Briefing: Reform of the criminal records disclosure regime

Summary

- 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. Our focus is predominantly on people in England and Wales.
- Unlock is clear that the current criminal records disclosure regime is not fair, proportionate or effective, and we are calling on the government to make fundamental reforms. This will give thousands of people every year a fairer chance when applying for work or volunteering without the stigma and shame of having to disclose mistakes that they might have made years - sometimes decades - earlier.
- Unlock is calling on the government to conduct a fundamental review of the wider criminal records disclosure regime, reforming to how it applies to childhood criminal records, records acquired in early adulthood and those that received later in life. Unlock is calling for:
    1. Reform of the Rehabilitation of Offenders Act 1974
        a. Reduction in the time before convictions become spent
        b. Expanding the scope of rehabilitation, so that all convictions may become spent
    2. Amendments to the filtering rules to achieve a more calibrated approach to disclosure, expanding the automatic filtering rules and introducing a review mechanism for marginal cases.
    3. A distinct system for the disclosure of criminal records acquired in childhood, and a more nuanced approach to those acquired in early adulthood.
    4. Reforms to ensure adequate protection from discrimination for people with spent and/or filtered criminal records.
    5. The sealing of certain records.

Now that the Supreme Court has ruled that two aspects of the filtering scheme are disproportionate and in breach of Article 8 of the European Convention on Human Rights, we have urged the government to pass a remedial order as soon as practical to deal with the judgment to ensure that all youth cautions, reprimands and warnings are now filtered out, and that the multiple conviction rule is removed.

If you have any questions about this briefing, email policy@unlock.org.uk

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The criminal records disclosure rules in England & Wales

Criminal records are disclosed either by an individual – in person or on a declaration form - or via official criminal records checks. **This briefing focuses on the rules that apply to what is disclosed on official checks.** The Disclosure and Barring Service (DBS) is responsible for issuing official criminal record checks in England and Wales. There are three types of check: basic, standard and enhanced. The level of check that can be carried out for employment purposes is set out in legislation.

A basic check will disclose "unspent" convictions only. That means a criminal record will be disclosed on a basic check for the length of the rehabilitation period (set out in the Rehabilitation of Offenders Act (ROA) 1974). Once that period has elapsed, the conviction becomes "spent". Rehabilitation periods depend on the sentence received for the offence; they can be lengthy, and some convictions can never become spent. Any employer can request a basic check.

A spent conviction or caution can appear on a standard and enhanced check. Some cautions and spent convictions can be 'filtered' (meaning they will not appear on such a check) after several years. However, a long list of offences cannot be filtered, and if a person has two or more convictions, no matter how minor, none will be filtered. Standard or enhanced checks can only be requested for defined roles, albeit on an expanding list.

Records of all convictions and cautions, including those acquired when under 18, are retained by the police for life. There is no distinct criminal records system for children in England and Wales; child and adult records are treated the same, other than reducing rehabilitation and filtering periods.

Why it matters

A criminal record can be crippling for employment. Employers are risk-averse and often assume that if something is flagged on a disclosure, they cannot hire the applicant. As Lord Kerr stated in the Supreme Court, *"[I]t is wholly unrealistic not to recognise that many employers, faced with a choice of candidates of roughly similar potential, would automatically rule out the one with a criminal record"* ([2019] UKSC 3, § 168)). 75% of employers discriminate against applicants on the basis of a criminal record.[1] 50% of employers say they would not recruit 'offenders or ex-offenders'.[2] It's a sad irony that a criminal record only becomes a problem when someone wants to get on in life; a criminal record check is not required to sell drugs or join a gang, but it can be essential to get a job or go to university. There is clear evidence from overseas that reform of criminal records gets people off welfare and into work.[3]

A criminal record acquired as a youth can, in effect, be a life sentence. A person can change quickly, but their criminal record does not: young adults in particular can find a criminal record holding them back at a key period in their working lives. This can have profound effects well into adulthood, and often indefinitely. In the last 5 years, over 1 million criminal records that related to offences from more than 30 years ago when the person involved was between the ages of 10-25 were disclosed on standard or enhanced criminal record checks. Due to shame and embarrassment about their earlier transgressions, people will often avoid jobs which require criminal record checks. Employers can require 'clean' records meaning even the most minor offences rule people out.

A criminal record dogs people for decades. The disclosure regime anchors people to their past and serves as a second sentence. The current system affects people with a criminal record more profoundly and for longer than elsewhere in Europe. In May 2016, the Northern Echo published an article with the title "Anger as pensioner claims 50-year-old juvenile conviction scuppered job application".[4] We regularly hear from people who are rejected from jobs because of minor irrelevant convictions received decades ago.

A criminal record affects a large number of people. In 2015/16, there were 358,810 standard or enhanced checks which matched police records; 67% of those matches resulted in a caution or conviction being disclosed. The DBS filtering rules only removed information from 33%. Some 241,203 checks revealed convictions or cautions. In the last 5 years alone, nearly 850,000 people have been affected by the disclosure of a youth criminal record on a standard/enhanced check.

A criminal record can affect housing. Most social housing providers ask about criminal convictions and, since 2011, have had the right to apply "blanket bans". For example, Croydon Council states that *"if you have been involved in relevant criminal behaviour you will be disqualified from going on the housing register… Relevant criminal behaviour includes conviction of an arrestable offence in, but not restricted to, the locality of the dwelling."* Failure to prevent others committing crime can also be used as a reason to refuse housing. Bromford, a social housing provider in South West England, says *"…where the unacceptable behaviour is committed by a member of the household other than the applicant or any person living with them, SVHS will rely on the failure of the applicant to prevent or deter the unacceptable behaviour as a reason to treat this as unacceptable behaviour."*[5]

A criminal record can affect access to university. A criminal record acquired as a young person can cause significant detriment to educational opportunities. Until 2018, the University and Colleges Admissions Service (UCAS) required all applicants to make a declaration on the initial application relating to unspent offences for a wide range of offences. Although this box has now been removed, applicants to courses for certain professions or occupations exempt from the ROA still have to tick a box on the UCAS form if they have a conviction or caution that would not be filtered. Many universities continue to ask all applicants, regardless of the course they are applying to. Although no quantitative research has been carried out in the UK, we regularly hear from people who find that old and minor criminal records cause problems when applying to university, particularly in accessing courses like social work and healthcare.

A criminal record can affect insurance. People with unspent convictions face difficulties in getting house and motor insurance, and this can also restrict self-employment opportunities. Insurance companies regularly take into account convictions that have no relevance to the insurance sought. People with unspent convictions pay disproportionately more for their insurance. Insurers fail to follow industry good-practice and are often misleading in the questions or assumptions they have, suggesting that people with spent convictions need to disclose these.

The case for change

The criminal records disclosure regime in England & Wales prevents people from moving on from their past mistakes. Our report[6] demonstrates how criminal records act as a life sentence for young people. A report[7] by the Standing Committee for Youth Justice (SCYJ) in 2017 showed that the system acts as a barrier to employment, education and housing and therefore works against rehabilitation and thus the aims of the youth justice system. Worryingly, the system also perpetuates inequalities, for instance among children in care and Black, Asian and Minority Ethnic children.

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, a criminal record represents a significant barrier to the ability to move on and can drag people down, even decades later.

The regime in England and Wales is one of the most punitive in the world; the effect of that record is more profound and lasts longer than in other jurisdictions. Bias, stigma, and the network of laws that limit the rights of people with criminal records mean that having a record affects people long after they have served their sentence. With these collateral consequences, even a minor criminal history produces lifelong barriers that can block reintegration and participation in society.

This means that criminal records can be:

1. A second sentence – an invisible punishment – often worse than the original sentence
2. A 'digital prison', where a person's past can be found through internet search engines and their legal rights against discrimination are undermined

The current disclosure regime has a significant negative impact – often a killer blow - on people's chances of finding work even after they've turned their lives around. It locks them out of the labour market and has a

considerable financial cost to society through out-of-work benefits. When people do find work it is often in low-paid or precarious employment and we see well-qualified and skilled people who are under-employed because they are unable to obtain work in their profession. The regime is in desperate need of reform.

Whilst the safeguarding of children or vulnerable people from potential harm is, of course, of paramount importance in society, it is clear that the current system of disclosure regularly leads to the actual harm of routine discrimination, against people based upon criminal records often acquired in childhood or early adulthood, and often for the rest of their lives.

To build a fairer and more inclusive society, we need a disclosure regime that protects the public without harming people's opportunity to change and lead fulfilling law-abiding lives free of the stigma of their past.

Unlock's call for change

1. Reform of the Rehabilitation of Offenders Act 1974

Unlock has long campaigned for fundamental changes to the Rehabilitation of Offenders Act 1974 (ROA), which is the principal legislation that governs the disclosure of criminal records to employers, educational institutions, insurers and housing providers. Unlock supports the principles of Lord Ramsbotham's Criminal Records Bill. We believe that the Act is in need of wholesale reform by way of a government review. Changes implemented in 2014 (through the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012) focused mainly on reducing rehabilitation periods. However, offences remain 'unspent' for too long, sentences of over 4 years in prison can never become spent, 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.

Rehabilitation periods are lengthy and not evidence-based

Rehabilitation periods have no basis in evidence and do not reflect the likelihood of reoffending occurring, or allow a person's progress to be taken into account. Some convictions are never spent regardless of the progress made by the individual. Unlock believes the Act should apply to all people who have served their sentence. Over 7,000 people every year receive a conviction of over 4 years in prison which cannot become spent. Convictions that can never be spent are an invisible punishment that will forever shadow the individual, preventing full rehabilitation and meaningful employment even after completing their sentence. People should have the opportunity to have the positive things they have done since leaving prison recognised in law by allowing them to be 'legally rehabilitated'. There should be a presumption that no one who is released from prison should face a lifetime of disclosure without the prospect of a review at some point.

Rehabilitation periods are incoherent

Currently, an 8-month prison sentence for ABH becomes spent before a fine and penalty points for speeding. Due to what was intended as a temporary savings provision, motoring convictions that appear on criminal record checks take 5 years to become spent. Other convictions can remain unspent for much longer than their main sentence would indicate because of the way relevant orders (e.g. restraining orders) impact on the spent date.

The legislation is abused

There is insufficient focus on or recourse against employers who breach the law. Unlock is aware of spent convictions being asked about and taken into account by employers without adequate legal remedy available. Employers request ineligible standard and enhanced checks with little fear of sanction. People with convictions and cautions are not adequately informed of the implications of the sentence given to them at court. Neither are they given clear information about their rights with regards to employers asking for information on their offending history. Information remains online long after convictions are spent, which is a real and increasing problem. Unlock is aware of employers finding out about spent convictions via internet searches and discriminating on this basis.

Changes Unlock would like to see

1. **Reduced rehabilitation periods:** The rehabilitation periods proposed by *Breaking the Circle* in 2002 (and accepted by government in 2003) were based on evidence of re-offending and resulted in recommendations of 1 year for community sentences and 2 years for prison sentences. The table below sets out the current disclosure periods, as defined by the Rehabilitation of Offenders Act 1974, alongside proposed changes to these as reflected in Lord Ramsbotham's Criminal Records Bill.

Sentence	Rehabilitation (disclosure) period (i.e. time it takes to become spent)			
	Adult (18+ at point of conviction)		Child (Under 18 at point of conviction)	
	Current	Proposed in Bill	Current	Proposed in Bill
Prison – More than 4 years	Never	Sentence + 4 yrs	Never	Sentence + 4 yrs
Prison – Over 2, up to 4 years	Sentence + 7 yrs (+4 yrs for 2 to 2.5yr sentence)	Sentence + 2 yrs	Sentence + 3.5 yrs (+2 yrs for 2 to 2.5 yr sentence)	Sentence + 2 yrs
Prison – Up to 2 years	Sentence + 4 yrs (+2 yrs for up to 6 month sentence)	Sentence + 1 yr	Sentence + 2 years (+18 months for up to 6 months)	Sentence + 6 months
Community / Youth Rehabilitation Order	Order + 1 yr	Length of the order	Order + 6 months	Length of the order
Fine	1 yr	Nil	6 months	Nil
Compensation order	When paid in full	1 year, or when paid in full, whichever is sooner	When paid in full	1 year, or when paid in full, whichever is sooner
Motoring endorsement	5 years	Nil	2.5 years	Nil

2. **All convictions becoming spent at some point:** Determinate prison sentences over four years should have a rehabilitation period and indeterminate sentences should be subject to a review process to enable them to become spent. The government's response to *Breaking the Circle* was to propose that the rehabilitation period for sentences of over 4 years as an adult should be 4 years from the end of the sentence, and Unlock supports this.
3. **Rehabilitation periods beginning on return to the community:** Currently rehabilitation periods begin at the end of the sentence, however Unlock believes the period of time spent in the community without recourse to criminality is the better indicator of change. This would provide an incentive for people to engage with reducing re-offending initiatives. Recall to prison would result in the disclosure period being 'reset', strengthening the incentive to desist from crime.
4. **Anomalies in rehabilitation periods removed:** As above, changes introduced in 2014 by LASPO 2012 have resulted in anomalies in rehabilitation periods. For instance, motoring offences have a five-year rehabilitation period, prison sentences of up to six months have a one-year rehabilitation period. There are also significant anomalies around relevant orders.
5. **Introduce a tribunal process:** Consideration should be given to how a criminal records tribunal, administered by members of the judiciary, could offer people the opportunity to achieve rehabilitated status through a process of evidence submission. This would include those with indeterminate sentences (such as IPPs) and those who have yet to reach the time-limit required by law for their conviction to become automatically spent.

It is time the government committed to fundamental reform of the Rehabilitation of Offenders Act 1974, ensuring that more people benefit, sooner, and that the legislation effectively protects against discrimination.

2. Amendments to the DBS filtering rules

The filtering system was designed to prevent unnecessary disclosure of old and minor offences on standard and enhanced criminal record checks. In practice the system is **ineffective** because it is **limited by inflexible rules** and only came about due to **legal challenges, rather than an evidence based framework**. Since the filtering scheme was introduced in 2013, many people with old and minor criminal records have been freed from the stigma and discrimination of disclosing old and minor criminal records. **However, the current system doesn't go far enough: it is blunt, restrictive and disproportionate.**

The sheer number of very old and minor criminal records that are routinely and unnecessarily disclosed raises serious questions about the effectiveness of the DBS filtering process. In the last 5 years, over 1 million criminal records related to offences from more than 30 years' ago when the person involved was between the ages of 10-25 were disclosed on standard or enhanced criminal record checks. These figures show that youth criminal records endure throughout adulthood. To many, it feels like a life sentence. 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. 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.

Aspects of the current filtering system were ruled unlawful by the Supreme Court in 2019 (see below). The DBS filtering rules are blunt and disproportionate. A fairer, more proportionate and flexible system should be developed that protects the public without unduly harming people's opportunity to get on in life. This means expanding the automatic filtering rules and introducing a review mechanism for marginal cases.

Case study *– Michael is a man now in his fifties. 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 to 24 hours' attendance at an attendance centre. As he has three offences on record, none of them are filtered by the DBS. 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.*

Case study *– Laura is a professional woman in her fifties. In 1987, when she was 19, she was convicted of 'making false statement to obtain supplementary benefit'. She was convicted on three counts of the same offence, which occurred over a six-week period when she was a student. Laura had worked some extra shifts in a pub and failed to stop claiming supplementary benefits. She went on to complete her degree, start a career in public sector management and reached Associate Director level in the NHS. Yet at an interview for an NHS role a few years ago the interviewer's first words to her were 'so you're our criminal…'. The embarrassment of disclosing – and of others joking about it - has put her off applying for volunteer roles with her son's scout troupe.*

Case study – *When Anita was 11, she was playing with a 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. A few years later, after months of being bullied in secondary school, Anita 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 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 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.*

While certain offences clearly should be disclosed to employers, it is plain common sense that a fair system should not unnecessarily blight the lives of people who are trying to get on in life by disclosing old, minor and irrelevant information which holds them back and stops them from reaching their potential. A fair, proportionate and flexible filtering system should be developed which protects the public without unduly harming the ability of people to move forward positively with their lives. The Supreme Court accepted that a fair system can be based on rules and pre-defined categories. We believe an acceptable system can operate principally on automatic rules, but that these must be the right rules and have a system in place to deal with those 'hard cases' that fall between categories. There are a number of practical steps that the government can take which we support, including:

1. Removing the 'multiple conviction' rule, enabling more than one conviction to be filtered
2. Reducing the list of offences ineligible for filtering, given the Law Commission found 'a lack of a principled basis for the inclusion of individual offences in the list'
3. Setting time periods based on evidence
4. Creating a distinct system for the disclosure of criminal records acquired in childhood and taking a more nuanced approach to those acquired in early adulthood.

The government has an opportunity to undertake proactive work to establish a much more proportionate framework. An appropriate statutory framework in our view is:

1. **Transparent and fair:** Clear to all parties, including individuals and employers. Individuals are able to understand what may be disclosed on a certificate.
2. **Proportionate:** Old, minor or irrelevant information is removed from the disclosure where it does not relate to the purpose of the check being undertaken.
3. **Flexible:** For enhanced checks, the police can disclose relevant information if necessary (even if filtered). Wide range of factors that need to be considered when assessing proportionately. Any automated process of filtering is subject to an individual consideration process. Does not require a decision about every disclosure or each time a fresh disclosure is sought.

The need for a review mechanism

We believe that a fair system must have a review mechanism which could be accessed by people whose criminal records do not benefit from the automatic filtering rules. Although the Supreme Court did not consider this to be necessary for the regime to be in accordance with the law, we believe this is vital to allow some cases to be considered on a case-by-case basis, to ensure that the rules do not operate unfairly. We urge the government to take this opportunity to look at introducing such a scheme that incorporates lessons from other similar schemes, like those in Scotland and Northern Ireland.

Any system that is wholly dependent on automatic rules, without discretion or review, is going to be inflexible and unfair, with people on the margins unfairly affected. For example, 'common assault against a child' is an offence that is on the 'list of offences that will never be filtered' – yet this offence can be used to respond to the actions of children themselves.

In the Supreme Court, Lord Kerr stated: *"It is … incumbent on those responsible for devising a scheme of disclosure to be aware that at least some employers will regard the existence of a criminal record as an automatic bar to choosing the candidate with the record. Where, therefore, it is abundantly obvious…that the criminal record of an individual could have no conceivable relevance to the position for which he or she applies, a system in which disclosure is not made is not only feasible but essential"* ([2019] UKSC 3 per Lord Kerr § 169).

The examples of Scotland and Northern Ireland below are not referenced to suggest they should be replicated in England and Wales. However, they do demonstrate the ability to establish a system that is partly based on automatic rules and partly based on a review process.

- **Scotland** - In September 2015, the Scottish Government introduced a filtering system for old/minor convictions. Although this system is not ideal, critically they have introduced a review process by way of an 'application to a sheriff' that allows those with a spent conviction for an offence on the "rules list" to apply to a sheriff to have this information removed from their disclosure certificate if they consider that is not relevant to the role for which they have asked for the disclosure.
- **Northern Ireland** - In March 2016, the Department for Justice in Northern Ireland introduced a criminal records filtering review scheme which includes an opportunity for independent review. Despite this system having its limitations, it nevertheless provides a strong basis for how a similar review process could to be introduced in England & Wales. The Independent Reviewer is also the Independent Monitor in England and Wales.

The filtering system should, principally, be an automatic process that gives clarity and certainty. We have made recommendations as to how the automatic filtering rules should be amended (including removing the 'multiple conviction' rule and creating a distinct set of rules for offences committed by those under 18). However, any automatic rules, without review, are going to be rigid with people on the margins unfairly affected, which is why a review mechanism to establish a more nuanced approach needs to be built into the system.

Supreme Court

In January 2019, the Supreme Court found ([2019] UKSC 3[8]) that the disclosure regime was unlawful in the following two ways (at paragraphs 64 and 65 of the judgment):

1. **Youth cautions should not be disclosed**. The court said that this was because they are supposed to be rehabilitative and not punitive.
2. **The "multiple conviction rule"**, set out at Art 2A(3c) – Rehabilitation of Offenders Act (Exceptions Order) 1975 is incompatible with Article 8 ECHR.

Unlock intervened in this case to help the court understand the importance of the issues. We are pleased the court has ruled that two aspects of the criminal records disclosure scheme are disproportionate and in breach of Article 8 of the European Convention on Human Rights. The court described the rule for disclosing multiple convictions and its impact on individuals as 'capricious' (para 63). The inclusion of youth warnings and reprimands in the disclosure regime is described as a 'category error' and an 'error of principle' (para 64).

This important ruling stands to affect many thousands of people with old and minor criminal records who have been unnecessarily anchored to their past. It is therefore important that the government act swiftly to give effect to this ruling, so that these people are no longer being forced to disclose irrelevant matters in their past.

There have been a number of criticisms of both the filtering rules and the wider criminal records disclosure regime, which the government had postponed dealing with until the outcome of this case. In its response to the Justice Select Committee inquiry, the government committed to considering criminal record disclosure for children and young adults following the conclusion of this litigation. The government delayed responding to David Lammy MP's recommendation on sealing criminal records until after the Supreme Court had given its judgment. A wider review would provide an important opportunity to consider other important aspects, such as amendments to the list of filterable offences. Both the Taylor Review into the youth justice system, and the Law Commission criticised the current regime. Whilst the Supreme Court found the list of offences to be compatible with law, it did not comment on whether the list is the correct one. The Law Commission's review into the list of filterable offences, found 'a lack of a principled basis for the inclusion of individual offences in the list'. Lord Ramsbotham's bill concerning rehabilitation periods, has yet to receive a response from government. Consideration of the regime as a whole, taking into account these criticisms and concerns, must not be delayed any longer.

Whilst it would not be possible to implement wider changes quickly, and it is important that there is proper consideration of the issues involved. we do not consider it appropriate for those affected by the judgment to have to wait for such broader consideration.

The latter change would mean that more than one conviction could be filtered, but any number of convictions would still be subject to the other automatic rules built into the system (nature of offence, sentence received and length of time) and so may still be disclosed as a result. The remedial order to amend the current legislation would be straightforward.

As it stands, the government is operating an unlawful regime, and failing to act swiftly on the two aspects of the regime that the Supreme Court ruled unlawful risk litigation from individuals who are directly affected by having either their youth cautions or multiple convictions disclosed on standard or enhanced DBS checks.

We urge the government to pass a remedial order as soon as practical to deal with the judgment to ensure that all youth cautions, reprimands and warnings are now filtered out, and that the multiple conviction rule is removed.

3. A distinct approach to criminal records acquired in childhood

Currently, child and adult criminal records are treated in almost exactly the same way. We would like to see a separate system introduced to deal with childhood records to mirror the separate youth justice system, and reflect the unique status of children in society. We support the recommendations made by the Standing Committee for Youth Justice (SCYJ).

All formal responses to offending from the age of 10 become part of a person's criminal record. 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 a member of SCYJ, Unlock supports the 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. There is significant evidence to suggest that the current disclosure framework for childhood convictions works against rehabilitation.[9]

Many children go through difficult times while they are young, and in some cases their actions can be linked to these difficult circumstances. However, a significant number of children are just being children – testing boundaries, not thinking about consequences. 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. The current system involves disproportionate, lengthy and wide-ranging disclosure which is unnecessary and actively unhelpful to children in building positive lives in adulthood.

International comparisons indicate that less punitive systems are possible, without compromising public or employer protection. The SCYJ published a report in 2016[10] on 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.

The SCYJ recommends the provision for childhood records to be physically deleted after a period of non-offending. In the immediate term, they recommend an expanded filtering system and a review process introduced to the under-18 criminal records system, specifically:

a. Convictions of under 18s that did not result in a prison sentence should be filtered automatically, at the most, four years after the person's last conviction. Any number of convictions that did not result in a custodial sentence should be filterable.
b. Where filtering is not automatic, a review mechanism should be introduced to consider offences for filtering.

Hundreds of thousands of people are being affected well into adulthood as a result of mistakes they made when they were a child. We call on the government to respond the Lammy and Taylor review recommendations as a matter of urgency.

4. A more nuanced approach to records acquired in early adulthood

There are several compelling arguments for treating the criminal records of young adults differently to those acquired later in life. Most obviously, there is growing scientific consensus that the maturation of young adults (particularly young men) 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 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 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 filtered. 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.

The Justice Committee published its report into the disclosure of youth criminal records[11] and recommended that the government conduct comprehensive research on a new approach to the disclosure of criminal records for young adults. The government agreed to consider this following the Supreme Court litigation. The Committee asked for a response within one month of the judgement.[12]

We urge the government to act on its commitment to the Justice Committee to conduct comprehensive research on a new approach to the disclosure of criminal records for young adults.

5. Reforms to ensure adequate protection from discrimination for people with spent and/or filtered criminal records

Significant changes to sentencing, technology and employer practices, alongside increasing evidence of abuse and ineffectiveness, means there is an overwhelming case for a fundamental review of the aims and effectiveness of the Rehabilitation of Offenders Act 1974 (ROA) and criminal record checking processes.

The last full review of the ROA (in 2002) made a number of recommendations that were accepted but not implemented. Recent reviews by the Law Commission, Justice Select Committee, Charlie Taylor and David Lammy MP have all concluded that there is a need to look at the wider regime. The criminal records disclosure system and the ROA are open to abuse by employers and others. With policy responsibility for criminal record disclosure legislation straddling the Home Office and the Ministry of Justice, a wide review of the current system should be undertaken with the aim of reforms seeking to minimise the unnecessary and disproportionate impact of criminal records on law-abiding people with convictions from moving on positively in their lives. Such reforms would look at:

1. **Prohibiting employers, landlords, insurers or others asking about spent convictions unless necessary:** There is nothing to stop prospective employers asking people about spent convictions. Rather, the onus is on the prospective employee to decide whether to lie. We would like to see it made an offence to ask about spent convictions unless authorised to do so – for example when recruiting for regulated activity.
2. **Enabling action against employers:** It should be possible for individuals to take action against an employer or insurer who takes into account spent convictions when making an employment or insurance decision. This requires legislative change to provide a clear and specific remedy.
3. **Reduce eligibility for standard and enhanced checks:** The growing number of exceptions from and exemptions to the ROA mean that people with old convictions are consigned to an increasingly narrow range of employment and educational opportunities. This is shown in the number of standard and enhanced criminal record checks undertaken. In 2002, there were 1.3 million a year; in 2017, there were 4.3 million. A wide array of employers can now access standard and enhanced checks. This should be reviewed in full. There should be a single, clear list of exempted posts. Exceptions should be granted on the basis of an individual job role, not the employer, industry or profession. Criteria for assessing eligibility must be set down by government. Where an exception can be proved necessary, only relevant spent convictions should be disclosed.
4. **Preventing employers doing illegal standard and enhanced checks:** It is an offence to 'knowingly' carry out a standard or enhanced check when the role is not eligible for one. The government places the onus on organisations to ensure they do the appropriate level of check. However, no employer has ever been prosecuted for doing so. The Disclosure and Barring Service (DBS) does not see itself as an enforcement body and appears ineffective at stopping these illegal checks. Effective systems should be established for identifying and stopping ineligible checks and action taken against employers that do not take reasonable steps to ensure checks applied for are eligible.
5. **Ensuring spent convictions are not available online:** After convictions become spent, information is still often readily available online, and search engines/news organisations should operate a presumption that this information is removed once convictions become spent rather than requiring individuals to apply for removal of every search result.
6. **Not labelling individuals as offenders:** The wording of the legislation is stigmatising and implies individuals are "offenders" who cannot be rehabilitated until considerable time periods have elapsed.
7. **Public awareness:** Everyone convicted of a criminal offence should be made aware of the ROA and offered information and guidance on the long-term impact of having a conviction. The information given at present is poor and inconsistent. The DBS should publish and maintain accurate guidance on their process, specifically targeted at people with convictions (with a focus on the positions that are eligible for DBS checks, and how individuals can address issues such as employers undertaking illegal DBS checks).

We urge the government to conduct a wide-ranging review of the entire criminal records disclosure regime in order to bring about reform.

6. Sealing records

Quasi-judicial processes – as they have in France – give individuals the right to "judicial rehabilitation" and the 'sealing' of certain records. This concept was advocated by David Lammy MP in his 2017 review of disproportionality in the criminal justice system, and this could interact with amendments to the filtering regime, especially if there were a review of the necessity of continued disclosure. Provision should be introduced to seal criminal records, particularly those acquired in childhood, after a period of non-offending. This was recommended by the 2002 review. However, the government deferred looking at this *"while the impact of the new disclosure scheme is assessed, with an undertaking to revisit the 'clean sheet' proposal in the future if there continues to be a particular difficulty with the resettlement of young offenders*."[13]

Unlock has long supported the introduction of a criminal records tribunal, a process that would enable individuals to apply to have their criminal record deemed spent or filtered and, if granted, would mean it must no longer be disclosed to employers on a relevant criminal record check. There is evidence from overseas that this approach works, and it would help to address the injustice that many people face as a result of what are currently arbitrary fixed rules that take no account of the positive steps people have taken since.

We urge the government to introduce a tribunal process to enable criminal records to be sealed.

Other developments and reports

Theresa Villiers MP's Ten Minute Rule Bill

In October 2018 Theresa Villiers MP introduced[14] her Criminal Record (Childhood Offences) Bill to the House of Commons. The Bill received wide cross-party support, including 12 sponsors from the Conservatives, Labour, Liberal Democrats, Plaid Cymru and DUP. Sponsors included previous youth justice minister Dr Phillip Lee, and previous leader of the Conservative party and Work and Pensions Secretary Sir Iain Duncan Smith. The Bill sets out a separate system for childhood criminal records, including:

- shortened rehabilitation periods
- expanding the filtering system, including scrapping the 'two offence' rule and reducing the list of offences that can never be filtered
- restricting the disclosure of police intelligence

Lord Ramsbotham's Bills

Lord Ramsbotham's Rehabilitation of Offenders (Amendment) Bill (2016/17) did not progress beyond second reading due to the general election. His new Criminal Records Bill[15], which would shorten time it takes for convictions to become spent (technically known as the "rehabilitation period"), is currently at committee stage in the House of Lords. The Justice Select Committee recommended enactment of the 2016/17 Bill in its final report.

Charlie Taylor's review

In his review of the youth justice system, published in December 2016,[16] the now Chair of the Youth Justice Board highlighted how: *"...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."* The report recommended:

- a distinct approach to disclosure of childhood offending
- a reduction in rehabilitation periods
- a reduction in the period of time before records become non-disclosable on Disclosure and Barring Service (DBS) checks
- a presumption that police intelligence dating from childhood should not be disclosed except in exceptional circumstances.

Justice Select Committee inquiry into disclosure of youth criminal records

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 2017[17] 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:

1. Enacting Lord Ramsbotham's Criminal Records Bill to reduce rehabilitation periods under the Rehabilitation of Offenders Act 1974;
2. 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;
3. 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;
4. Allow chief police officers additional discretion to withhold disclosure, taking into account all circumstances of the offence/s, with a rebuttable presumption against disclosure of childhood offences;
5. Giving individuals the right to apply for a review by the Independent Monitor of police decisions to disclose convictions of cautions.

Justice Select Committee inquiry into young adults

A recent Justice Select Committee report on young adults[18] in the criminal justice system also recommends a new framework for disclosure of criminal records. Following the inquiry on youth criminal records, the Justice Select Committee recommended a new statutory framework for the treatment of criminal records acquired by under 18s and asked the government to conduct comprehensive research on a new approach to the disclosure of criminal records for young adults up to the age of 25. The government committed to considering this, following the conclusion of litigation. The Justice Select Committee stipulated that: *"We expect to see this response within a month of the Supreme Court judgment"* (para 66).[19] The judgment was handed down in January 2019.

The Lammy Review

The final report by David Lammy MP[20] into the treatment of, and outcomes for, Black, Asian and Minority Ethnic people in the criminal justice system included a section on criminal records: *"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."*

He made two recommendations relating to criminal records:

- individuals should be able to have their case heard for sealing their criminal record, with a presumption to look favourably on those who committed crimes as children.
- the MoJ, HMRC and DWP should commission a study indicating the costs of unemployment among those with criminal records.

The government agreed to *"consider Lammy's recommendations along with recommendations on criminal records made in the Taylor review, and the concerns raised by others"*.

Law Commission

In a detailed report published in February 2017,[21] 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', stating "the choice of offences in the list appears to lack coherence and a clear basis".

International comparisons

The examples summarised below stand in contrast to the current scheme in England and Wales. They involve greater calibration as to what is disclosed to employers, consideration of relevance at that initial disclosure stage, automatic and discretionary filtering mechanisms, significantly shorter periods of time within which criminal records can be expunged or rehabilitated, and a wider range of offences and sentences that can be expunged, rehabilitated or sealed.

France

The French system[22] separates offences into three categories: 'crimes' (for the most serious offences, including homicide, rape and serious drug trafficking), 'delits' (including offences such as theft, robbery, assault and sexual assault), and 'contraventions' (for minor offences such as common assault and traffic offences). The French National Criminal Records Office ('CJN') is responsible for criminal records and produces three types of criminal record certificates, referred to as 'bulletins'.

The bulletin no.1 ('B1') certificate contains all criminal records information and is highly restricted, being seen by judges, courts and prisons. B2 certificates contain most convictions, but not suspended sentences, juvenile records or contraventions. The B2 is principally used when applying for roles such as teachers, solicitors and social workers. It can be obtained online by a prospective employer. It can therefore be seen that the B2 certificate, used by employers when considering applications for posts involving public protection issues, excludes criminal records accrued as a juvenile and more minor offences. The B3 shows only prison sentences of over 2 years that have not been suspended. The B3 can be requested by an employer and provided by the applicant as a copy of their relevant criminal record. This results in disclosure to prospective employers that is nuanced and calibrated, on grounds of age, disposal/severity and relevance.

In addition to the limits placed on initial disclosure to employers, the French system also includes automatic and discretionary processes whereby past criminal records are removed, allowing individuals to move beyond their prior offending. First, a process of 'legal rehabilitation' exists which automatically filters individuals' criminal records for offences below the least serious categories. This automatic filtering occurs where the individual has refrained from further offending for a specified period of time. The period of time before 'rehabilitation' takes place depends on the length of the prison sentence that was served. As a result, certificates are automatically amended after the passage of time without further offending, so that prison sentences for a number of offences, including robbery, assault and sexual assault (including where there have been multiple prison sentences up to 5 years in length), will automatically not appear on a B2 or B3 disclosure certificate, i.e. the certificates that go to prospective employers. Records for 'crimes' remain disclosable, to ensure public protection, and the system therefore incorporates rehabilitation over time and the amount of time that has passed since the offence(s) in question.

Second, an individual can apply to the sentencing court, or at a later stage when seeking release, to have their B2 and B3 certificates cleared. The application is based on merit; the court is entitled to consider the relevance of the criminal record(s) to the applicant's intended future employment.

Third, the French system incorporates a discretionary 'judicial rehabilitation' process. It applies to all types of sentences, including prison sentences, and all types of offences, including 'crimes'. An applicant can apply after a certain period of time, depending on the type of offences on their record (1 year for a contravention, 3 years for a delit, and 5 years for a crime. Applicants apply to the district prosecutor, who seeks the opinion of the post-sentencing judge. Official documents are sought and reviewed, an investigation is conducted, a hearing is held to consider the application, and the final decision is reached by a court. If successful, an applicant's criminal record in totality is rehabilitated, although the court can also choose to amend only the B2 and B3 certificates. Unsurprisingly, the standard to be met is a high one, requiring the applicant to have ceased any form of offending, paid off any damages or fines, accepted responsibility for their offending, and become a 'near perfect citizen' who has 'behaved irreproachably'. Such a process is of real significance: people can be freed from the stigma, shame and negative consequences that an ongoing criminal record can otherwise cause; there is an incentive to rehabilitation; affected individuals, and wider society, are afforded a clear, fair and independent process for formal rehabilitation which takes account of the risk to the wider public, individual circumstances and the improved conduct of the individual within society; and affected individuals may be encouraged to ongoing rehabilitation by the recognition that a successful application confers.

Spain

The National Conviction Register ('NCR') holds conviction information. This does not include lesser information, including cautions, which is therefore filtered out and not disclosed to prospective employers. Certain positions involving public trust and authority, including public sector roles in the army, teachers, judges and doctors, require a clean record. For certain roles this requires the absence of any convictions (police officers, firemen, central bank officials); for others a person is only prevented from gaining a position if the sentencing court specifically imposed a 'professional disqualification' order as part of the sentence.

This is significant: it brings the question of the future ramification of criminal records into the judicial sphere, requiring a positive determination from a court that the offending is relevant to future employment, rather than requiring disclosure of prior offending to employers and allowing them to determine its relevance. In addition to this calibrated approach, the Spanish system also includes a 'cancelling' scheme. An affected individual can apply to the Ministry of Justice under Article 136 of the Spanish Criminal Procedure to have a criminal record 'cancelled', meaning that the record is not erased, and remains accessible to judges, but is 'sealed' and not disclosed. The process can also be initiated by the NCR itself, where the relevant criteria apply.

The cancellation process is a calibrated one, balancing public protection with the right to rehabilitation over time. An individual can apply for cancellation where civil compensation has been paid, no further offending has taken place, and a fixed period of time has passed (6 months for minor offences resulting in a sentence of up to 6 months, 3 years for sentences of up to 5 years in prison, and 5 years for sentences of more than 5 years in prison). If cancellation takes place, the individual's certificate shows them as having no criminal record. This is significant as Spanish employers commonly ask for a clean record to allow an appointment, rather than asking whether the applicant has ever been convicted.

Sweden

The Records Division of the Swedish National Police Board (NPB) manages national criminal records in Sweden. It is mandatory to check the criminal records of those seeking employment in a range of areas, including working with children, working in residential homes, acting as an insurance intermediary, and those seeking to live and work abroad. Significantly, however, the extent of the record that must be disclosed, including the types of offences that must be disclosed, varies depending on the employment being sought and the relevance of the offence to the particular job being sought. This incorporates a relevance filter into the automatic disclosure provisions.

In addition, the Swedish system includes an automatic 'weeding' process which removes criminal records over time, depending on their severity, the age of the offender at the time of the offence, and whether the individual has refrained from further offending. In general, fines and suspended sentences / Probation for those under 18 are automatically weeded after 5 years, other offences are weeded after 10 years, and the maximum length for a sentence to remain in the Swedish criminal records system is 20 years. Once a criminal record is weeded from the system it is not disclosed on a certificate provided to prospective employers.

Netherlands

Rather than disclosing criminal records, in the Netherlands 'certificates of conduct' are issued to employers which are, in effect, 'clearance checks' for working in particular occupations. The issuance of a certificate is based on a 'close nexus' test between the type of conviction and the occupation in question. The certificates are explained by the Dutch Ministry of Justice as follows: “A certificate of conduct (Verklaring Omtrent het Gedrag, VOG) is a document by which the Dutch State Secretary for Justice and Security declares that the applicant did not commit any criminal offences that are relevant to the performance of his or her duties. For example, a taxi driver who has been convicted several times of drunken driving, or an accountant convicted of fraud are unlikely to be issued with a certificate. Obviously, an accountant who has been convicted of drunken driving may well be granted a certificate.”

The effect of this approach is to remove from the employer the responsibility to assess the relevance of an applicant’s criminal records. This is significant; in Unlock’s experience it is common for employers to presume that anything disclosed to them is by definition relevant because it has been disclosed. approach in the Netherlands avoids this issue altogether, for the benefit of applicants, employers and the wider public.

Canada

Under the Canadian system, convictions acquired during childhood are subject to defined access periods, after which the record can no longer be disclosed to anyone, including on a vulnerable sector check conducted when seeking employment with vulnerable persons. The length of the access period reflects the severity of the offence and the form of disposal, and the access period is extended where the individual subsequently reoffends. Public protection is maintained by providing that the most serious offences result in indefinite retention and stipulating that a youth who receives an adult sentence shall have his / her record treated as an adult criminal record. In addition to this filtering approach, applicants can apply to the Parole Board for Canada for a ‘record suspension’. If successful, this requires the Canadian Police Information Service to keep information about the criminal record separate and not disclose it on a criminal record check. The application process is calibrated so that sufficient time must have passed before an application can be made (5 years after a sentence for a summary offence, 10 years after a sentence for an indictable offence), and public protection is incorporated by restrictions on who can apply (those convicted of child sex offences are not entitled to apply, nor are those who have been sentenced to imprisonment of 2 or more years on three or more separate occasions).

Germany

Criminal records arising from childhood conduct are generally kept on the Educative Measures Register (‘EMR’), a sub-register of the Federal Central Criminal Register (‘FCCR’), with access to the EMR tightly restricted. The German system involves different background disclosure certificates. A private certificate of conduct is only sent to the affected individual and contains convictions held on the FCCR, but not the EMR. This means that childhood records are not included. An extended certificate of employment must be provided by employees for public sector posts which involve contact with children. The certificate does not include ERM details and includes all convictions for sexual offences. Significantly, however, the process incorporates a substantial relevance filter: employers must provide details of the job that the check relates to and the certificate will only include details of relevant sexual convictions; the details of non-relevant and non-sexual convictions are removed from the disclosure.

Alongside the calibrated measures summarised above, records accrued during childhood are subject to graded removal procedures. All entries on the ERM must be removed when the person turns 24 unless he / she has been imprisoned and has a criminal record on the FCCR. There is then a graduated system of deadlines when convictions cease to be included on a certificate of conduct, and are then expunged from the FCCR. These removal periods are referred to as ‘re-socialisation periods’.

About 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. Our focus is predominantly on people in England and Wales.

Firstly, **we help people.** We provide information, advice and support to people with convictions to help them to overcome the stigma of their criminal record. This includes running an information site which has over 1 million visitors a year, and a confidential peer-run helpline that helps around 8,000 a year. This work is charitably funded; we do not deliver government-contracted services. We help practitioners support people with convictions by providing criminal record disclosure training. We support employers, universities and others to develop and implement fair and inclusive policies and procedures that enable the recruitment of people with convictions and that treat people with criminal records fairly.

Secondly, **we advocate for change**. Every year we hear from thousands of people who are unnecessarily held back in life because of their criminal record. We work at policy level to address systemic and structural issues. We listen to and consult with people with criminal records, undertake research and produce evidence-based reports to inform policy makers and the public. We challenge bad practice, influence attitudes and speak truth to power. We co-founded and support the Ban the Box campaign and we are pushing to wipe DBS checks clean of old/minor criminal records. We have a track record of constructive engagement with government, the DBS and employers in working towards a fairer and more inclusive approach.

If you have any questions about this briefing, email policy@unlock.org.uk

End notes

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[3] For example, "A Cost-Benefit Analysis of Criminal Record Expungement in Santa Clara County, available at https://publicpolicy.stanford.edu/publications/cost-benefit-analysis-criminal-record-expungement-santa-clara-county
[4] The original article is available at www.thenorthernecho.co.uk/news/14523600.Anger_as_pensioner_claims_50_year_old_juvenile_conviction_scuppered_job_application/
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[6] http://www.unlock.org.uk/wp-content/uploads/youth-criminal-records-report-2018.pdf
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[8] R (P, G and W) and Anor v Secretary of State for the Home Department and Anor [2019] UKSC 3. Judgment available at https://www.supremecourt.uk/cases/docs/uksc-2016-0195-judgment.pdf
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