vision of hope for myself. At 21 I decided to go back and give college another try. I wanted to knuckle down and achieve a qualification but when you're young, naive and gullible it doesn't take much to get distracted from your goals. Before long I ended up in a relationship with someone who I later found out wasn't the person for me. In the year that followed, college went down the drain and I lost the part-time job. I ended up in rent arrears and was finding it very hard to cope. This was when my 'boyfriend' suggested what I now know was a ludicrous idea to make some money. Once again, when you're young naive and gullible it doesn't take much to follow foolish suggestions.

"To cut a long story short, at the age of 22 I ended up in a far-away foreign country being sentenced to 5 years in prison. The conditions were horrendous. I cried every day all-day for the first 2 months, then for 3 months was very sad and depressed, then I moved onto being numb. By the time I was repatriated back to complete my sentence nearly 3 years later I had evolved into a different person.

"A stronger, wiser and more focused person returned to England, determined to work hard, make sensible, positive choices and never make a mistake like that again. Once released I enrolled on a course which got me up to date with IT because emails and google had come onto the scene whilst I was away. I knew I had to update my skills in order to get a decent job. I also did a separate course on Saturday mornings and before long moved onto successfully occupy a receptionist role for a charity.

"I began to long for the opportunity to help and encourage others. I managed to secure a place as a Volunteer Youth Offender Panel Member and did this along with the day job for about a year. I also became a youth worker and did this a couple of evenings a week. That is until management found about my criminal conviction and they had to let me go.

"When I spotted a vacancy for an advisor role with my local Probation office, I just had to go for it. I mean, who better to encourage and guide ex-offenders into work and training than someone who's been there? I enlisted my determined attitude, held my head up high and went for it. Nearly 11 years on and I'm still working with what's now called the Community Rehabilitation Company (part of Probation) doing a job which I still thoroughly enjoy. Thankfully they saw the true potential in me.

"It's been over 15 years since my release, I'm now married with 3 children. I've never been in trouble again and I am pleased to say that I live a peaceful and relatively comfortable life. I made a very costly mistake and paid a heavy price for it. However, so many years on I still encounter regular discrimination and upset because of it. A prison sentence of over 4 years means it will never be spent and will forever appear on my DBS so I have to regurgitate and share offence details on any form that asks, whether the document or institute is exempt from the Rehabilitation of Offenders Act 1974 or not. This 'never spent' law for me has caused refusals for jobs (I've only referred here to the jobs I got, I didn't bother to mention the ones I didn't), refusal or extortionately high prices for car and house insurance, refusal of admission to certain countries no matter the circumstances.

"This situation for me has led to stress, anxiety and depression. I only hope that some form of new case by case system can be introduced in order to give people like myself a 'spent' and 'filtered' status and the full opportunities to live a normal life that will come with it."

Case study 10 – Anita

Childhood offences getting in the way of becoming a teacher

"I am a 29-year-old qualified English teacher. Since going into teaching, I have faced many hurdles because of the childhood mistakes I made.

"Like most children, I was impressionable and pushing boundaries. In my new school, a friend and I were playing with a lighter in the girls' bathroom and set a toilet roll alight causing a small amount of damage. I was arrested (as an 11-year-old) for Arson – not criminal damage as my parents were told it would be – and told that the reprimand that I was given would come off when I turned 19.

"In secondary school, after months of being bullied, I was involved in a fight with another pupil whose mother called the police. I was arrested for Actual Bodily Harm (as was the other pupil) and encouraged by the police to accept the reprimand rather than fight it in court as it would come off in five years.

"Growing into a responsible adult and taking on a teaching degree, I was shocked when I was almost thrown off the course midway through due to these offences. Ever since, I have battled and battled to find employment in the UK – eventually being forced to work abroad. Every application form for this profession in the UK requires disclosure of my criminal offences – regardless of how long ago it was – by ticking a box on the application before interview stage. Thus, any employer sifting through can be as partial as they want deciding whether to employ a former criminal. Not only this, once back in the UK, I was told outright by a supply agency that, "schools don't want to hire people with a criminal record." Upon writing to Mr Michael Gove MP when he was Justice Secretary, he informed me that "employers cannot do this." Evidently, they not only can, but do. I have had to take any other job that I could find and am now working a zero-hour contract with no guarantee of hours or security of any kind.

"Even then, I have to clarify my criminal record – constantly dragging up an embarrassing, irrelevant and juvenile piece of my past – to potential employers, strangers to me, and feel their judgement upon me.

"I have been constantly punished for mistakes I made when I was a child and teenager – over half my life ago. The role of the justice system is to rehabilitate. However, I have not been given another chance. The hopelessness of my case has led to moving country and to bouts of depression and anxiety.

"The crime here is that I am lucky. I have not reoffended as an adult and work with vulnerable people, helping and educating them – a valuable member of the community. Yet, I still do not have the option of working in schools or charity work. When I spoke to the Justice Committee about my case, every person on the Committee sympathised with my case and were quite indignant that it should never have happened. But it did happen. And I am still suffering from it. What's more, the community is suffering by not allowing me to help and educate.

"Cases such as mine need to be scrutinised on a case-by-case basis for such records to be removed completely or at the very least filtered off so they do not have to be declared from the outset. 15 years going on a lifetime is a long time to be punished and will push many people back into reoffending if they are denied second chances or employment."

Case study 11 – Claire

One conviction but three counts

“I’m in my late 30’s now. In my early 20’s, I received a conviction because I was in possession of drugs. As I had a small amount of 3 different drugs, I was charged on 3 counts. The only advice that I was given at the time by a duty solicitor was to plead guilty and it would mean the judge would be lenient as it was my first offence.

“I was suffering with post-natal depression following the birth of my twins. I was a first-time parent and their father went to prison 13 days after they were born leaving me to struggle on my own. Despite my best efforts to cope, my mental state worsened and I turned to drink to make it bearable. This brought some rather unsavoury characters into my life and unfortunately following a stabbing at my house while I and the boys were not there, social services decided that the twins were safer staying with my foster mother who had looked after me on and off since I was 3 and kindly agreed to let my babies stay with her.

“This pushed me over the edge and I found that drink wasn’t enough to stop the feelings I needed to bury and thought drugs would help. I wanted to forget how useless I was so I bought some speed, some cocaine and some ecstasy tablets. My inexperience led to me being discovered by nightclub staff who consequently called the police.

“This was enough of a wakeup call for me and I stopped everything; drink, drugs, nights out, the lot. I moved house to start afresh and the twins were able to move back in with me. Since then, I have had 2 more children, I have never been in trouble since and I have worked the entire time.

“I’ve since trained as a Teaching Assistant and gained a level 2 qualification while on a trainee placement in a primary school, and despite being absolutely fantastic at my job, I have been unsuccessful in securing employment as a TA. I have submitted at least 50 applications in the last year, but even though the Rehabilitation of Offenders Act states that employers should not allow it to influence their decision, I am certain that this is the reason I have failed at every turn.

“I was so young and under an incredible amount of stress and made a silly mistake. The conviction that I was given will never be filtered due to it being split into multiple counts even though it was such a tiny amount.

“I am paying for it even now. I sought legal advice to see if there was any way I could appeal the original conviction but because I pleaded guilty and also because so much time has passed, I was told it was simply not possible.”

Case study 12 – Michael

Stupid behaviour as a teenager

When he was 17, Michael was convicted of theft of a coat from a market stall. He was fined £30. Ten months later, 23 days after turning 18, he was convicted of stealing a motor cycle and driving without insurance. He was fined £50 and sentenced to 24 hours at an attendance centre. That was 36 years ago; he’s come a long way since then. He’s now in his fifties. However, Michael’s long-forgotten past has come back to haunt him and he’s concerned about his work as a finance director. He could lose his job and a career that he’s worked hard for.

Case study 13 – Laura

One conviction but three counts

“Today, I am a 51-year old professional woman. Yet I have a previous conviction for ‘making false statement to obtain supplementary benefit’, dating back to 1987.

“The conviction lists 3 offences, which occurred over a six-week period during the summer of 1986 when I was a 19-year-old student and I undertook some extra shifts in a pub where I was working part-time, to cover a friend’s shifts when she went travelling. I stupidly failed to stop claiming supplementary benefit whilst doing this extra work. I was reported for this, presumably by someone in the pub, and was charged for the offence at Sunderland magistrates court on 8 June 1987. The benefit was re-paid along with a £90 fine.

“The conviction became ‘spent’ in 1988. However, under the current law the conviction has not been ‘filtered’ and still appears on DBS checks because more than one offence is listed under this single conviction. This is because I wrongly claimed supplementary benefit three times during the period in question, before being charged with the offences, not because I repeated the offence after being convicted.

“Once I had attended court and received this conviction I continued with my degree studies and following graduation commenced a career in public sector management. I tried my best to forget about the experience in court, and during the early years of my career the conviction did not affect me greatly as I did not have to undertake a DBS check.

“I joined the NHS in 1991 and undertook a number of roles before commencing a post at Associate Director level in 2002 which did not require a DBS check. I had married by this point and had two children.

“During 2006 I applied to become a school governor at my son’s school. I completed a DBS check as part of this process with no real concern as it was so long since the conviction I had almost forgotten about it and did not expect it to appear on the check.

“When the check arrived, the conviction was listed with the same offence repeated three times under the one conviction. I remember being completely shocked and upset to see this as by this point the conviction was nearly 20 years old and I just had not thought it would still be there. I contacted the school immediately and met with the clerk to explain the historical conviction and circumstances surrounding it. He was very understanding, and after receiving advice from the HR service used by the school, I was able to take up the role as a school governor.

“Following this I contacted Northumbria Police directly to enquire about why the conviction was still showing and I received confirmation from them in March 2008 that the conviction had been ‘stepped down’. In the meantime, I had turned down the opportunity to help out at my son’s scout troop as I just could not face discussing this conviction with people that I knew.

“In 2012 I applied for a new NHS role as an Associate Director and an enhanced DBS check was required. I was unsure whether the conviction would come up or not but thought it best to declare a previous conviction on the application form. I was invited to interview and prior to this I arranged to have an informal visit with one of the Directors who would be on the interview panel.

“When I arrived for the visit the Director’s first words to me were ‘so you’re our criminal...’. I was completely floored by this and spent the next few minutes trying to explain events relating to this event which had happened 25 years ago. It was all I could do to get through the meeting as I felt deeply ashamed and embarrassed, and it certainly affected my performance.

“After the meeting I seriously considered withdrawing from the recruitment process as I felt I just couldn’t face the full interview panel if they thought of me as a criminal. However, I did attend and was subsequently offered the job which I accepted. I worked successfully with this organisation for 3 years and soon found out that the comment had only been made as an off the cuff attempt at humour, nevertheless it had had a profound effect on me at the time.

“Subsequent to this role I have had two further DBS checks undertaken, one for an employment role and one for voluntary work. On both occasions I have needed to provide further written information to give context to the historical conviction and also discuss the issue with several people. On both occasions I have been met with understanding and sympathy and the conviction did not prevent both roles being offered to me.

“Nevertheless, the personal cost to me has been great as I have never been able to move on from a mistake I made when I was 19. I have lost sleep worrying about whether the conviction would prevent me getting a job and earning an income. I have also had to re-live the events surrounding this conviction which occurred during a difficult time in my life when I was on my own in rented accommodation unable to return to my family home and just about able to meet the rent. I have had to explain these events to those closest to me, including my husband and children, and this has not been easy.

“I can say with absolute honesty that this offence is the only thing I have ever done wrong in my life (with the exception of a couple of speeding tickets over the years). I am an extremely honest and law abiding person. I work professionally in the public sector where the principles of honesty and integrity are important. I have a very strong moral compass and it feels very wrong to me that I continue to have a criminal record for one offence over 30 years’ ago which I have to declare and discuss despite it having no relevance to who I am today as a 51-year-old professional woman.”

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.

The author

Christopher Stacey is the co-director of Unlock. He leads the charity's policy and campaign work as well as overseeing the practical support the charity provides to individuals. More details about Christopher can be found at www.unlock.org.uk/chris.

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We are grateful to the 318 individuals that responded to our survey, as well as all of the organisations up and down the country that shared the survey and fed in comments and suggestions to the research. We would also like to thank [Barrow Cadbury Trust](#) for supporting this work.

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