

Fair access to employment project

In 2015 Unlock, supported by the Esmée Fairbairn Foundation, began focusing on challenging the discrimination faced by people with convictions seeking employment. Phase 2 of the project began in 2018 and this briefing outlines the work we're doing.

The project's aim is to 'support and challenge' employers to bring about positive change. This builds on our track-record of working with Government, employers and others. It also plays to our strengths as an independent charity that advocates for individuals, holds organisations to account and speaks truth to power.

Outcome 1 - Employers will have significantly fairer and more inclusive policies and practices towards the recruitment of people with convictions

We are working to achieve improvements at both an individual employer level and at a broader sector level. Using our successful model of "support and challenge", we will:

Support

- Building on the commitment from the Civil Service Commissioner (who has said "the recruitment of ex-offenders is one of our top four priorities"), push and support government to Ban the Box across the Civil Service
- Take Ban the Box to local authorities – building on Bristol City Council being the first local authority to ban the box, using it as a catalyst to engage other local authorities
- Provide flexible and tailored support to large employers who are motivated to develop fairer practices
- Work with employers to pilot the concept of an 'employer review', where we carry out a full audit to get 'under the bonnet' of their existing recruitment practice to help embed positive changes.
- Develop our relationship with the Recruitment and Employment Confederation (REC) and work in partnership to produce specific guidance for the recruitment agency industry.
- Respond to the implementation of the Charities (Protection and Social Investment) Act 2016 (due to be implemented in early 2018, which could negatively impact charities in being able to involve people with convictions as trustees and senior managers) by providing guidance and support to both charities and individuals, and working with the Charity Commission.
- Develop and promote our Recruit! website, developing new and engaging content and resources (including in response to trends on employer queries) including infographics and simple overviews of complex legislation, and building a database of contacts to receive e-newsletters.

Challenge

- Work on cases where bad practice has been identified to directly challenge employers and push for changes in their policy and/or practice.
- Anonymously publish on the Recruit! website cases where inappropriate employer practice has been successfully challenged to act as good practice examples for other employers to follow.
- Publish research on the top 60 national employers and their recruitment practices, identifying progress towards 'Ban the Box', engaging with those businesses that still have a box.
- Building on a successful pilot in 2017 attending Royal Mail's AGM, we will identify national companies which are negative towards employing people with criminal records and attend their AGMs to ask their board/SMT about their approach.
- Share the learning of successful casework to raise awareness across relevant sectors and more broadly.

Outcome 2 - The number of unlawful checks being carried out by the DBS will be reduced

There remains an ongoing problem with employers submitting applications for ineligible checks (i.e. standard or enhanced checks for roles that are only eligible for basic checks). This has a significant detrimental impact on individuals. Spent convictions are not disclosed on a basic check but *are* on standard or enhanced checks. Employers who knowingly submit ineligible checks are committing a criminal offence under the Police Act 1997. Although not all ineligible checks are unlawful, the DBS should have stopped them. An ineligible check has never been legally challenged as a criminal offence. Consequently, there are no repercussions to undertaking ineligible / unlawful checks.

Although our casework has achieved success, a legal challenge would have a significant impact. We will:

- Work with the DBS to push for, and monitor delivery of, a comprehensive review of their process for identifying ineligible checks.
- Depending on the outcome of the review, a potential legal challenge against the DBS for continuing to facilitate ineligible checks.
- Continue to advocate individuals affected by ineligible checks
- Seek a legal challenge against an employer, to demonstrate the risks of processing ineligible checks

Outcome 3 - Government will give greater attention to improving employment of people with convictions reflected in policy and practice.

We will use our knowledge and experience to influence government to develop policies and initiatives that seek to increase the employment of people with convictions.

Working with the Ministry of Justice, Department for Work and Pensions and HMRC

- Building on our work on the Ministry of Justice's employment strategy, we will work with the New Futures Network (aimed at supporting employers to engage with prisons)
- We will push for expansion of 'ban the box' across the public sector and encourage a statutory footing for it. We will undertake more work to keep this proposal on the agenda of policymakers, including publishing a briefing on how other countries (particularly the US) have used the statutory route.
- Press for government to make good on its 2017 Manifesto promise to introduce tax incentives for employers who recruit people with unspent convictions.

Working with the DBS

Following the DBS's introduction of basic checks, our focus will turn to the way in which the service is operated, as well as the DBS's broader operations and policy drivers coming from the Home Office. We remain committed to work that will protect the rights of people with convictions, including:

- Ensuring DBS accept the importance of stakeholder engagement and the real-life experiences of people with convictions who are using the service.
- Steering the ongoing development in the way criminal record checks work to minimise their impact on people with old, minor or irrelevant criminal records.

Interested?

For more information, visit www.unlock.org.uk/projects/employment-discrimination