

A life sentence for young people

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

- *“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. The full report is available to download on our website.¹

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.

¹ Available to download at <http://www.unlock.org.uk/youth-criminal-records-report/>

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.

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 2018 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, 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.