

Double discrimination?

Executive summary of a report into the impact of criminal records on people from black, Asian and minority ethnic backgrounds

This 4-page executive summary is taken from a report based on the survey responses from 221 individuals.¹ It provides new data on the impact of criminal records as perceived by people from Black, Asian and Minority Ethnic (BAME) backgrounds, and it draws on what is known about the over-criminalisation of certain groups. Key findings from the survey include:

1. **Over three-quarters of people (78%) felt that their ethnic background had made the problems they face as a result of their criminal record harder.** Around 1 in 5 (22%) felt that it had made no difference. Nobody from a BAME background felt that their ethnicity made things easier.
2. **The overwhelming majority (79%) cited employment as one of the problems they faced.** The other most common problems were relationships (34%), volunteering (30%), insurance (26%), travel/immigration (23%) and college/university/education (23%).
3. **The problems persisted for long periods of time.** Although the majority were last cautioned/convicted between 1 and 10 years ago (32% between 1 and 5 years ago, with 30.8% between 5 and 10 years ago), 15% had problems between 10 and 20 years later and 7% had problems over 20 years later.
4. **It affects all age groups.** The problems people faced because of their ethnicity spanned the full age range, the full range of sentences and a wide range of offences types.
5. **African and Caribbean individuals were most affected.** Problems were faced by a range of ethnic groups, but the largest proportions were African (17.8%) and Caribbean (13.4%)

It is not possible to obtain quantitative data that looks at the number of BAME individuals affected by the disclosure of their criminal record on checks issued by the Disclosure and Barring Service (DBS). **The first recommendation is the Home Office, through the DBS, should collect data on ethnicity from those undergoing criminal record checks.** Grouping BAME people as one can mask inequalities rather than help challenge them. **The second recommendation is that government should better distinguish between ethnic groups when measuring disproportionality throughout the criminal justice system.**

It is clear from wider evidence² that people from some BAME backgrounds are disproportionately represented at all stages of the criminal justice system, and this affects both their experience and perception of how ethnicity compounds the difficulties created by a criminal record.

1. **More likely to be arrested** - Black and ethnic minority children account for more than a quarter of all child arrests across England and Wales - more than double the proportion of the BAME population as a whole.
2. **More likely to get a caution** - Although the use of cautions is decreasing overall, the proportion given to BAME groups has grown. **The third recommendation is the police should:**
 - a. **Understand the circumstances where a caution is necessary, or whether an informal disposal can be issued instead, and**
 - b. **Ensure that information, specifically tailored to the circumstances, is provided to individuals before they accept the specific caution they have been offered.**
3. **More likely to be prosecuted** - Black defendants have a much higher rate of prosecution, and therefore are at an increased likelihood of receiving a conviction.
4. **More likely to plead not guilty** - BAME defendants are consistently more likely to plead not guilty than white defendants. This means that, if found guilty, they are likely to face more punitive sentences than if they had admitted guilt. The result of this is a criminal record that will invariably end up having to be disclosed for longer under the Rehabilitation of Offenders Act 1974 (ROA) because the time it takes for the conviction to become spent will be longer.
5. **More likely to get a longer sentence** - Black teenage boys are more likely to be charged with murder than manslaughter and more likely to receive a higher or maximum sentence than white boys. One in four black teenage boys guilty of manslaughter were given maximum jail terms, while white children found guilty of the same crime were sentenced to no more than 10 years, with the majority getting less than four. This particular statistic is striking within the context of the criminal records regime, where any sentence of more than 4 years in prison can never become spent. More generally, longer sentences take longer to become spent (if they ever do), meaning a criminal record will cause more difficulties for longer. This is an additional penalty - what David Lammy refers to as the double penalty is in fact a triple penalty.

¹ The full report is available to download at www.unlock.org.uk/doublediscrimination

² References for evidence cited in the executive summary are contained in the full report.

This means that the damage from the post-conviction disclosure rules also impacts disproportionately – especially where sentences cross the four-year threshold, after which a sentence can never become spent. A sentence that can never become spent can effectively feel like a life sentence in the community

In September 2017, David Lammy MP published his review into the treatment of BAME groups in the criminal justice system. In addition to the inequalities found at each stage of the justice system, the review highlighted the ongoing difficulties caused by criminal records: *“One of the most significant barriers to any ex-offenders’ prospects of employment is created by public policy: the criminal records regime.”* The Lammy Review made two recommendations about criminal records, both of which the government recognised the need to address. Neither of them has been implemented.

The fourth recommendation is, now litigation has concluded, the Ministry of Justice should respond to recommendation 34 of the Lammy Review (on sealing criminal records). If the Ministry of Justice is not going to pursue this recommendation, then it should clearly articulate why not and explain what other changes it will make instead. The fifth recommendation is the Ministry of Justice should fully implement recommendation 35 of the Lammy Review (on commissioning and publishing a study indicating the costs of unemployment among ex-offenders).

The overwhelming majority of survey respondents cited employment as one of the problems they faced. There are significant differences in employment rates between different ethnic groups. For example, in the UK there are over 20.6 million women of working age population, 2.9 million (14%) of whom are from BAME backgrounds. 72.6% of white women and 55.8% of BAME women are in employment.

However, whereas ethnicity is a visible characteristic to employers, a criminal record is not. When looking specifically at those with a criminal record, combining the attitudes of employers towards criminal records with the differences in employment rates between different ethnic groups, it is likely that BAME groups would be better served by widespread improvements in employer practices towards criminal records, such as Ban the Box. If employers did not find out about the criminal record of an applicant until after they had offered a conditional job offer, it would become much clearer whether an employer’s decision not to hire was based on the applicant’s criminal record. It would also avoid many of the connections and stereotypes that were referred to by survey respondents:

- *“I think that having a fraud conviction and being of an African background feeds into the stereotype held about Nigerians. I have dreadlocks and I’ve had to change my name to afford me a foot in the door, so to speak.”*
- *“The conviction(s) should not have to be disclosed unless employers are going to offer you the new position, and only if it is relevant to the post applied for.”*

The sixth recommendation is the government should extend the Ban the Box commitment beyond the civil service to all public bodies. The seventh recommendation is the government should follow the lead taken in the US by introducing ‘fair chance hiring’ practices, including a statutory requirement for all employers to delay any questions about criminal records until the pre-employment stage.

On a very practical level, the way the process of getting standard or enhanced DBS checks as part of certain jobs presents people with problems. As a middle-aged Bangladeshi man in our survey said, *“I am not confident of applying for jobs, I can’t get an enhanced DBS to check what is on it.”* Understandably, he wants to make sure that his caution has come off before he starts applying for jobs and not disclosing. **The eighth recommendation is the Home Office, through the DBS, should provide a mechanism by which individuals can check which cautions and convictions will appear on their standard or enhanced DBS check.**

Over a quarter of survey respondents (26.7%) reported having faced problems with travel/immigration. As part of the UK’s exit of the European Union, the UK government’s ‘EU settlement scheme’ enables EU citizens to continue to live in the UK. Around 3.3 million EU nationals live in the UK, and all applying for ‘settled status’ will be asked a broad question about criminal records - “Have you ever been convicted of a criminal offence?”. Unlock has concerns that many people who are worried about the impact of their criminal record will simply not apply for settled status, leaving them in a precarious position in terms of immigration status. **The ninth recommendation is the Home Office should provide clarity, in the form of clear guidance to individuals, as to what types of criminal record may affect a person’s settled status application.**

There may not be specific solutions within the criminal records disclosure regime for BAME groups. As David Lammy highlighted in his report: *“BAME communities face specific challenges, including discrimination in many walks of life. But some of the most marginalised BAME communities have much in common with the White working-class. A justice system that works better for those who are BAME and poor will work better for those who are White British and poor too.”* Taking this approach to criminal records, **a criminal records disclosure regime that works better for those who are BAME will work better for those who are White British too.**

In January 2019, the Supreme Court ruled that two aspects of the filtering scheme are disproportionate and in breach of Article 8 of the European Convention on Human Rights. It is important that there is proper consideration of the wider issues. However, Unlock does not consider it an appropriate position for the government to expect those affected by the Supreme Court judgment to have to wait for such broader consideration. **The tenth recommendation is the government should pass a remedial order as soon as practical to deal with the Supreme Court judgment to ensure that all youth cautions, reprimands and warnings are now filtered out, and that the multiple conviction rule is removed.**

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 the Supreme Court 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. A wider review would provide an important opportunity to consider other important aspects, such as amendments to the list of filterable offences. The Taylor Review into the youth justice system, and the Law Commission, has criticised the current regime. As one survey respondent said: *“At some stage, the question of a criminal records would be posed and the application in 99% of cases has been ended. A conviction, especially one that will remain unspent throughout my whole life, means that I will be paying more for insurance and struggle to find employment throughout my whole life.”* **The eleventh recommendation is the government should conduct a fundamental review of the wider criminal records disclosure regime, reforming how it applies to childhood criminal records, records acquired in early adulthood and those that are received later in life.**

Conclusion

It is clear that, for the majority of people surveyed, they feel that their ethnicity has made it harder to overcome the problems they have faced because of their criminal record. The discrimination faced by people from BAME individuals who have a criminal record may not be 'double', but the difficulties they face are certainly cumulative.

The perceptions of many of those surveyed were that the way the criminal record disclosure rules operate means that, had they been white, their past offences would have not caused them as many problems. This may be because, for example, they may not have been prosecuted, or the sentence they received would have been lower and therefore spent earlier.

There is a wealth of evidence, some of which is highlighted in this report, that shows how the criminal justice system disproportionately impacts on people from some BAME groups. These groups are more affected than others because of over-criminalisation and harsher treatment by the criminal justice system, and are also disadvantaged by discrimination based on ethnicity.

Put simply, ethnicity impacts on the type of criminal record someone gets.

This does not necessarily mean that this report demonstrates that there is additional discrimination because of the way the criminal record disclosure system works. For this, there would need to be evidence of outcomes for BAME and white individuals, not just evidence of how people feel about the process. However, the experiences of those who responded show that **people feel the criminal records disclosure regime disproportionately impacts BAME groups**. And this report shows that, proportionately, more people from a BAME background suffer from that experience of their criminal record. The extent of that experience is not yet possible to quantify. The disclosure regime exacerbates problems faced by people already treated more harshly at all stages in the criminal justice system.

Whereas ethnicity is a visible characteristic to employers, a criminal record is not. This means that, while tackling ethnicity-based discrimination requires a certain set of responses, tackling conviction-based discrimination might include a different set of responses. For example, ways to minimise, or delay, the use of criminal records, may benefit BAME groups in particular but would result in a much fairer system for everyone.

A criminal records disclosure regime that works better for those who are BAME will work better for those who are White British too.

Foreword by David Lammy MP

When I published my review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system, I found evidence of bias, prejudice and disproportionality at every single stage of the process. The impact of criminal records is no exception. Those who experience our criminal justice system, above all, need a different future to aspire to, but our criminal records regime is holding them back.

Employers, universities, housing providers and even insurers, can and do discriminate against those who disclose this information. This is an issue for all people with a criminal record whatever their ethnic background. However, this report by Unlock demonstrates that our criminal records system disproportionality discriminates against those from Black, Asian and minority ethnic backgrounds. Already facing discrimination when applying for employment, the barriers that BAME individuals face are solidified and compounded by our arcane criminal record process. This report shines a light on BAME individuals' experiences of post-conviction problems – tied to the past and facing multiple disadvantage.

I continue to urge the government to reflect hard on the impact of a criminal records regime that traps people in unemployment, contributes to high rates of recidivism and creates a double penalty for minorities. It's time for urgent reform.



Rt Hon David Lammy MP
Member of Parliament for Tottenham

1. Introduction

This report is part of the *Unlocking Experience* project³, which collects evidence on the experience of people with convictions, including first-hand evidence from those who can look back on their criminal record with hindsight and a clearer perspective, as well as quantitative and statistical data. This evidence influences Unlock's advocacy work and underpins our strategy for engaging with the wider criminal justice and social inclusion agendas.

Understanding how a criminal record intersects with other experiences of discrimination is key to this project, and this means investigating, highlighting and seeking solutions to the particular barriers faced by specific groups with criminal records.

This report considers the experiences of Black, Asian and Minority Ethnic (BAME) people. Research on the problems faced by young people with criminal records was published in 2018⁴, and later in 2019 there will be a focus on how women are affected by their criminal record.

BAME is a term frequently used in the UK to refer to black, Asian and minority ethnic people. It originates from the 1970s idea of "political blackness", intended to unite people against discrimination. "Political blackness" came under fire for eliding difference and masking varied experiences of discrimination and BAME gained currency. However, much of the same criticism can be applied to BAME.⁵ The 2011 Census reported that more than 7.6 million people in Britain identified as BAME.⁶ Can a single term give any meaning to the experiences of millions of people? Unlock recognises the criticisms of the term and here it is used as an umbrella term but draw out differing experiences where possible.

Survey

This report is based on the survey responses from 221 individuals. It provides new data on the impact of criminal records as perceived by people from BAME backgrounds, and the report draws on what we know about the over-criminalisation of certain groups as well as quantitative data from the survey alongside short case studies and quotes from respondents.

The report looks at two forms of potential discrimination – that based on ethnicity, and that based on a criminal record. One of the difficulties is that it is not known what the ethnic mix of people with criminal records is, so it is impossible to say for certain how they are affected by the criminal records regime. Discrimination, like rates of employment, is difficult to analyse and doesn't yield direct links of cause and effect. This report therefore focuses on describing possible relationships between relevant factors.

What conclusions can be drawn from a sample of 221 people? It is not possible to be certain how many BAME people have a criminal record, but more than 11 million people in the UK do.⁷ That's about 1 in 5. If it is then assumed that 1 in 5 BAME people have a criminal record, that's then 1.52 million people. Some BAME groups are disproportionately criminalised, so this figure can then (very conservatively) be rounded up to 1.6 million.

If 1.6 million BAME people have a criminal record, the sample size of 221 means there can be confidence that the responses in this survey reflect the wider population, within a 7% margin of error.⁸

The survey ran for 5 weeks, between 13th November and 20th December 2018. The information sheet and survey questions are included at Appendix A. The survey was shared via Unlock's mailing list and circulated on social media and via other organisations including the Black Training and Enterprise Group, Prison Reform Trust and Clinks. 251 individual responses were received and identified by unique timestamps. Respondents were asked to self-identify their ethnicity using the most recent version of the 18+1

³ www.unlock.org.uk/projects/unlocking-experience/

⁴ Stacey, C. (2018) *A life sentence for young people - A report into the impact of criminal records acquired in childhood and early adulthood*

⁵ <https://mediadiversified.org/2016/07/16/past-poc-and-bame-the-terminology-we-use-to-define-ourselves/>

⁶ ONS (2011) Ethnicity and National Identity in England and Wales: 2011

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11>

⁷ <https://www.whatdotheyknow.com/request/423289/response/1060100/attach/3/44921%20Stacey%20Internal%20Review.pdf>

⁸ Margin of error is a statistical measure, calculated from the sample and population sizes. It is a percentage that tells you how much you can expect your survey results to reflect the views of the population. The smaller the margin of error, the closer you are to having the exact answer at a given confidence level. Confidence level is a percentage that reveals how confident you can be that the population would select an answer within a certain range. For example, a 95% confidence level means that you can be 95% certain the results lie between x and y numbers. (The x and y numbers depend on the margin of error). 7% is from an equation based on the sample size, population size and the level of confidence. 95% is the standard level of confidence in social science. The equation to calculate margin of error is below, where p = is sample proportion, n is the sample size, and z is the appropriate z-value for your desired level of confidence (z-values are standardised; 95% confidence is 1.96).

$$z * \sqrt{\frac{p(1-p)}{n}}$$

Standard.⁹ The data was checked for duplicates, vexatious or inappropriate responses and these were removed, leaving a total of 244. The 23 respondents who identified as White British (W1) were excluded from the analysis. The analysis that follows is based on the remaining 221 respondents. This report was limited in its ability to dig into the depths of the differences amongst different BAME groups because of the nature of the survey and the lack of official data on ethnicity in relation to criminal record checks.

Official data

There is no official data that shows how many BAME people have a criminal record. Unlike our earlier report into young people,¹⁰ it has not been possible to obtain quantitative data that looks at the number of BAME individuals affected by the disclosure of their criminal record on checks issued by the Disclosure and Barring Service (DBS). This is because the DBS does not collect this type of information when a criminal record check is sought. The Lammy Review emphasised the importance of improving collection and use of data and agreed with the principle that “scrutiny is the best route to fair treatment”.¹¹ This is a significant gap that should be addressed, and would improve understanding of how BAME people are affected by a criminal record when seeking employment and volunteering.

Recommendation 1 - The Home Office, through the DBS, should collect data on ethnicity from those undergoing criminal record checks.

It may also be possible for research to be carried out that looked at the ethnicity classification data held on the Police National Computer (PNC) and compared that with those individuals who undergo criminal record checks. Grouping BAME people as one can mask inequalities rather than help challenge them.

Recommendation 2 – The government should better distinguish between ethnic groups when measuring disproportionality throughout the criminal justice system.

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691544/self-defined-ethnicity-18plus1.pdf

¹⁰ Ibid.

¹¹ The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

2. Background to the criminal records regime

This section provides an outline of the criminal records disclosure regime in England and Wales.¹²

The Rehabilitation of Offenders Act and ‘spent’ convictions

The Rehabilitation of Offenders Act (ROA) 1974,¹³ as amended in 2014,¹⁴ is the foundation of the criminal records disclosure regime in England and Wales. The Act enables certain criminal records to become spent after a specified period of time, based on the sentence an individual receives. For example, if an adult receives a 4-month prison sentence, it will become spent 2 years after the full 4-month sentence, provided no further convictions happen in the meantime.¹⁵

Once spent, a caution or conviction no longer has to be disclosed when applying for most jobs, or for things like buying insurance. Unspent convictions are those that have either not yet become spent, or never will because of the sentence. For example, prison sentences of over 4 years cannot become spent.

Subject to specified exceptions, it is unlawful for employers to take spent convictions into account when considering someone’s suitability for employment or volunteering. Employers, insurers and housing providers can ask about unspent convictions and there is no legal protection against discrimination due to an unspent conviction.

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 1975¹⁶ includes medical, pharmaceutical and legal roles, high level positions in financial services, as well as jobs working with children or vulnerable adults, amongst others. For these roles, the Exceptions Order allows spent convictions and cautions to be requested 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. Criminal records checks – often called DBS checks - may be requested by employers as part of pre-recruitment checks for paid work or volunteering. There are three categories of criminal record checks:

1. **Basic:** for roles covered by the ROA. Basic checks disclose unspent criminal records only.
2. **Standard:** for specific roles exempt from the ROA, including solicitors and people applying for a licence from the Security Industry Authority. Standard checks disclose all convictions and cautions unless they are filtered by the DBS (see below).
3. **Enhanced:** for specific roles exempt from the ROA, including working with children and vulnerable groups. Enhanced checks disclose the same as standard checks and also may include non-conviction information held on local police records (at the discretion of the chief police officer). Enhanced checks can, depending on the specific role it is being requested for, include a check of the children’s or adults’ barring list, to see whether the applicant is barred from working with children or vulnerable groups.

Standard and enhanced checks can only be requested if a role is eligible. Knowingly requesting a check at a higher level than necessary is a criminal offence under Part V of the Police Act 1997. Although an individual can apply for their own basic check, standard and enhanced checks require an application 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 appeal against the disclosure of a conviction or caution (although they can apply for an amended certificate if it is inaccurate).

¹² 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.

¹³ Available at www.legislation.gov.uk/ukpga/1974/53/contents

¹⁴ [Section 139 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012](#). A Private Member’s Bill is before Parliament (the Criminal Records Bill, sponsored by Unlock’s President, Lord Ramsbotham), which proposes further reforms.

¹⁵ There are more details on how the law works at hub.unlock.org.uk/roa and www.disclosurecalculator.org.uk

¹⁶ [The Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975, SI No 1975/1023](#). Amendments to this Order are made periodically.

DBS filtering process

In the past, standard and enhanced DBS checks disclosed all convictions and cautions on the Police National Computer. In 2013, the Court of Appeal ruled this 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.¹⁷

Following the judgment, the government introduced a filtering system that operates on rigid, 'bright line' rules, with no right of appeal against disclosure decisions. Once something is filtered, it will not appear on a standard or enhanced check. The rules are set out below:

For those 18 or over at the time of the caution/conviction

- 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 cannot be filtered. If a person has more than one offence, then details of all their convictions will always be disclosed.
- 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 which cannot be filtered.

For those under 18 at the time of the caution/conviction

- 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.¹⁸

Example - Samir was given a caution 7 years ago for shoplifting when he was 21. **That would now be filtered** because it is over 6 years ago and the offence is not on the list of offences that cannot be filtered.

Example - Lucy was given a conviction 12 years ago for 2 counts of overpayment of benefits when she was 24. Although the conviction is from over 11 years ago and the offence is not on the list of offences that cannot be filtered, because there was more than one offence, **those offences will not be filtered**.

¹⁷ [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.

¹⁸ Adapted from information available at www.gov.uk/government/publications/filtering-rules-for-criminal-record-check-certificates/filtering-rules-for-dbs-certificates-criminal-record-checks

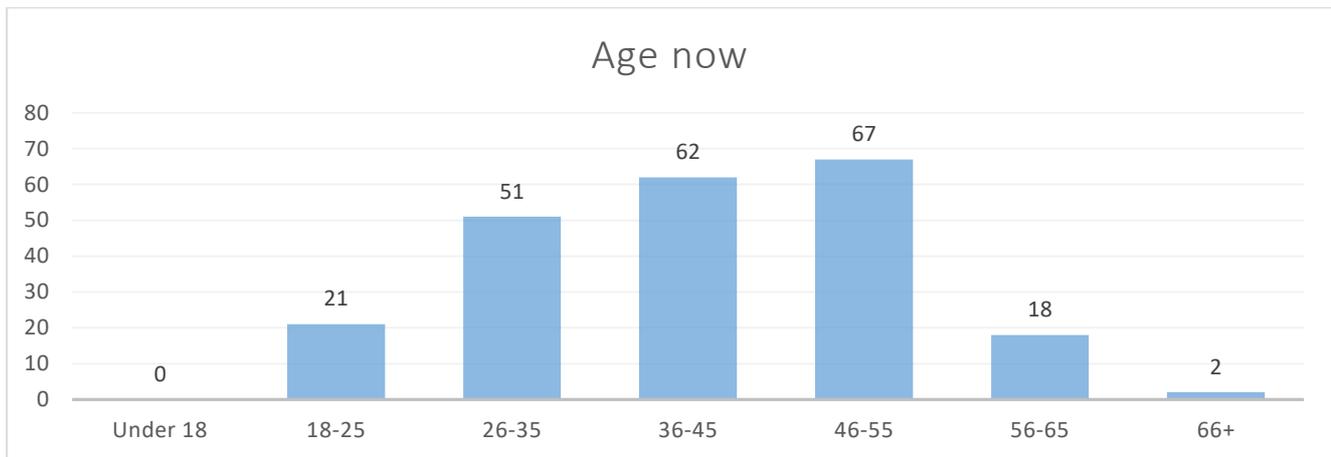
3. Survey findings

The survey findings are presented in two parts: firstly, demographic characteristics of respondents, the age and nature of their criminal records and the problems they face. Secondly, the problems faced by individuals and their views on whether and how ethnicity had exacerbated them.

1. Characteristics of respondents

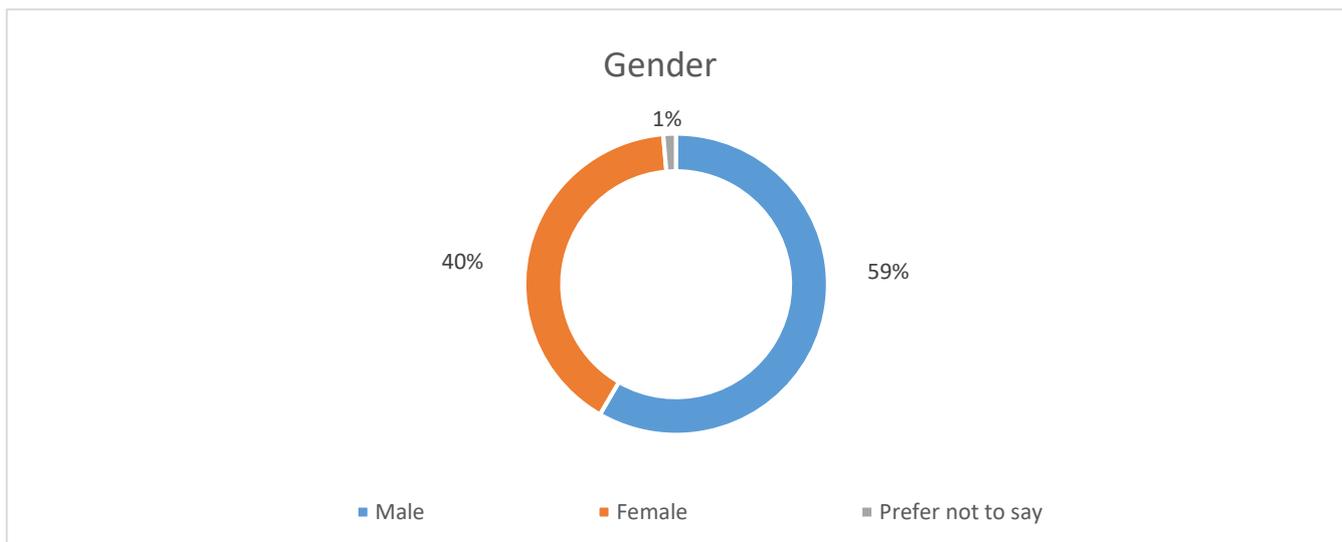
Age

Almost all respondents were of working age, meaning that respondents will have had some experience of applying for jobs with a criminal record, and may also have had one long enough to see changes over time.



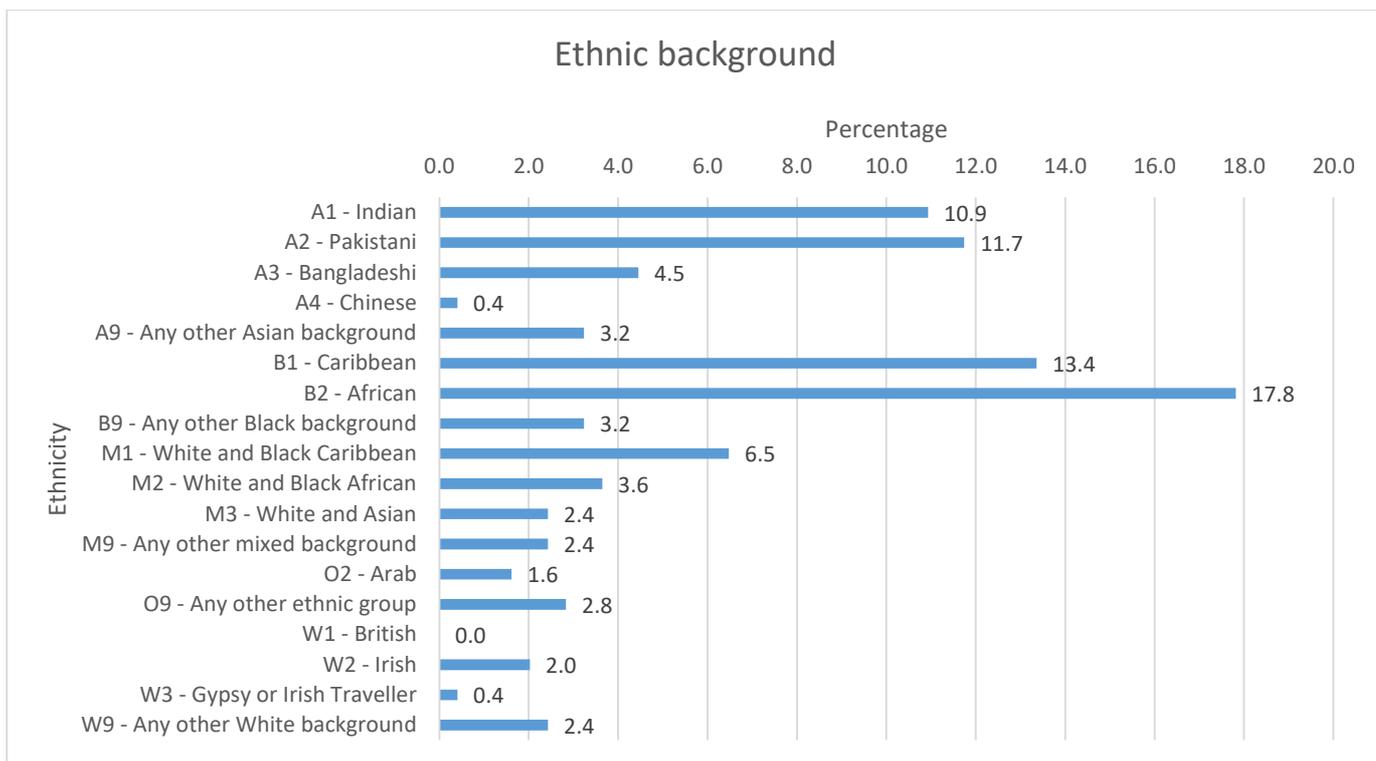
Gender

59% of survey respondents were male, 40% female, and 1% (3 individuals) preferred not to say. This reflects a more even gender split than the overall population of people with convictions (and the proportion of BAME people going through the criminal justice system), which may reflect the disproportionate criminalisation of BAME women.



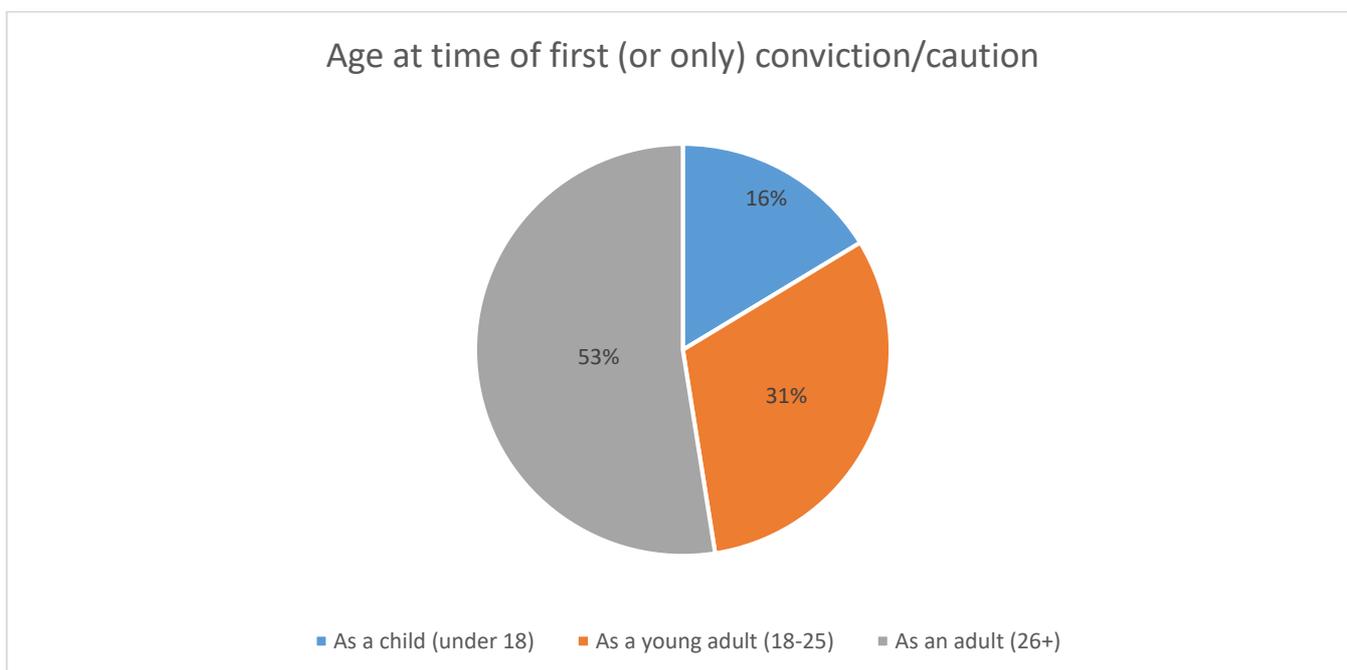
Self-defined ethnicity

The largest proportions of people that reported problems were African (17.8%, 44 individuals), Caribbean (13.4%, 33 individuals), Pakistani (11.7%, 29 individuals) and Indian (10.9%, 27 individuals).



Age at time of first conviction/caution

Over half (53%) of survey respondents were 26 or older at the point of their first conviction or caution. A significant proportion (31%) were aged 18-25 and 16% were first convicted/cautioned as children (under 18).



Age at conviction can influence the length of time before a conviction becomes spent, and therefore the problems a person may face in future, and for how long. It is also an important indicator – especially when combined with time since last conviction - of how long a person takes to become ‘redeemed’ – that is, being as likely, or less likely, to commit a crime than a person without a previous conviction.

Broadly speaking, the ‘time to redemption’ is less for older people with convictions and those with lesser criminal histories. For those with no previous convictions, the time to redemption is 10 years for 12- to 26-year-olds, but just 2 to 6 years for older

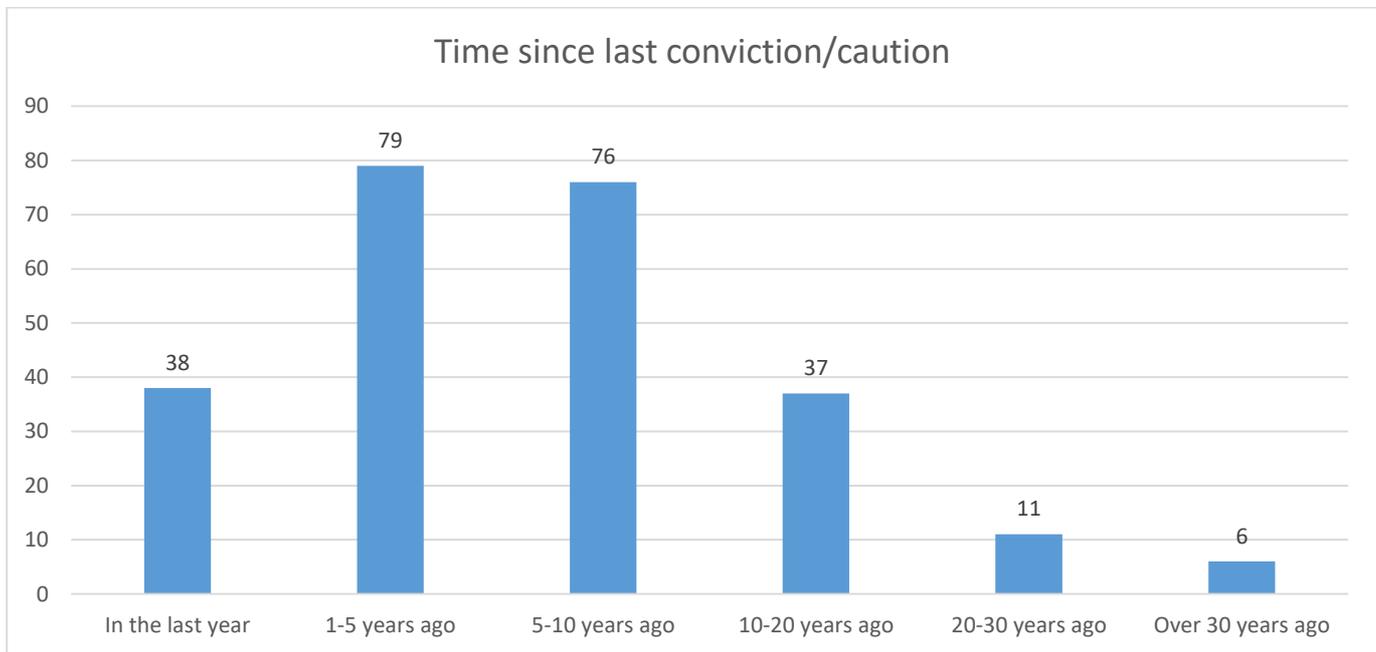
people.¹⁹ However, this is not how the disclosure rules under the ROA are currently constructed – they are fixed periods , which are longer for adults than they are for children.

A particularly unfair outcome is in relation to criminal records for childhood offending. For those on the cusp of turning 18, they may have committed the offence when they were a child but they may not receive an outcome (whether that be a caution or conviction) until they turn 18. The result is that their criminal record is treated (in so far as the criminal records regime is concerned) as an adult. This essentially means much longer periods of time have to pass before the conviction would become spent under the ROA or filtered from a standard/enhanced DBS check.

Time since last conviction/caution

The majority of survey respondents were last cautioned/convicted between 1 and 10 years ago, but a significant number had spent more than a decade conviction free.

As described above, evidence from numerous jurisdictions shows that, when a significant period of time has passed since their last conviction, people are unlikely to be convicted in future.²⁰ Despite this, respondents continued to experience multiple problems as a result of their criminal record.



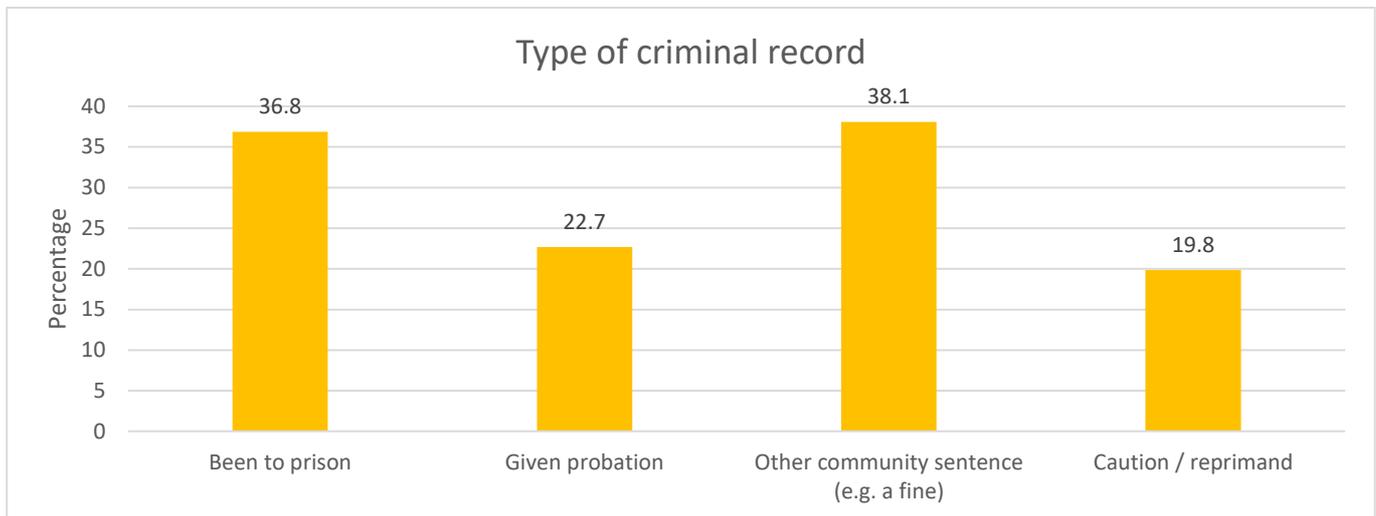
¹⁹ https://pure.strath.ac.uk/ws/portalfiles/portal/82275796/Weaver_SCCJR_2018_Time_for_policy_redemption_a_review_of_the_evidence.pdf

²⁰ Ibid.

Sentences received

The figures in this section reflect the fact that some respondents had multiple convictions and therefore more than one sentence type.

Just under 37% of respondents had been to prison at some point. Less than 10% of convictions result in a prison sentence²¹, so people who have been to prison are over-represented in this survey. Prison sentences take longer than other sentences to become spent (if they ever do) and are therefore more likely to create difficulties. It is possible that these individuals have faced more difficulties as a result of their criminal record and feel more compelled to share their experience.



Nature of offence

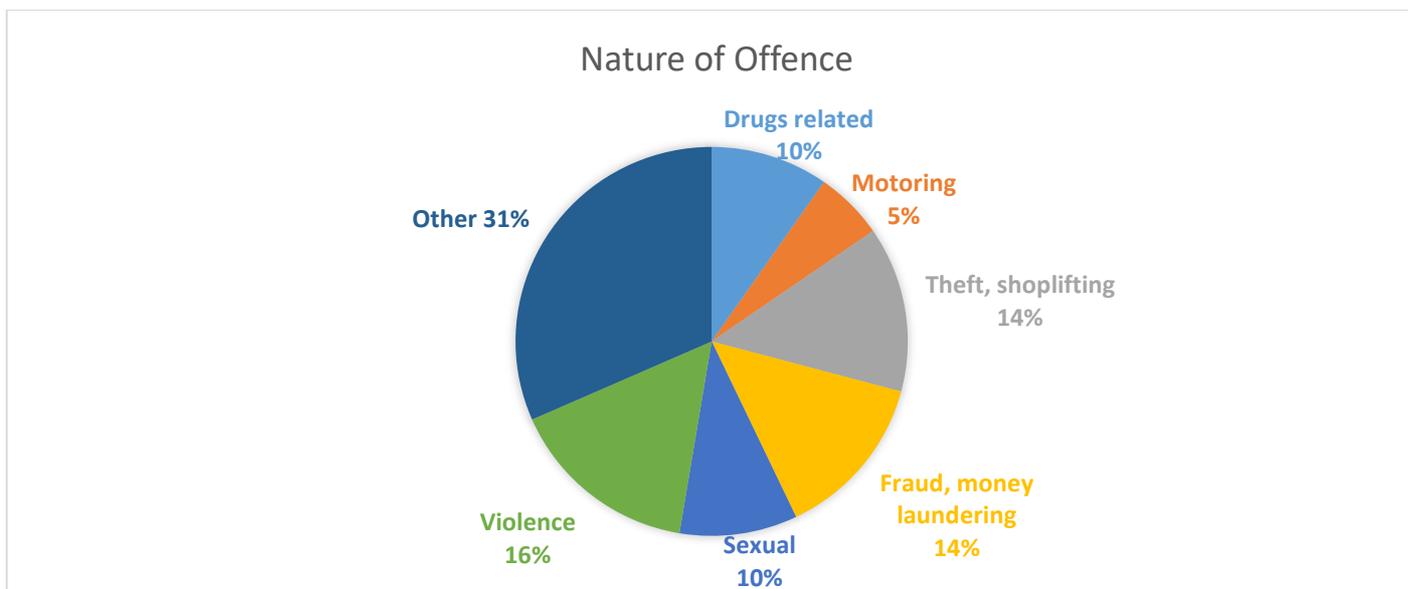
There was a wide range of offences, with the 'other' category accounting for a third of responses. Given the format of the responses, it is not possible to further breakdown that 'other' category, other than to recognize that most could be incorporated into the existing categories.

The largest standalone category was offences involving violence (16%) with fraud/money laundering and theft/shoplifting the second largest (14%).

Convictions for motoring offences represent the largest single proportion of criminal records, although that is not reflected in the sample. That is likely to indicate that motoring convictions present less of a barrier - many employers disregard them and many are for non-recordable offences and so may not form part of an individual's PNC record.

Given the high proportion in the sample of people who had been to prison, it is to be expected that the spread of offences leans towards those that are more likely to result in a custodial sentence.

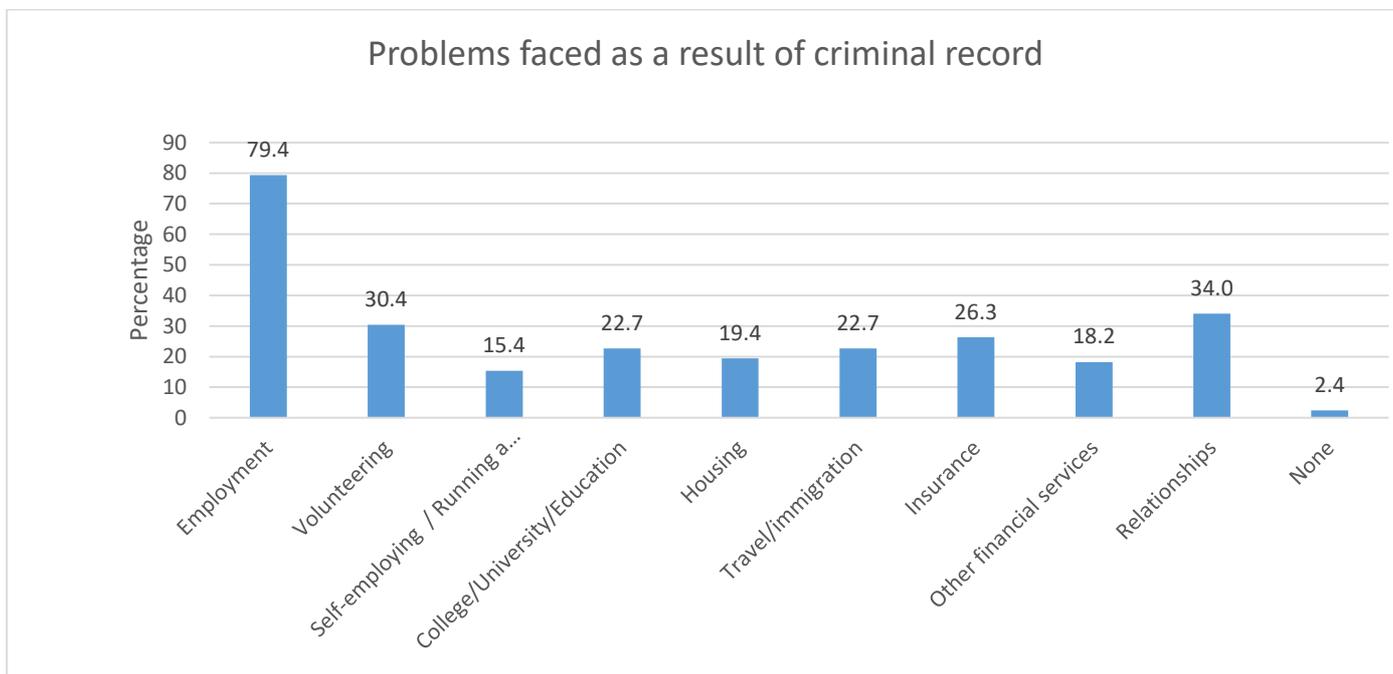
²¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/802032/criminal-justice-statistics-quarterly-december-2018.pdf
13 of 30 © Unlock, Registered charity: 1079046, www.unlock.org.uk



2. What difficulties had respondents faced?

Respondents faced multiple difficulties as a result of their criminal record

Most respondents cited employment (79.4%) as one of the problems they faced.²² Employment was cited almost three times as often as any other problem area. The other most common problems were relationships (34%), volunteering (30.4%), insurance (26.3%), travel/immigration (22.7%) and college/university/education (22.7%).

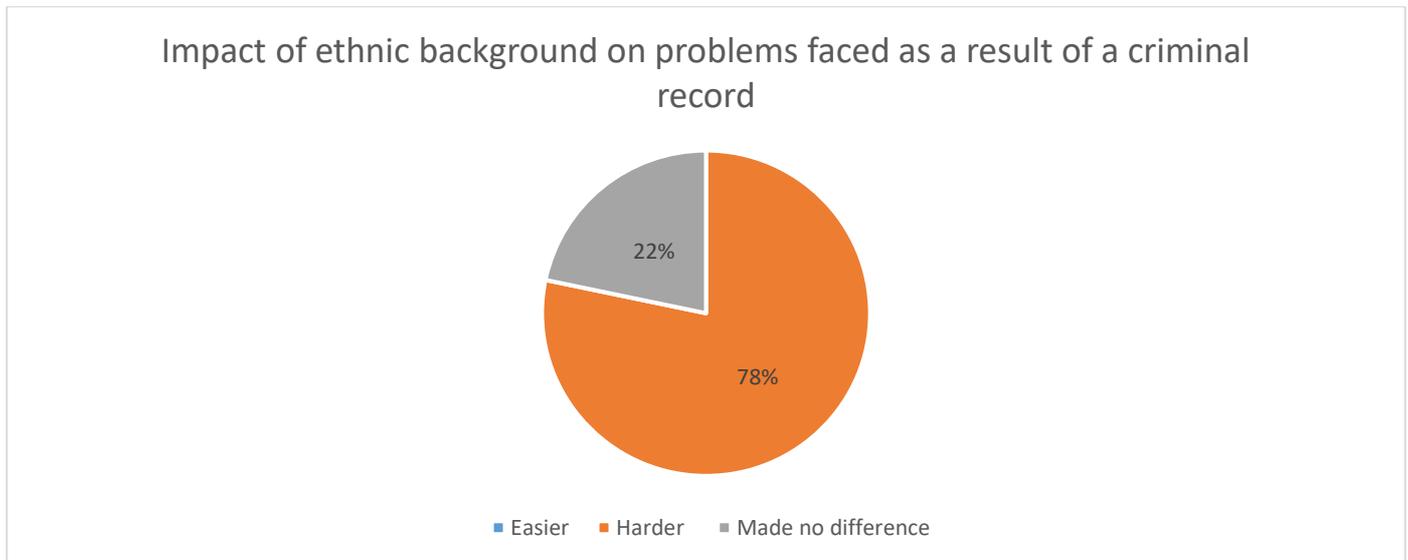


Does ethnicity make things harder?

The survey asked respondents whether these difficulties were exacerbated by their ethnicity, or whether it made no difference. More than three-quarters – 78% - felt that their ethnic background had made the problems they faced as a result of their criminal

²² With 79% of respondents saying they had faced problems with employment as a result of their criminal record, using the calculations explained in the introduction and based on the sample size of 221, there is a 95% likelihood that between 72 and 86% of all BAME people with criminal records face problems with employment.

record harder. The remainder said it made no difference. Both groups included respondents from the range of ethnicities. No BAME respondent said their ethnicity made their problems easier.



It is clear that respondents had experienced a number of difficulties as a result of their criminal record, and many felt that these problems were exacerbated by their ethnicity. For some this was based not only on their own experience but on witnessing how others were treated by the criminal justice system and wider society.

It is difficult to quantify how much of an impact ethnicity has on the practical difficulties people experience once they have a criminal record, but the sense that these two factors are linked has an impact on perceptions of justice, legitimacy and, ultimately, trust in the state. Respondents were invited to describe how they felt ethnicity had contributed to their difficulties. These perceptions are inextricably linked not only to an individual's own experience, but also to the persistent inequalities that are deeply rooted in the justice system. Respondents' perceptions of their difficulties are all the more powerful because, in Unlock's experience, they are replicated across the country.

- *"You come across obstacles finding a job because of your ethnicity, but with a criminal record it's double the obstacles."*
- *"I am a black minority and am discriminated against at the point of sight in some circumstances. Then having to explain a criminal conviction makes the matter even worse."*
- *"Institutional racism is one thing to conquer, then the DBS check."*
- *"In the current climate there will always be a suspicion of underlying racism with anything I do"*
- *"Biggest problem – negative perceptions. People already assume things about me based on my race, and having convictions just adds fuel to the fire."*
- *"I can't prove whether my ethnic background has made a difference but my criminal record certainly has."*
- *"Ex-offenders from my ethnic background are thankfully rare, but this means that there isn't an established support framework within my community - and people outside of my community judge me simply for my ethnic background, and additionally for my convictions. It adds another layer of challenge and misunderstanding."*

4. Findings in context

Disproportionality - More likely to have a criminal record (and a more serious one)

People from some BAME backgrounds are disproportionately represented at all stages of the criminal justice system (citations), and this affects both their experience and perception of how ethnicity compounds the difficulties created by a criminal record.

1. More arrests

Black and ethnic minority children account for more than a quarter of all child arrests across England and Wales - more than double the proportion of the BAME population as a whole. As one survey respondent put it:

“Because of the very petty nature of the offences, my clear impression was that other children were told off by the police, but I think I was arrested and prosecuted because I was black. That is because the police used to stop me for no reason about once a month and they didn’t stop white children.”

Data obtained through Freedom of Information requests showed 26% of children arrested in 2016 were from BAME backgrounds. Figures obtained by the Howard League for Penal Reform show 22,579 black or minority ethnic under-18s were arrested in 2016 out of a total of 87,529.²³ However, comparison with detailed demographic data for London showed a more complex picture. In the case of the boys, black boys were arrested at 2.0 to 2.5 times the white rate, while for mixed race boys it was 1.3 to 1.5 times. Asian and Chinese/other ethnic groups were arrested at much lower rates than white boys, around 0.5 to 0.7 times the white rate.²⁴ This detailed analysis provides an example of how grouping BAME people as one can mask inequalities rather than help challenge them.

2. More likely to get a caution

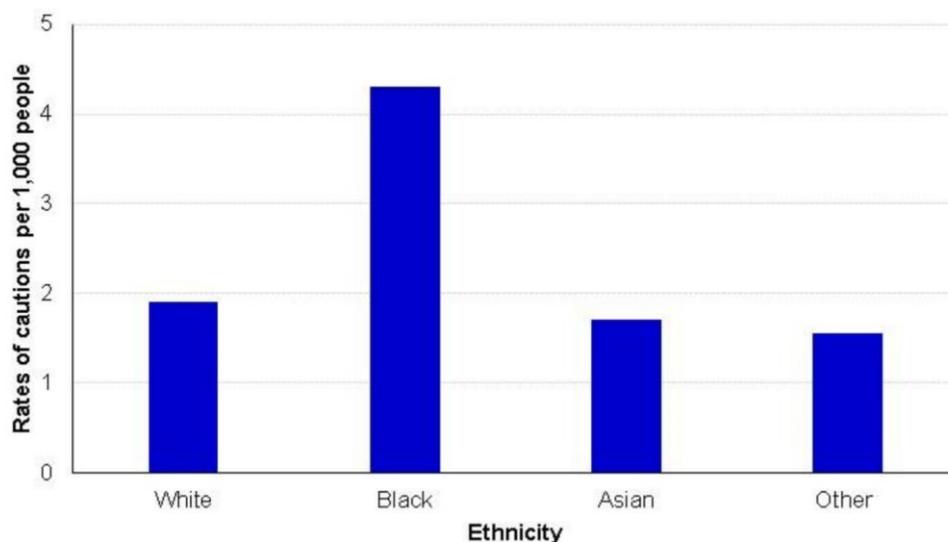
Figures published by the Ministry of Justice (see graph below) show that, although the use of cautions is decreasing overall, the proportion given to BAME groups has grown.

“In 2016, the number of offenders issued with cautions was 98,000 and the overall total has decreased by 51% since 2012. Over this period cautions for the White ethnic group decreased by 52% while cautions issued to all other ethnic groups decreased at a slower rate (Black down 42%, Asian down 44% and Other down 43%). In 2016, 84% of offenders issued with cautions were from the White ethnic group, which has steadily declined since 2012. The Black ethnic group were just under 2.5 times more likely to be given a caution, compared with the White, Asian and Other ethnic groups relative to the population.”²⁵

As one respondent put it: *“My experience is that BAME people are more heavily policed and (at least in the past) are put under pressure to admit to offences whether they committed them or not.”*

The table below is taken from the Ministry of Justice’s *Statistics on Race and the Criminal Justice System 2016* report.²⁶

Figure 4.14: Offenders cautioned for all offences, per 1000 population, by ethnic group (Source: Table 4.30)



This will have caused a legacy impact on people over previous years – people who may have received a caution years ago which, if dealt with now, would be dealt with by using diversionary schemes that do not result in a formal criminal record. This also

²³ <https://www.independent.co.uk/news/uk/home-news/black-ethnic-minority-children-child-arrests-disproportionality-howard-league-a8075566.html>

²⁴ http://www.police-foundation.org.uk/2017/wp-content/uploads/2017/12/ethnic_disproportionality_in_child_arrests.pdf

²⁵ Ministry of Justice, *Statistics on Race and the Criminal Justice System 2016*, pg. 38 - available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669094/statistics_on_race_and_the_criminal_justice_system_2016_v2.pdf

²⁶ *Ibid*

applies to the use of some older warnings and cautions for possession of cannabis, which now might result in a Fixed Penalty Notice.

There have been recent developments to the criminal records disclosure regime which means that cautions for different offences can have different implications.

For example, take a 17-year old that accepts a youth caution for shoplifting. If they apply for any job or volunteering role in the next 2 years that involves a standard or enhanced DBS check, the caution will be disclosed. However, after 2 years, it would be 'filtered' and so no longer appear. However, if that person was offered a youth caution for robbery, under the current filtering rules that will appear on their standard or enhanced check for the rest of their life because the offence of robbery is one that is not eligible for filtering.

Enquiries to Unlock's helpline suggest that many people accepting a police caution are unaware of the potential consequences. One survey respondent who had accepted a police caution highlighted the importance of better information:

"It's important the police signpost to organisations such as Unlock at the time of issuing the caution"

Although individuals have to sign to accept a caution, the standard template form that they sign does not provide specific information, tailored to the circumstances of the individual and the offence they are being cautioned for, about the long-term implications of the caution. Unlock's helpline regularly hears from people who say they were told by the police that the caution they were being offered would not cause them any problems later in life.

Recommendation 3 - The police should become better aware of the long-term implications on individuals that accept a caution, and:

- a. Understand whether, and for what type of offence, a caution is necessary, or whether an informal disposal can be issued instead, and
- b. Ensure that information, specifically tailored to the circumstances, is provided to individuals before they accept the specific caution they have been offered.

3. More likely to be prosecuted

Ministry of Justice figures show an overall decrease in prosecutions, but the size of the decrease varied across ethnic groups:

"While all ethnic groups have seen decreases across the categories of prosecutions and convictions, the size of the decreases differed for the various ethnic groups. For example, the Black ethnic group saw a 14% decrease in prosecutions and 13% in convictions, whereas the White ethnic group saw a 31% decrease in prosecutions and 29% in convictions."²⁷

It also remains the case that black defendants have a much higher rate of prosecution:

"The rate of prosecutions for Black male defendants (25 per 1000) was more than three times higher than for White male defendants (7 per 1000). The rate of prosecutions for Black female defendants (3 per 1000) was just over two times higher than White female defendants (1 per 1000). Mixed male defendants (11 per 1000) had a prosecution rate two times higher than White male defendants. Chinese or Other and Asian female defendants had the lowest rates of prosecutions."²⁸

4. More likely to plead not guilty

BAME defendants are consistently more likely to plead not guilty than white defendants.²⁹ This means that, if found guilty, they are likely to face more punitive sentences than if they had admitted guilt. The result of this is a criminal record that will invariably end up having to be disclosed for longer under the Rehabilitation of Offenders Act 1974 (because the time it takes for the conviction to become spent will be longer).

²⁷ Ministry of Justice, Statistics on Race and the Criminal Justice System 2016, pg. 45 (2016) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669094/statistics_on_race_and_the_criminal_justice_system_2016_v2.pdf

²⁸ Ibid, pg. 58

²⁹ Ministry of Justice, Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales, table A2.1 (2016) - <https://www.gov.uk/government/publications/black-asian-and-minority-ethnic-disproportionality-in-the-criminal-justice-system-in-england-and-wales>

This is where diversion schemes and deferred prosecution, such as Durham's Operation Checkpoint, can create the most impact. Schemes like this are likely to benefit BAME groups because they do not rely on plea decisions. This will ensure the treatment of BAME defendants is not more punitive by comparison with the white population. This is particularly important for young people.

5. More likely to get a longer sentence

While black people account for just 3 per cent of the UK population, they make up 12 per cent of people in prison.³⁰ This reflects in part the concentration of people in prison from cities, combined with the fact that BAME people overall are more likely to live in cities than rural areas (with the exception of Gypsy, Roma and Traveller people). In 2018, the Independent³¹ analysed Ministry of Justice figures between 2009-17 and found that black teenage boys are more likely to be charged with murder than manslaughter and more likely to receive a higher or maximum sentence than white boys:

"Analysis of figures for 2009-17 shows one in four black teenage boys guilty of manslaughter were given maximum jail terms, while white children found guilty of the same crime were sentenced to no more than 10 years, with the majority getting less than four."

This particular statistic is striking within the context of the criminal records regime, where any sentence of more than 4 years in prison can never become spent under the ROA.

The custody rate for Asian defendants has been increasing over the last 5 years and in 2016 they were 11% more likely than white defendants to receive a custodial sentence. Black and Asian defendants have consistently had the longest average custodial sentence length since 2012.³² Longer sentences take longer to become spent (if they ever do), meaning a criminal record will cause more difficulties for longer. This is an additional penalty for Black and Asian defendants - what Lammy refers to as the double penalty is in fact a triple penalty. As one survey respondent put it:

"My sentence would not have been so long if I was white, which in turn may have meant that my conviction could become spent at some stage also."

Progress since Lammy

In September 2017, David Lammy published his review into the treatment of BAME groups in the criminal justice system. In addition to the inequalities found at each stage of the justice system, the review highlights the ongoing difficulties caused by criminal records:

"One of the most significant barriers to any ex-offenders' prospects of employment is created by public policy: the criminal records regime."³³

Over the 5 years of 2012-2016, 126,665 children received a criminal record for the first time.³⁴ 17% of these children (21,856) were BAME. The impact of a criminal record is of particular concern for young people, as demonstrated in our report published in 2018.³⁵ The difficulties are further amplified for BAME young people.

"As the Taylor Review of Youth Justice acknowledged, the evidence is that most young people grow out of crime. For BAME young people there is a double penalty, with studies showing that simply having a name associated with a Pakistani, Bangladeshi, Indian, Chinese or Black Caribbean background can reduce the chances of candidates gaining a job interview."

The Lammy Review made two recommendations about criminal records, both of which the government recognised the need to address. The lack of progress on Lammy's recommendations has been the subject of an oral hearing at the Justice Committee, and monitoring is ongoing.³⁶

Recommendation 34

³⁰ <https://www.independent.co.uk/news/uk/home-news/black-people-prison-uk-more-likely-us-lammy-review-a7935061.html>

³¹ <https://www.independent.co.uk/news/uk/home-news/black-boys-discrimination-teenagers-children-white-racial-bias-prison-a8466606.html>

³² Ministry of Justice, Statistics on Race and the Criminal Justice System 2016, pg. 58 (2016) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669094/statistics_on_race_and_the_criminal_justice_system_2016_v2.pdf

³³ Available at www.gov.uk/government/organisations/lammy-review, pg. 64

³⁴ Ministry of Justice, Youth justice annual statistics 2015 to 2016: supplementary tables, Ch 2, table 2.6 (2017) - <https://www.gov.uk/government/statistics/youth-justice-statistics-2015-to-2016>

³⁵ Unlock (2018), *A life sentence for young people* - <http://www.unlock.org.uk/wp-content/uploads/youth-criminal-records-report-2018.pdf>

³⁶ Justice Committee, Oral evidence: Progress in the implementation of the Lammy review's recommendations, HC 2086 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/progress-in-the-implementation-of-the-lammy-reviews-recommendations/oral/98717.html>

- **Lammy recommendation** - *“Our CJS should learn from the system for sealing criminal records employed in many US states. Individuals should be able to have their case heard either by a judge or a body like the Parole Board, which would then decide whether to seal their record. There should be a presumption to look favourably on those who committed crimes either as children or young adults but can demonstrate that they have changed since their conviction.”*
- **Government response** – *“The Government is currently involved in litigation relating to the existing criminal records regime. We consider that it is important to consider the different aspects of the disclosure regime in the round, and we will therefore consider these recommendations, along with recommendations on criminal records made in Charlie Taylor’s Review of the Youth Justice System and the concerns raised by others, once the litigation is concluded.”³⁷*
- **Current position** – The government agreed to consider this (and the recommendations made by Charlie Taylor’s review of the youth justice system) once litigation concluded. The Supreme Court gave its ruling in January 2019. The court found the ‘multiple conviction’ rule disproportionate since it applies *“irrespective of the nature of the offences, of their similarity, of the number of occasions involved or of the intervals of time separating them”*. The court also found disclosure of warnings and reprimands (given to under 18s) an ‘error of principle’ since these were intended as rehabilitative. This applies also to youth cautions (which replaced warnings and reprimands). Despite this, the government has still yet to give any response to the Lammy Review recommendation for sealing.

Recommendation 4 - Now that the litigation has concluded, the Ministry of Justice should respond to recommendation 34 of the Lammy Review (on sealing criminal records). If the Ministry of Justice is not going to pursue this recommendation, then it should clearly articulate why not and explain what other changes it will make instead.

Recommendation 35

- **Lammy recommendation** - *“To ensure that the public understands the case for reform of the criminal records regime, the MoJ, HMRC and DWP should commission and publish a study indicating the costs of unemployment among ex-offenders.”*
- **Government response** – *In early 2018, we will publish an employment and education plan which will look at the current picture and the barriers to employment, and will make the case to the public about employment and ex-offenders.”*
- **Current position** – The government published its education and employment strategy in May 2018.³⁸ However, this did not achieve the spirit of the Lammy recommendation. The strategy focused on how to encourage employers to take on people that they know to have criminal records. It did not look at ensuring the public understood the case for reform of the criminal records regime by doing a study looking at the costs of unemployment.

Recommendation 5 - The Ministry of Justice should fully implement recommendation 35 of the Lammy Review.

³⁷ Government Response to the Lammy Review on the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System (December 2017), pg. 26 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669206/Response_to_David_Lammy_Review.pdf

³⁸ <https://www.gov.uk/government/publications/education-and-employment-strategy-2018>

5. Discussion

Employment

Almost three-quarters of national companies continue to ask about criminal records at job application stage.³⁹ The result is that criminal records have become an embedded part of the recruitment process, meaning that decisions not to recruit can be based on other factors, often masking discrimination based on criminal records.

The overwhelming majority of survey respondents cited employment as one of the problems they faced. There are significant differences in employment rates between different ethnic groups.

For example, in the UK there are over 20.6 million women of working age population, 2.9 million (14%) of whom are from BAME backgrounds. 72.6% of white women and 55.8% of BAME women are in employment.⁴⁰

The reasons for these differences may be many and varied, and the 2017 McGregor-Smith Review into race in the workplace⁴¹ looked at a number of practical steps for businesses to develop diverse workplaces. Tackling ethnicity-based discrimination requires a certain set of responses.

However, whereas ethnicity is a visible characteristic to employers, a criminal record is not. There may be solutions within the criminal records disclosure regime, ensuring that less people have to disclose their criminal record. When looking specifically at those that would still need to disclose their criminal record, and when combining the attitudes of employers towards criminal records with the differences in employment rates between different ethnic groups, it is likely that BAME groups would be better served by widespread improvements in employer practices towards criminal records, such as Ban the Box.⁴² If employers did not find out about the criminal record of an applicant until after they had offered a conditional job offer, it would become much clearer whether an employer's decision not to hire was based on the applicant's criminal record. It would also avoid many of the connections and stereotypes that were referred to by survey respondents:

- *"I think that having a fraud conviction and being of an African background feeds into the stereotype held about Nigerians. I have dreadlocks and I've had to change my name to afford me a foot in the door, so to speak."*
- *"The conviction(s) should not have to be disclosed unless employers are going to offer you the new position, and only if it is relevant to the post applied for."*

In 2016, the civil service endorsed the Ban the Box campaign and removed the criminal record disclosure section from initial job applications for the majority of civil service roles. Ban the Box does not oblige employers to hire people with criminal records, but it increases the chance that they will consider them. When applicants are able to progress to later stages in the recruitment process and meet employers, they have the opportunity to show their potential. Removing this tick-box from the application process gives people with convictions the chance to get further into the application stage before disclosing their criminal record. Since 2013, 125 companies have joined this movement. However, given research which shows 75% of employers continue to ask on the application form, there is much more to be done. In a recent survey of over 60 national companies, 75% were found to have general questions about criminal records on the application form.⁴³ Employers no longer ask other discriminatory questions during recruitment and selection.

Recommendation 6 - The government should extend the Ban the Box commitment beyond the civil service to all public bodies.

Recommendation 7 - The government should follow the lead taken in the US by introducing 'fair chance hiring' practices, including a statutory requirement for all employers to delay the questions about criminal records until the pre-employment stage.

³⁹ Unlock (2018) *A question of question - Research into employers asking about criminal records at application stage*, available at <https://www.unlock.org.uk/wp-content/uploads/A-question-of-fairness.pdf>

⁴⁰ Business in the Community (2017) *Race at Work 2015-2017 Survey Insights*, available at https://race.bitc.org.uk/sites/default/files/bame_women_at_work_2017.pdf

⁴¹ Race in the workplace: The McGregor-Smith Review (2017), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594336/race-in-workplace-mcgregor-smith-review.pdf

⁴² Ban the Box calls on UK employers to give people with convictions a fair chance to compete for jobs by removing the tick box from application forms and asking about criminal convictions later in the recruitment process. <http://www.unlock.org.uk/projects/employment-discrimination/ban-the-box/>

⁴³ Unlock (2018) *A question of question - Research into employers asking about criminal records at application stage*, available at <https://www.unlock.org.uk/wp-content/uploads/A-question-of-fairness.pdf>

Does Ban the Box do more harm than good?

There have been some studies in the US that suggest Ban the Box can lead to even more racial discrimination by employers.⁴⁴ This seems to be based on the concept that, in the absence of knowing if someone has a criminal record, employers will instead make assumptions based on someone's ethnicity, using it as a proxy for convictions. For example, instead of asking about convictions, employers would instead assume that all young black men have been involved in the criminal justice system.

To date, there have been no statistical studies on the impact of Ban the Box on employers in England and Wales. However, alongside a number of anecdotal examples of employers reporting the beneficial impact it has had on their business, the idea that Ban the Box is increasing racial discrimination is certainly not something that has emerged amongst the 125 employers that have embedded Ban the Box in their recruitment practice.

In response to the US findings, the American organisation National Employment Law Project (NELP) have explained their view on the studies:

“(1) The core problem raised by the studies is not ban-the-box but entrenched racism in the hiring process, which manifests as racial profiling of African Americans as “criminals.” (2) Ban-the-box is working, both by increasing employment opportunities for people with records and by changing employer attitudes toward hiring people with records. (3) When closely scrutinized, the new studies do not support the conclusion that ban-the-box policies are responsible for the depressed hiring of African Americans. (4) The studies highlight the need for a more robust policy response to both boost job opportunities for people with records and tackle race discrimination in the hiring process—not a repeal of ban-the-box laws.”⁴⁵

Ban the Box is not a panacea; it is one part of a broader recruitment approach which can ensure that applicants with criminal records are not screened out at the application stage. As NELP has highlighted:

“To the extent that ban-the-box has more fully revealed the cancer of racism in America, that’s a call for more action, not less. After all, ban-the-box has never been advertised as a cure-all and it’s misguided to judge it on that basis. Instead, ban-the-box is one part of what must be a comprehensive racial justice and economic opportunity agenda. This includes strategic and well-resourced enforcement of anti-discrimination laws, clean slate reforms that seal old and minor criminal records, policies that tear down barriers to employment and support holistic assessments of people with criminal records, and investments in jobs programs.”⁴⁶

It appears that the studies from the US have highlighted how people use racial discrimination to discriminate against people in the workplace, and that instead of using a tick-box for convictions, they are using other methods instead. Ban the Box might not be tackling those issues, but it is not making the problem worse. Racial discrimination in employment is neither new nor caused by Ban the Box, and there are other tools to deal with it (such as name-blind applications for people with non-Anglo-Saxon names).

On a very practical level, the way the process of getting standard or enhanced DBS checks as part of certain jobs presents people with problems. As a middle-aged Bangladeshi man in our survey said, *“I am not confident of applying for jobs, I can’t get an enhanced DBS to check what is on it.”* This is a man who was cautioned 5 years ago for possession of cannabis, and because of the offence, based on the filtering rules his caution will be filtered (i.e. not disclosed) 6 years after he received the caution. However, understandably, he wants to make sure that his caution has come off before he starts applying for jobs and not disclosing.

Recommendation 8 - The Home Office, through the DBS, should provide a mechanism by which individuals can check which cautions and convictions will appear on their standard or enhanced DBS check.

Immigration

Nearly a quarter of survey respondents (22.7%) reported having faced problems with travel/immigration. Although the report is unable to separate the two, many individuals cited particular issues with immigration.

⁴⁴ <https://psmag.com/social-justice/how-ban-the-box-can-lead-to-even-more-racial-discrimination-by-employers>

⁴⁵ NELP (2016) *Racial Profiling in Hiring: A Critique of New “Ban the Box” Studies*, available at <https://s27147.pcdn.co/wp-content/uploads/Policy-Brief-Racial-Profiling-in-Hiring-Critique-New-Ban-the-Box-Studies.pdf>

⁴⁶ Hernandez, P. (2017), *Ban-the-Box “Statistical Discrimination” studies draw the wrong conclusions*, available at <https://www.nelp.org/blog/ban-the-box-statistical-discrimination-studies-draw-the-wrong-conclusions/>

“I’ve had the threat of deportation despite having been here for 42 years. There is no one to help. I am in the twilight zone unable to work or do anything without confirmed status. A dedicated body with immigration advice all the way through to a decision is needed.”

This is not surprising, given recent policy developments. The Windrush scandal has led to a number of people deemed ‘ineligible for citizenship’ because of criminal convictions. Although the Home Office suggests this is limited to ‘convictions for murder, child sexual offences, the supply of drugs and robbery’⁴⁷, a number of anecdotal examples suggest people with relatively minor convictions are being caught up in this. The compensation scheme set up in response to the scandal⁴⁸ states that compensation may be withheld or reduced if someone has “a record of serious criminality”. The logic is worrying, and sadly seems to reinforce the sense of a hostile approach by the Home Office towards people with convictions.

As part of the UK’s exit of the European Union, the UK government’s ‘EU settlement scheme’ enables EU citizens to continue to live in the UK. Around 3.3 million EU nationals live in the UK, and all applying for ‘settled status’ will be asked a broad question about criminal records - *“Have you ever been convicted of a criminal offence?”*. Unlock has concerns that many people who are worried about the impact of their criminal record will simply not apply for settled status, leaving them in a precarious position in terms of immigration status. There is a lack of clarity in Home Office guidance as to how a criminal record may affect a person’s settled status application. These are issues that Unlock are engaging with the Home Office on.

Recommendation 9 - The Home Office should provide clarity, in the form of clear guidance to individuals, as to what types of criminal record may affect a person’s settled status application.

Are there solutions within the criminal record regime?

In addition to improvements to employment practices highlighted above, it is important to look at the criminal records itself for solutions – at what point should the state stop labelling someone ‘a criminal’?

There may not be specific solutions within the criminal records disclosure regime for BAME groups. As Lammy highlighted in his report: *“BAME communities face specific challenges, including discrimination in many walks of life. But some of the most marginalised BAME communities have much in common with the White working-class. A justice system that works better for those who are BAME and poor will work better for those who are White British and poor too.”*⁴⁹

Taking this approach to criminal records, **a criminal records disclosure regime that works better for those who are BAME will work better for those who are White British too.** 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. **Improving the system for all will improve the system for BAME individuals.**

In January 2019, the Supreme Court ruled that two aspects of the filtering scheme are disproportionate and in breach of Article 8 of the European Convention on Human Rights.⁵⁰ It is important that there is proper consideration of the wider issues. However, Unlock does not consider it an appropriate position for the government to expect those affected by the Supreme Court judgment to have to wait for such broader consideration. In the meantime, the Disclosure and Barring Service will inevitably be issuing criminal records certificates which breach individuals’ human rights. Those affected are in a state of abject uncertainty as to their legal rights in such circumstances. This is not a tenable or justifiable situation. We urge the government to take action as soon as practical.

Recommendation 10 - The government should pass a remedial order as soon as practical to deal with the Supreme Court judgment to ensure that all youth cautions, reprimands and warnings are now filtered out, and that the multiple conviction rule is removed.

⁴⁷ <https://www.theguardian.com/uk-news/2018/sep/21/uk-windrush-scheme-begins-refusing-people-ineligible-for-citizenship>

⁴⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791492/CCS207_CCS0119299498-001_Windrush_Response_to_Consultation_Web_Accessible.pdf

⁴⁹ The Lammy Review – An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, pg. 3 (2017) - <https://www.gov.uk/government/publications/lammy-review-final-report>

⁵⁰ Judgment available at <https://www.supremecourt.uk/cases/docs/uksc-2016-0195-judgment.pdf>

However, 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 the Supreme Court 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. The Taylor Review into the youth justice system, and the Law Commission, has 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, should not be delayed any longer. As one survey respondent said: *"At some stage, the question of a criminal records would be posed and the application in 99% of cases has been ended. A conviction, especially one that will remain unspent throughout my whole life, means that I will be paying more for insurance and struggle to find employment throughout my whole life."*

Unlock is calling on the government to conduct a fundamental review of the wider criminal records disclosure regime, reforming how it applies to childhood criminal records, records acquired in early adulthood and those that are received later in life.⁵¹

Unlock is calling for:

1. Reform of the Rehabilitation of Offenders Act 1974
 - a. A reduction in the time before convictions become spent
 - b. Expanding the scope of rehabilitation, so that all convictions can 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.

The sealing of records links with one of the recommendations of David Lammy. Quasi-judicial processes – as they have in France – give individuals the right to “judicial rehabilitation” and the ‘sealing’ of certain records. 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, *Breaking the Circle*. 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.”*⁵²

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.

Recommendation 10 - The government should conduct a fundamental review of the wider criminal records disclosure regime, reforming how it applies to childhood criminal records, records acquired in early adulthood and those that are received later in life.

A criminal records disclosure regime that works better for those who are BAME will work better for those who are White British too.

⁵¹ Unlock (2018) *Briefing – Reform of the criminal records disclosure regime* - <https://www.unlock.org.uk/wp-content/uploads/Briefing-Reform-of-the-criminal-record-disclosure-regime-web.pdf>

⁵² Available at <https://webarchive.nationalarchives.gov.uk/20031220224300/http://www.homeoffice.gov.uk/docs/roareponse.pdf>

Appendix A – Information sheet

The information sheet used to promote the survey is below:

Are you from a Black, Asian or Minority Ethnic (BAME) background and have a criminal record? We want to hear from you!

A criminal record can be a real obstacle in getting on in life. But what we don't know is if people from Black, Asian and Minority Ethnic (BAME) groups face additional barriers that white people don't.

Unlock is an independent charity for people with criminal records. We're collecting evidence that will help us to better understand the barriers that BAME groups face in terms of their criminal record.

Our focus is mainly on the issues that people face after they've received their criminal record. However, we're also keen to identify any issues that BAME groups might face earlier on in the process of getting a criminal record that have an impact later on in terms of the criminal record and its consequences on them.

So what do we want to know?

We're keen to hear from a wide range of voices, not just those that have been to prison. So, whether you've been to prison, given probation, fined or given a caution, we want to hear from you.

We've put together a short online survey for people with a criminal record – it should only take 10-15 minutes to complete, and all responses will be confidential and no personal details shared externally.

Your answers will directly inform our recommendations for structural and practical changes. These recommendations will be shared with people who have the power to make changes. There's also an option to put your email address if you're happy for us to contact you about your response.

For more details on what we do with your personal data, see our [privacy policy](#).

We also welcome responses from practitioners and organisations that have experience in this area. If that's you, you can share your thoughts by emailing them to policy@unlock.org.uk. The initial deadline for responses is 5pm on Thursday 20th December.

Appendix B: Case studies

This section includes respondents' descriptions of their experiences.

A Caribbean woman, now aged 36-45

She was convicted of assault 5 years ago for hitting her daughter and given a probation order

Explaining the impact it had on her employment: *"My conviction was used against my promotion at work. I was faced with unreasonable obstacles. The manager in charge of my promotion was using my conviction to halt the promotion and I felt she had the view that black people should not be in charge of white people. As a result, I suffered from depression and anxiety and was off work for 3 months. After I attended therapy, I went back to work but the situation was still unreasonable and I therefore left."*

In terms of the impact of her ethnicity, she says the biggest problem she faced was losing her daughters. *"Hitting children has been described to me as a cultural thing. This portrays black people as abusers and their standard practice, which is thus a portrayal that black people are ignorant and barbaric."*

A Caribbean woman, now aged 46-55

She was convicted of benefit fraud 10 years ago and given a suspended sentence

Explaining her conviction: *"Following the death of my partner, I took on more hours at work, without notifying the Benefits agency (I was in receipt of Income Support and Child Benefit). I had miscalculated my hours and didn't realise that I was one hour over the threshold where I had to notify them. I received an 8 month suspended sentence, as well as 100 hours community service."*

Describing the biggest problems she had faced:

1. *"Reaching the interview stage for new employment, but getting no further, despite the strength of my application/skills and experience etc. I feel I'm being judged before they've even met me, but that they are just going through the motions."*
2. *Being put off of applying for jobs, because I have to mention the criminal record every time (I work with children, so it's an enhanced disclosure), even though my convictions are now 'spent'. I also have 2 counts of the same offence, and I think this will show up on my record forever, which is a shame. I feel like I'm being held prisoner, mentally."*
3. *"Applying for new jobs is always difficult. I almost talk myself out of applying for new things, but then also feel trapped in a job that I am no longer happy in. To be honest, I'm scared to apply for any jobs, because I feel embarrassed and ashamed about having a criminal record, even though there were extenuating circumstances, and I was diagnosed with PTSD, having nursed my partner through his 4-year battle with cancer and raising our child. My convictions are forever an albatross around my neck."*

She felt that the solutions were not unique to BAME people. She said that:

1. *"The conviction(s) should not have to be disclosed unless employers are going to offer you the new position, and only if it is relevant to the post applied for."*
2. *"If it's more than one count of a conviction dealt with in the same court hearing, it shouldn't have to appear on your record forever. This is the part that really hurts. It makes it very difficult to move on with your life. I feel like I'm in a perpetual limbo: wanting to apply for jobs, but feeling that I have to jump through hoops to prove that I am a decent person who made a mistake. Do I have to pay for this for the rest of my life? It certainly feels like it!"*

A man, other black background, now aged 36-45

He was convicted 6 years ago of conspiracy to steal and given a probation order

Explaining his conviction: *"This was covered by the local paper, my kids got bullied and just a few months ago it came up yet again from school as they are now in secondary school. I have been googled and bullied about it at university by another student. I have been so affected by the shame of it all I put my head down and it really affected my sense of self. That's why I went to university because after the media coverage I was scared to seek work in the locality and had no way to travel further because of my circumstances and caring commitments. I live in a fairly regressive city where I was othered before I got a record, and of course the media coverage played to all the typical stereotypes about ethnic minorities."*

In terms of problems with employment: *"I have struggled getting employment and only through determination have I managed to get to university, but there is always a feeling of resignation that nothing I do can take away the fact that I'm not going to be able to do some things, that people are thinking about it."*

A Caribbean woman, now aged 36-45

She was convicted 9 years ago of fraud by deception and sentenced to 12 months in prison

Her sentence was later reduced to 8 months. *"I went back to university but was not able to pursue the career I desire. Faced discrimination when I applied for jobs, now I am in a job I feel scared to apply for a better role outside of my current organisation. I simply cannot deal with the shame, rejection and emotional discrimination of being black and having a criminal record."*

In terms of the impact of her ethnic background: *"I feel that people generally believe that your crime is 10 times worse than a white person. I worked in a public organisation recruitment office and I heard the comments made about criminal records especially for blacks, and they are really discriminating comments."*

An Indian woman, aged 46-55

She received one conviction 4 years ago for benefit fraud and sentenced to prison

Explaining the problems she has faced: *"The Indian community turned their back on me and I feel isolated. My house insurance was terminated. The cost of car and new house insurance increased. A loss of self-esteem stops me from applying for jobs. I don't know where to find jobs which do not require a DBS. I can't pass credit checks for private rented sector housing. People from the community avoid me so I am isolated and suffer from serious mental health issues. I live in poverty and risk of homelessness. I've had serious health issues linked to stress."*

An African man, now aged 26-35

He was convicted 10 years ago for housing benefit fraud and given 100 hours community service

He has 20 offences on his record because of the period of time that he was claiming housing benefit. In describing the problems he's faced: *"I'm not able to travel to America and I struggled to obtain paid employment in the first 3 years. It impacted significantly on my mental health."*

In looking at the impact of his ethnic background: *"I think that having a fraud conviction and being of an African background feeds into the stereotype held about Nigerians. I have dreadlocks and I've had to change my name to afford me a foot in the door, so to speak."*

A Bangladeshi man, now aged 36-56

He was cautioned 5 years ago for possession of cannabis

Describing his problems with employment: *"I am not confident in applying for jobs, I can't get an enhanced DBS to check what is on it. I am usually in a minority group when attending interviews, panels etc so stick out. When details of my caution arise, I am further isolated."*

In making recommendations, he suggests: *"Being able to apply for your own enhanced DBS check to see the convictions and cautions that will be on there before applying for a particular job."* In relation to receiving his caution, he suggests that *"it's important the police signpost to organisations such as Unlock at the time of issuing the caution."*

A Black man, now aged 36-45

He was convicted 6 years ago for theft/shoplifting and sentenced to prison

On the problems applying to university: *"I had a recent application to a university declined after the registrar google searched me, my conviction was in the local paper which removed the story years ago but it still exists on other sites."*

On the problems he's faced: *"I was trafficked into the country over 40 years ago and I still do not have the right ID to gain employment, my biometric permit which I no longer have had an expiry date shorter than a bag of crisps any way so employers wouldn't touch me with a barge pole. Love doesn't pay the rent bills or school shoes, my inability to provide security eventually wore away at my relationship so I am now a weekend dad and occasional baby sitter. When I was imprisoned, the lady that came to my cell said, after looking at my name, she would like to know if I was British. Apparently, the fact that I have been here over 40 years doesn't make me British. I was denied tag, detained past my actual release date with threat of deportation. The prison denied me transport to my court hearing, thank god the judge saw sense and I was released. After release I had to sign on at the*

police station weekly for over a year so they knew I had not absconded, this was not in connection with my crime but rather my "crimmigration" status."

A Caribbean man, now aged 46-55

He has a number of convictions related to drug issues, and last convicted 10 years ago

Explaining the problems he's faced because of his ethnicity: *"I've had issues around disclosure of my offences and also because I'm well educated, articulate and well-spoken as well as born and bred in Yorkshire but have African names I'm often aware of a disconnect in peoples' minds. When working in call centres, for example, I've often used an Anglicised version of my name. My clearly "ethnic name" I think has been the biggest barrier to entry into employment.*

A Caribbean man, now aged 45-55

He was convicted 30 years ago as a 17-year-old under joint enterprise

Explaining his conviction: *"Although I was a juvenile when the offence took place, the matter came to court when I was aged 18 and an adult. It was my first and only offence and the judge sentenced me to two years probation which was completed without any further trouble. Since they brought in DBS and its forerunner I have to disclose a 30 year old conviction and for my troubles they give me a certificate. As far as I am concerned there is no rehabilitation, and there is no such thing as a spent conviction. The question of whether you have a conviction or not pops up in all sorts of places. As a black man, it is already tough. A black man with a conviction is just tougher. It feeds into the drip drip racism and profile people have of you."*

An African man, now aged 36-45

He was convicted 2 years ago for drink driving and disqualified for 18 months and fined

Explaining the difficulties with university: *"I was offered admission from 3 different universities to study for a Masters degree in Mental Health Nursing. After completing the declaration form, the 3 universities wrote me a letter to cancel my admission due to my conviction. In 2016, I was in the process of joining the NHS as a mental health support worker, but was denied the employment due to my conviction. After serving my 18 months driving ban, it was very difficult for me to find a broker or underwriter willing to insure me to drive and the few who were willing to insure me gave me astronomically high quotes. In all, the conviction drove me further into debt, which is causing me serious financial difficulties."*

An Asian man, now aged 56-65

He was convicted 6 years ago of downloading indecent images and given a short prison sentence

The biggest problem he found was immigration. *"I've had the threat of deportation despite having been here for 42 years. There is no one to help. I am in the twilight zone unable to work or do anything without confirmed status. A dedicated body with immigration advice all the way through to a decision is needed."*

An Indian man, now aged 46-55

He was convicted 7 years ago for conspiracy to defraud HMRC and sentenced to 6 years in prison

In describing his problems with employment: *"I must have applied for over 700 jobs in a 7 month period upon my release, many of which I was over-qualified for. At some stage, the question of a criminal records would be posed and the application in 99% of cases has been ended. A conviction, especially one that will remain unspent throughout my whole life, means that I will be paying more for insurance and struggle to find employment throughout my whole life."*

In terms of his ethnicity: *"I don't feel like my sentence would have as long if I was white, which in turn may have meant that my conviction could become spent at some stage also."*

An African woman, now aged 36-45

She was convicted 8 years ago of handling stolen goods and given a probation order

In describing her difficulties with employment: *"My employment was terminated and I was unemployed for 18 months. I really struggled to find employment while my conviction was unspent. My CV got me to an interview in some cases but once I had to*

explain my conviction the process ended. I had to renew my policy for contents insurance but the conviction question always ended the online application process. Thankfully, Unlock had a helpful section on insurers and I was able to secure cover for my property. The whole episode was extremely stressful and worrying. I've delayed applying for a US visa to visit my family because I was unable to afford it with not working and I am afraid I wouldn't get it. I've not seen them for nearly 10 years."

In terms of her ethnicity: *"Your colour is seen first, then they realise your ethnicity and you're judged again based on a generalisation of the people from your country. Sadly, tried and convicted again."*

An Indian woman, now aged 26-35

She was cautioned 4 years ago for theft of £97 from a shop

Explaining the problems in employment: *"I had difficulty getting jobs after university because of a spent caution. Which was a mistake while a student and being silly."* Her biggest problem was getting a decent job: *"I did my masters in finance and I could not work in finance industry for that."*

In describing the problems she's faced as being harder because of her ethnicity: *"I feel like being an Indian woman, and to top it all of having a caution, makes it hard for employers to hire."*

An African woman, now aged 46-55

She was convicted 9 years ago and given a probation order

Explaining the problems with finding work: *"I cannot get employment in mainstream education, even though on application forms they encourage people with convictions. I have gone as far as interview stage. Then after interview I was asked if I have anything to say. The moment I disclosed my conviction that has been the eliminating factor for not offering me a job. I am a black African woman and not many are in the education sector. Not being able to rebuild my professional career, this has impacted on my quality of life, living in fear of destitution. Not being able to fulfil my financial commitments. I'm living in debt and cannot pay back."*

An Indian man, now aged 36-45

He was convicted 10 years ago for 6 counts of theft and given a community sentence

Explaining his conviction: *"I have been sacked, I have been repeatedly subjected to smear campaigns in different work places. I have been targeted by the media. I was threatened with removal from a university course. I have been denied interviews and had job offers withdrawn. I have not been able to travel to certain countries."*

In describing the increased problems he feels he's faced as a result of his ethnicity: *"There is already conscious and unconscious bias in the workplace, it's a widely reported phenomenon. The combination of the conviction has made it worse. In the NHS where I work bullying and discrimination are rife, and made that much worse due to my ethnicity."*

In highlighting potential solutions: *"Removing 'DBS by google' as this just makes it harder."*

An African woman, now aged 36-45

She was given a caution 17 years ago

Reflecting on the impact of her caution: *"When I was given it I was under the impression that it was temporary."*

The biggest problem she's faced is gaining employment. *"It's given employers the excuse not to employ me. I'm stuck in low paying jobs within unscrupulous companies, hesitant to move on because I know it'll be difficult for me to get another job."*

An Indian woman, now aged 36-45

Multiple convictions, the most serious for supplying drugs for which she was sentenced to 8 months in prison. Last convicted 9 years ago.

Explaining the problems she has faced: *"For an Asian female, having a criminal record, and one that affects so many other areas of life, is deemed to be shameful and is unaccepted. It took over 3 years to regain the trust and respect from my immediate family members and I still have to lie about my current job, where I help other ex-offenders and a pre-requisite of the job was to have a criminal record. I have to constantly watch what I say and to whom and face the prospect of never being married within my community, for fear it shall come out one day. I found myself leaving what could be a potential life partner to avoid having to disclose my past, or have the burden of it being discovered later. My mother still brings up her disappointment in me and will never get over it. She has cut off so many of her friends and family as a direct result of my imprisonment, which further strains our relationship and has led to both of us suffering from mental health issues."*

A Caribbean woman, now aged 36-45

She was last convicted 10 years ago and received her first conviction as a child

Explaining her problems with employment: *"As a juvenile I have theft convictions, however my disadvantaged environment had a lot to do with it. Work is the main affliction, not being given a chance or opportunity due to the record, and punished twice and forever."*

In explaining greater problems as a result of her ethnicity: *"One I'm black, then I'm a woman and thirdly I have a record. It is a known fact BAME or underrepresented in the work place and encounter unconscious bias. I have experienced so many incidents that I now expect this will happen to me. I know sometime straight away whether I will get the job or not based on my colour. I have been interviewed three times for one role suitable to my skills and experience and then I have been declined the role for a weak excuse...the racism is still there and the discrimination is just executed more subtly."*

An African man, aged 56-65

He got two convictions 40 years ago for shoplifting and fined for both

In explaining the problems he's faced with employment: *"I worked for the civil service having disclosed the convictions. However, when I was successful in applying for an even better job in the civil service, the convictions meant I failed the extended vetting. As a result, I lost the new opportunity, was sacked from the job I already had and was dismissed from the Territorial Army. Because of the very petty nature of the offences, my clear impression was that other children were told off by the police, but I think I was arrested and prosecuted because I was black. That is because the police used to stop me for no reason about once a month and they didn't stop white children. More complicated is the reason for the offences, I had to leave my white adoptive family because of emotional abuse, including racial abuse, and was homeless when I committed the offences. I don't think I would have been in that situation if I wasn't black. The dismissal from the TA and Civil Service at the same moment was pretty nuclear. When I appealed and appeared before someone senior in the Civil Service, they really didn't want to know about my disadvantaged social and ethnic background. My experience is that BAME people are more heavily policed and (at least in the past) are put under pressure to admit to offences whether they committed them or not. Also, a bigger proportion of BAME people are socially disadvantaged. That means there is a higher risk of delinquency and convictions as children. I have been plagued by the fact that my convictions will never be spent as far as Civil Service vetting is concerned. I really don't think a shoplifting conviction from the 1970s as a child should have remained on my record when I became an adult and started my career. They also led to me being refused visas for the USA and stopped me getting a second nationality (of my wife)."*

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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