

House of Lords Select Committee on Financial Exclusion

Written evidence

About Unlock

1. Unlock is an independent, award-winning charity for people with convictions, which exists for two simple reasons. Firstly, we assist people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Secondly, we seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives.
2. We welcome the House of Lords Select Committee on Financial Exclusion and its call for evidence. Our submission focuses on financial exclusion issues where a criminal record *per se* causes a problem.

We help

- We support people with convictions by providing information, advice and support through our [websites](#) and [helpline](#)
- We help practitioners who support people with convictions by [providing criminal record disclosure training](#) and useful resources
- We [recruit and train people with convictions as volunteers](#) to help support the information and advice we provide
- We [support employers](#) in the fair treatment of people with criminal records

We listen and learn

- Our [helpline](#) and [forum](#) provide an ear to ground on the problems that people face as a result of their criminal record
- We [collect evidence and undertake research](#) into the barriers caused by criminal convictions

We take action

- We [challenge bad practice by employers and push for improvements to the way that criminal record checks operate](#)
- We advocate for a fairer and more inclusive society by [working at a policy level](#) with Government, employers and others

Executive summary

In this evidence we make a number of recommendations. These include:

1. The government should sufficiently resource oversight of the national bank account programme to ensure that CRCs and other providers in prisons where appropriate are providing the appropriate support to people in opening a bank account before release.
2. The banking industry should continue to work as a collective with prisons to ensure that the national bank account programme continues to develop in response to changing banking products and changing profile of prisons and those near to release.
3. Banks should be clear about their policies and practices towards people with convictions. Banks should not take action against a customer unless there is clear evidence of financial fraud which poses a live risk to the bank.
4. There should be a regulator-led investigation into the data used to risk-price customers with unspent convictions, with a view to the FCA regarding this as a 'market failure' and raise 'access and competition' issues due to a failure in proper risk-pricing.
5. There should be a change in approach which ensures that insurers make their decisions based on clear risk-pricing criteria, which would ensure that people with convictions are treated fairly.
6. Recommendation: Insurers should replace their discriminatory blanket ban with a data-driven risk pricing model. Anecdotal evidence suggests that people with convictions are no higher risk than average customers.
7. Recommendation: Insurance companies that exclude people with convictions should make this clear to customers and create links with specialist providers to ensure that customers with convictions are treated fairly.
8. Recommendation: People in prison, on probation, and on conviction at a court, should be provided with information on the importance of insurance, the impact of a criminal conviction, and where they can go to secure insurance with a conviction.
9. Recommendation: Insurance companies (and comparison websites) should ensure that all customers are aware of, and clear about, what is meant by an 'unspent' conviction when applying for insurance, including those of anyone in the household (for home insurance) and anyone on the policy for motor insurance, and make clear whether disclosure is required at application, mid-contract or renewal
10. Recommendation: Insurers should make it clear that applicants only need to disclose unspent convictions.
11. Recommendation: The regulator and the ICO should work together to take active steps to ensure that insurance companies do not rely on spent convictions as part of their work.

Questions set by the committee

1. Is financial exclusion the inverse of financial inclusion and, if not, how do the two concepts differ? What are the causes of financial exclusion?

3. We would argue that financial exclusion is not quite the inverse of financial inclusion. For example, people in prison are financially excluded. Many people with convictions in the community are financially excluded. However, 'access' to a bank account or an insurance product does not make you 'financially included'. For example, managing to find *some kind* of insurance for your house through a specialist insurer of ex-offenders might mean you are no longer 'financially excluded', but the result is usually a policy with a non-standard insurer at a much higher price than the mainstream market. We would suggest that means that person is not yet 'financially included'.

2. Who is affected by financial exclusion? Do different sectors of society experience financial exclusion in different ways?

4. There are over 10.5 million people with a criminal record in England & Wales. Before March 2014, approximately 2.5 million people had an unspent conviction. Since changes in the law that came into force on the 10th March, this was reduced to approximately 750,000 people.¹ Research we published in 2010, in partnership with the Prison Reform Trust, established a strong link between the criminal justice system and financial exclusion. We found that the criminal justice system both causes and exacerbates financial exclusion.²

Financial exclusion prior to contact with the criminal justice system

5. In our research, we highlighted how *"a substantial proportion of people sent to prison were already experiencing extreme and persistent financial exclusion."* We surveyed 144 people in prison (interviewing 44 of them). 24 former prisoners and 29 families of people with convictions. We found that:
- 30% of people in prison did not have a bank account and of these, 31% said they had never had one. 85% of people interviewed in prison who did not have a bank account said they had tried to get one without success.

¹ This is a conservative estimate that is unlikely to fully account for the number of people with unspent motoring convictions/endorsements. There were over 447,000 convicted of motoring offences in 2012.

² Unlock/PRT (2010) *Time is Money*, Online: <http://www.unlock.org.uk/projects/past-projects/time-is-money/>

- More than half of people in prison said that they had been rejected for a bank loan and 8% said they had tried to borrow from a loan shark (a rate over 10 times higher than the average UK household)
- Two thirds of the families in debt said their debts had increased since the imprisonment of their relative.

The criminal justice system exacerbating financial exclusion

6. In our research, we highlighted that *“when someone is convicted of a crime, the impact on their finances can be extreme. The loss of liberty is the most severe form of punishment in the UK but with it come many unintended financial consequences. The criminal justice system can increase financial exclusion, and reduce personal responsibility, creating problems with housing, insurance, employment and family relations, and thus contributing to a greater risk of reoffending.”* For example, more than four in five former prisoners surveyed said their conviction made it harder to get insurance and four-fifths said that when they did get insurance, they were charged more.
 7. In 2013, just over a quarter (27%) of people had a job on release from prison, indicating that for many people leaving prison, accessing benefits provides essential financial support.³ We have comprehensive information on our website about the benefits people leaving prison are entitled to, which we would refer the committee to.⁴
 8. In research that we published in 2010, we highlighted problems with benefits and the ‘finance gap’ on release from prison. This included significant delays before receiving first payment of benefits, claims being delayed because of no fixed address or other unstable living arrangements, and problems caused by not closing down a claim on entry to prison which resulted in investigations and new claims being suspended. We would draw the committee’s attention to the findings of this research and our recommendations.⁵
- **Recommendation: We reiterate recommendations we made in our 2010 research, *Time is Money*, in relation to benefits, including:**
 1. **People in prison should have access to independent quality-assured benefits advice from the point of arrival.**
 2. **Benefits should be available from the day of release. The application process should be completed prior to discharge.**

³ Table 8, Ministry of Justice (2015) National Offender Management Service annual report 2014/15: Management Information Addendum, London: Ministry of Justice

⁴ Unlock (2016) Benefits, Online: <http://hub.unlock.org.uk/knowledgebase/benefits/#Discharge%20grants>

⁵ Unlock/PRT (2010) *Time is Money*, Online: <http://www.unlock.org.uk/projects/past-projects/time-is-money/>, from page 49 onwards

3. **Until benefits are made available on release, the discharge grant should be increased to the level of the current Jobseeker's Allowance.**
 4. **Prisons should alert local authorities to people in need of support well before the anticipated release date to ensure that the mandated duties to vulnerable people are met.**
 5. **Prisons must ensure that all people receive the money that is held in their private cash (prison) account on release.**
9. Although there have been some improvements to the situation that led to the recommendations above, it is our understanding that many of the problems remain. For example, in theory people are now able to prepare claims up to 5 weeks in advance of release, yet it is our understanding that there remains an issue with delays in people receiving their first payment of Jobseeker's Allowance (JSA) given that often they cannot formally make the claim until they are released; for example, if they do not have a confirmed release date. These delays can often extend to many weeks. The system of prompt payment on release also relies on the person in prison being aware of the importance of starting the claim well in advance of release and the ability to access the Jobcentre Plus Employment and Benefits Adviser before release. It is unclear what proportion of people are unable to do this, and this may be an area the committee wishes to secure further evidence on from the DWP, because where this engagement does not occur, individuals may have to wait several weeks. For many people leaving prison, particularly those serving shorter sentences, there is no support and they are left to arrange this themselves on release.
- **Recommendation: All people leaving prison should be able to prepare a claim for JSA or ESA before release so that payments are available to them promptly on release.**

5. Are there appropriate education and advisory services, including in schools, for young people and adults? If not, how might they be improved?

7. What role should the concept of 'personal responsibility' play in addressing financial exclusion? Is appropriate support available for the most excluded and, if not, how should support be strengthened? What role should Government, the charitable sector and business play in tackling financial exclusion?

10. Access to a bank account is an important factor in accessing benefits. We have undertaken significant work in this area by establishing schemes that enable people in prison to apply to open a basic bank account before they are released. This was part of a project that Unlock ran until 2014, when we reached the stage of having linked every prison that released directly into the community with a bank. During the course of the 9-year project Unlock helped to set up 74 prison/banking programmes, and

by the end of the project 114 prisons had links with a high-street bank, the 'big 5' current account providers (Barclays, Halifax (part of Lloyds Banking Group), HSBC, Santander and RBS) were all actively involved (as well as a significant contribution from Co-operative), and by the end of 2013 all prisons that wanted and needed a basic bank account opening programme had one. We produced a report at the end of the project with a number of recommendations.⁶ Unfortunately, as a result of the changes to the delivery of services and support in prisons, we have been made aware of a number of prisons that are struggling once again in this area. This seems to have come as a result of a significant amount of change within the prison estate and once well-embedded arrangements have not been properly taken up, especially by CRC providers.

- **Recommendation: The government should sufficiently resource oversight of the national bank account programme to ensure that CRCs and other providers in prisons where appropriate are providing the appropriate support to people in opening a bank account before release.**
- **Recommendation: The banking industry should continue to work as a collective with prisons to ensure that the national bank account programme continues to develop in response to changing banking products and changing profile of prisons and those near to release.**

11. There is anecdotal evidence to suggest that some banks are using media reports of convictions (particularly of a sexual nature) to withdraw banking services from individuals. It is unclear to what extent this is taking place, and there is a lack of transparency or acknowledgement amongst banking institutions as to their policies in this regard.

- **Recommendation: Banks should be clear about their policies and practices towards people with convictions. Banks should not take action against a customer unless there is clear evidence of financial fraud which poses a live risk to the bank.**

12. People leaving prison are often eligible for a discharge grant, which currently stands at £46. The discharge grant remains at a very low level and has not been increased for many years. Discharge grants and travel money on their own will not support somebody until their first benefit payment comes through. Since the dismantling of the social fund, local authorities have their own welfare assistance schemes, although our experience from calls to our helpline is that awareness of these schemes is low. They are intended for individuals in crisis and they can sometimes cover rent in advance. However, many of these require local connections to the area, thereby excluding many people who have been homeless before prison or are released from prison in areas away from their home. In practice, the majority of people leaving prison receive a discharge grant which has to tide

⁶ Available at <http://www.unlock.org.uk/projects/past-projects/unlocking-banking/>

them over until their first benefit payment. They rarely access local assistance schemes and so are left to fend for themselves, relying on the goodwill of friends, family and charities.

- **Recommendation: An assessment into the availability of financial support through local authority welfare assistance schemes should be undertaken.**

8. Are appropriate financial services and products available for those who are experiencing financial exclusion? What might be done to address any deficit?

10. How effective has Government policy been in reducing and preventing financial exclusion? Does the Government have a leadership role to play in addressing exclusion?

13. We will address these questions with a particular focus on insurance. Through our helpline, we deal directly with approximately 500-600 people a year who contact us with enquiries relating to obtaining insurance. Over a million people a year use our online information site, with the sections on insurance being in the top 5 visited areas of the site.

14. Although people with convictions are (in most cases) able to secure some form of motor or household insurance, this often comes at a significant additional cost, and not with the mainstream market. Such a blanket experience amongst a significant number of people does not seem to suggest that the market is functioning appropriately or competitively. Additional costs as a result of an unspent conviction are likely to make an otherwise attractive product unaffordable and thereby unattractive. Focusing on genuine risk-pricing in relation to unspent convictions would ensure that people with convictions are treated fairly, regardless of their income. That would enable attractive products for people on low incomes to be accessible to all in that category, including those with unspent convictions.

Summary of situation / Progress to date

15. There are over 10.5 million people with a criminal record. However, less than 1% of these people are in prison. Only a handful of those in prison will never return to the community. Under the Rehabilitation of Offenders Act (1974) all people convicted of an offence must serve a 'rehabilitation period' which starts from the point of conviction. During this period, convictions are 'unspent' and individuals must disclose them to relevant parties such as employers and insurers when asked. After these periods, individuals are not required to disclose the conviction except in specific circumstances such as working

with vulnerable people. The periods are many times longer than the actual sentence given to the individual, and in some cases can last for the rest of their life.

16. Most insurers consider convictions relevant and so ask about them at application stage. The majority of insurers will refuse or cancel any cover for people with convictions or a policyholder living in the same home, without any consideration of the specific facts of the case. Many people with convictions are not aware of the requirement to disclose unspent convictions due to a lack of advice from criminal justice agencies on the ROA and from the insurance industry when taking out policies. This often leads individuals to believe they are covered, when in fact their policies are not valid. The serious economic and emotional consequences for the individual and their families are obvious. Mortgages require buildings insurance. Many jobs are dependent on the individual being insured to drive. Self-employment opportunities and small businesses need various insurances in order to trade.
17. Since supporting the establishment of the first specialist broker dealing with these clients, Unlock has developed links with 20-30 brokers. The charity refers its clients to these brokers, in order that they can benefit from a competitive quote. In 2011, and again in 2014, we worked with the Association of British Insurers to produce guidance for insurers. Unlock formed part of a group of consumer organisations to push Government to change the archaic laws on voluntary disclosure, which resulted in the Consumer Insurance (Disclosure and Representations) Act 2012 coming into force in April 2013. However, access to the mainstream market remains elusive for most people with unspent convictions.

Problem - Failure by mainstream insurers to properly risk price

18. Insurers use unspent convictions as a proxy for risk. 86% of former prisoners report their conviction making it harder to get insurance. There is no mainstream household insurer that considers on the open market people with unspent criminal convictions. There is, in effect, a blanket ban. The reasons for this are not clear – in part, this is down to the perception (and it is, in Unlock’s view, a perception) that this group is ‘more risky’. Other reasons may include a general unwillingness to engage in this type of business, and the perceived complexity of considering the risks associated with each individual case. There appears to be a ‘herd’ mentality, where all mainstream insurers have taken the decision to stay away from this particular group.
19. The data that is apparently relied on, which is claimed to show that people with unspent convictions are ‘riskier’ customers, is not available. There is a lack of trust in the insurance industry’s position of pricing fairly when there is a lack of transparency, and this lack of data makes it difficult to challenge the current status quo. Through ‘off the record’ conversations with specialist brokers that cover people with unspent convictions, it appears that, contrary to popular belief, people with unspent convictions

who disclose their convictions to a specialist insurer are much 'better' customers in terms of their loss ratio.

20. Some people with convictions remain 'uninsurable'. Employers struggle to get commercial cover for employees/volunteers. We have seen an increasing problem amongst employers that are willing to give people with convictions a job (or voluntary opportunity) who are struggling to find appropriate commercial insurance (e.g. employees liability). The result is that they end up being unable to follow through their offer of a job, or having to terminate the role at a later stage.
- **Recommendation: There should be a regulator-led investigation into the data used to risk-price customers with unspent convictions, with a view to the FCA regarding this as a 'market failure' and raise 'access and competition' issues due to a failure in proper risk-pricing.**
 - **Recommendation: There should be a change in approach which ensures that insurers make their decisions based on clear risk-pricing criteria, which would ensure that people with convictions are treated fairly.**
 - **Recommendation: Insurers should replace their discriminatory blanket ban with a data-driven risk pricing model. Anecdotal evidence suggests that people with convictions are no higher risk than average customers.**
 - **Recommendation: Insurance companies that exclude people with convictions should make this clear to customers and create links with specialist providers to ensure that customers with convictions are treated fairly.**

Problem - Lack of choice and competition = higher prices

21. In a relatively exclusive market, premiums are often higher with specialist brokers. Four fifths of people with convictions report paying more for their insurance, suffering financial detriment or a lack of cover as a result.
- **Recommendation: The regulator should regard this as a 'market failure' and raise 'access and competition' issues due to a failure in proper risk-pricing.**

Problem - When motoring convictions become 'spent'

22. When reforms to the Rehabilitation of Offenders Act 1974 came into force in March 2014, a last-minute savings provision was made to retain the status quo in relation to motoring endorsements. This means that a minor fine for speeding takes 5 years to become 'spent', although a prison sentence of 8 months given to a different person at the same time becomes spent 2 months earlier. Given that

there are over 440,000 motoring convictions each year⁷, this leaves people with motoring convictions at a significant disadvantage. This was the direct result of lobbying by the insurance industry, with a particular concern on motor insurance, but the result has been that individuals with motoring offences are significantly penalised in relation to household insurance as well as when seeking employment.

- **Recommendation: The Ministry of Justice and the Department for Transport need to develop a specific solution to disclosure rules to ensure that recent motoring offences are disclosed to motor insurers, but that they don't need to be disclosed to other types of insurers and/or employers beyond a period equivalent to a similar sentence for a non-motoring offence.**

Problem - Awareness of the issue amongst individuals

23. People don't realise the need to inform insurers when they are convicted or when they have an unspent conviction. In our research, only one of the 47 people interviewed in prison could demonstrate an accurate understanding of the Rehabilitation of Offenders Act 1974, and 60% of those surveyed stated they did not understand the Act. In the community, 59% stated that they did not know what the Act meant for them.

- **Recommendation: People in prison, on probation, and on conviction at a court, should be provided with information on the importance of insurance, the impact of a criminal conviction, and where they can go to secure insurance with a conviction.**
- **Recommendation: Insurance companies (and comparison websites) should ensure that all customers are aware of, and clear about, what is meant by an 'unspent' conviction when applying for insurance, including those of anyone in the household (for home insurance) and anyone on the policy for motor insurance, and make clear whether disclosure is required at application, mid-contract or renewal**

Problem - Questions about convictions by insurers

24. We are currently undertaking some research into this issue, and we should have preliminary findings to share with the Committee should we be asked to present oral evidence.

25. We know that insurers regularly ask about 'any convictions'. Insurers use 'spent' driving offences (as they can stay on licences for up to 11 years). People are punished for being honest (as insurers normally only check at claim) which potentially encourages dishonesty. People don't trust insurers with

⁷ This is a conservative estimate that is unlikely to fully account for the number of people with unspent motoring convictions/endorsements. There were over 447,000 convicted of motoring offences in 2012.

the information, so often don't disclose. Insurance professionals don't understand the law. Unlock is regularly contacted by insurance practitioners seeking advice,

- **Recommendation: Insurers should make it clear that applicants only need to disclose unspent convictions.**
- **Recommendation: Good practice guidance on motoring offences and 'disclosure' should be developed.**
- **Recommendation: ABI good practice needs to be enforced.**
- **Recommendation: The FCA should investigate the compliance of insurance companies in treating customers fairly with the questions.**
- **Recommendation: Insurers should ensure that their staff are trained in criminal record disclosure laws.**

Problem – The way insurers deal with claims

26. Claims handlers at insurance companies require claimants to provide copies of their police records. We have seen many examples where insurers require people to apply for a 'subject access request' to provide proof of their convictions, and this includes details of spent convictions which insurers have no right to be provided with. Although in most cases the insurer ultimately proceeds with the claim, this process often results in people backing out of the claim through fear of how the insurer will react.

- **Recommendation: Insurers should only require individuals to undertake 'basic' disclosures, which provide evidence of any unspent convictions.**
- **Recommendation: The Information Commissioners Office should take action against insurers that require individuals to provide an 'enforced subject access request'.**

12. How effectively are policies on financial exclusion coordinated across central Government?

13. To what extent is the regulation of financial products and services in the UK tackling financial exclusion? Are alternative or additional regulatory interventions required to address financial exclusion?

14. Does the Government have a role to play in ensuring that the development of financial technologies (FinTech) and data capture helps to address financial exclusion? If so, what should this role be?

27. As demonstrated above, insurance companies are not treating people with convictions fairly. They are not asking clear questions and they are not properly judging their situations based on transparent risk-pricing criteria.
28. There remains no mainstream household insurer that considers on the open market people with unspent criminal convictions. There is, in effect, a blanket ban. The reasons for this are not clear – in part, this is down to the perception (and it is, in Unlock’s view, a perception) that this group is ‘more risky’. Other reasons may include a general unwillingness to engage in this type of business, and the perceived complexity of considering the risks associated with each individual case. A change in approach which ensured that insurers make their decisions based on clear risk-pricing criteria would ensure that people with convictions are treated fairly.
- **Recommendation: The regulator should investigate whether the market is failing in this regard.**
 - **Recommendation: The regulator and the ICO should work together to take active steps to ensure that insurance companies do not rely on spent convictions as part of their work.**

More information

Written September 2016

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