

Our criminal records regime is thwarting people's chances of true rehabilitation. Criminal records loom over people who may have long ago moved on from their past, locking them out of employment and preventing them from contributing to our society.

The #FairChecks movement is calling for the government to launch a **major review** of the legislation on the disclosure of criminal records to reduce the length of time a record is revealed. We seek reform in the following areas:

1. **Reform of the Rehabilitation of Offenders Act 1974** to reduce the length of time a person's conviction is revealed on basic checks.
2. **Amendments to DBS filtering rules** to make it a more proportionate and flexible system that protects the public without unduly harming people's opportunity to get on in life.
3. **A distinct approach to records acquired in childhood** and a more nuanced approach to those acquired in early adulthood.
4. **The introduction of review mechanisms** so that no one who is released from prison has to face a lifetime being held back by their past without the prospect of review at some point.

About criminal records 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. The length of time until a conviction is "spent" depends on the sentence received and is set out in The Rehabilitation of Offenders Act (ROA) 1974. Some convictions can never become spent. Any employer can request a basic check.

A standard or enhanced check discloses spent convictions or cautions. Some convictions and cautions can be filtered out after several years, so they no longer appear. However, 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, but the list of such roles is expanding.

There is no distinct criminal records system for children in England and Wales; child and adult records are treated the same, other than reduced rehabilitation and filtering periods.

Why criminal records checks reform is needed

Even a minor criminal history produces lifelong barriers that can block reintegration and participation in society. The stigma attached means that if a conviction or caution is revealed, people often don't get the chance to explain how they have turned their life around. Our current criminal records disclosure regime prevents people from achieving their full potential in the following ways:

- **A criminal record can be crippling for employment.** 75% of employers discriminated against applicants because of a criminal record, and 50% of employers say they would not recruit someone with a conviction. There is clear evidence from overseas that reform of criminal records gets people off welfare and into work.
- **The disclosure regime anchors people to their past and serves as a second sentence.** We regularly hear from people who are rejected from jobs because of minor irrelevant convictions received decades ago.
- **A criminal record acquired as a child can, in effect, be a life sentence.** A person can change quickly, but their criminal record does not. 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.

- **A criminal record affects a large number of people.** In 2015/16, 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 childhood criminal record on a standard/enhanced check.
- **A criminal record can affect access to housing.** 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.”*
- **A criminal record can affect access to university.** Applicants to university courses for certain professions or occupations exempt from the ROA still must tick a box on the UCAS form if they have a conviction or caution that would not be filtered. Many universities ask all applicants, regardless of the course they are applying to.

What we are asking for

The criminal records disclosure regime in England and Wales is one of the most punitive in the world. In January 2019, the Supreme Court found that the disclosure regime was unlawful in two ways, concluding that childhood cautions should not be disclosed and that the “multiple conviction rule” should be removed.

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.

The #FairChecks movement is calling on the Home Office and the Ministry of Justice to launch a major review of the current criminal records disclosure regime. The review should be focused on reducing the length of time a record is revealed by covering:

1. Reform of the Rehabilitation of Offenders Act 1974
 - a. reducing the length of time it takes for a conviction to become “spent”
 - b. allowing all convictions to become spent at some point
 - c. introducing a review process to offer people a chance to achieve rehabilitated status through a process of evidence submission
2. Amendments to DBS filtering rules
 - a. removing the ‘multiple conviction’ rule, so that more than one conviction can be filtered out from standard or enhanced checks
 - b. 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’
 - c. setting time periods based on evidence
 - d. introducing a review mechanism which could be accessed by people whose criminal records do not benefit from the automatic filtering rules.
3. A distinct approach to criminal records acquired in childhood similar to that outlined by the Standing Committee for Youth Justice [here](#)
4. A more nuanced approach to records acquired in early adulthood
5. The introduction of a review process to enable people to apply for a ‘clean sheet’ after a period of non-offending. If granted, their record would no longer be revealed to employers.

Given the importance of understanding the experiences of those with criminal records (and other points of view) we believe the review should be an open policy making process as recommended by the Cabinet Office.

For more information visit www.fairchecks.org.uk or contact fairchecks@unlock.org.uk.