The cycle repeats itself

Better, but still not smarter, disclosure of criminal records

Unlock's response to the Ministry of Justice white paper "A smarter approach to sentencing"

Unlock
for people with convictions

Contents

Summary

The Ministry of Justice (MoJ) published their white paper, "A smarter approach to sentencing", in September 2020. A major goal was to reduce reoffending through reform of the Rehabilitation of Offenders Act 1974 (ROA).

The MoJ argue that a critical factor in reoffending is unemployment, and that the need to disclose a criminal record is a major barrier to finding work. The white paper proposes reducing this barrier by shortening how long some convictions have to be disclosed for, and in turn reducing reoffending. This is a proven approach which has the potential to deliver real change.

However, the MoJ proposals are too limited to achieve this goal. They only propose to reduce *some* disclosure periods for *some* prison sentences, leaving tens of thousands of people excluded. Even those who do benefit will have to disclose for at least a year. The MoJ has *shortened* discrimination, but not tackled its cause.

This half-hearted approach is seen in numerous places in the white paper. Archaic measures, such as lifelong disclosure without review, will be largely retained with no examination of whether this is an effective approach, or even whether it is compatible with human rights law.

Many well known failings of the law, such as thousands of children being forced to follow the adult disclosure regime, are not given any consideration. Despite being clearly unjust and unintended, this and many other failings have been completely ignored in the white paper.

The MoJ have repeated the mistakes of previous governments by assuming that long periods of disclosure need to exist, instead of drawing on evidence to find a smarter approach. They argue less disclosure is positive, but the MoJ proposals ensure that every person who completes their sentence will still face employment discrimination. The final package of reforms is fundamentally too limited to deliver the gains the MoJ hope for, while allowing many bad policies to continue.

Recommendations

Unlock ask that the MoJ follow the evidence and deliver a more ambitious package of reforms, expanding on positive changes already in the white paper, and adding additional measures to deliver on the goal of improved employment.

Our recommendations are:

- Abolish lifelong disclosure
- Universal reductions in disclosure periods, informed by evidence
- Young people to disclose based on their age at the time of the offence
- Disclosure periods to begin at release, not after licence
- Proactive use of non-criminal disposal measures, with long term commitment

Introduction

"Our plans represent a fundamental break with the failed and expensive policies of the past."

Foreword to "Breaking the cycle", MoJ green paper in 2010

"It was clear thirty years ago when I first started practising as a criminal barrister that there were problems with sentencing. In the time since... there have been at least seventeen major pieces of sentencing law. Despite that legislative hyperactivity, few big strides have been made towards a sentencing regime that really works."

Foreword to "A smarter approach to sentencing", MoJ white paper in 2020

The cycle repeats itself

The Ministry of Justice (MoJ) published it's white paper "A smarter approach to sentencing"[1] on the 16th of September 2020. The paper includes a number of amendments that will stiffen sentencing measures some specific crimes, paired with reforms to the Rehabilitation of Offenders Act (ROA) which aim to reduce reoffending.

This comes only a few years after the previous set of "radical" reforms to the ROA were proposed in 2012 as part of the MoJ's "Breaking the cycle" white paper. These only came into force in 2014 in the Legal Aid, Sentencing and Punishment of Offenders Act 2014 (LASPO). Clearly the "break" that the MoJ had hoped for has not been achieved.

The new amendments to the ROA are focused on improving employment prospects for people with criminal records by reducing some disclosure periods, and they will be paired with other changes to improve support services.

Unlock are very glad to see the MoJ accept the body of evidence which identifies employment as a critical factor in reoffending, and in wider wellbeing for people with criminal records. We wholeheartedly support all efforts to help people with criminal records into work, especially reducing disclosure periods. However, we cannot agree that the white paper proposals alone will have an appreciable impact on reoffending or employment.

The same claims of major reform were made when LASPO was being drafted in 2012 but the measures never delivered on this promise. We believe that the MoJ is repeating the same mistakes that caused LASPO to fail, by not questioning the faulty assumptions underlying the

[1] Available at https://www.gov.uk/government/publications/a-smarter-approach-to-sentencing

criminal records system, and making policy decisions based on political concerns rather than evidence.

The broader body of evidence, and even the white paper itself, convincingly makes the case for much more significant reform. While positive, the proposed changes do not deliver the kind of change that is needed. Unlock prefers the proposed system to the existing one, but this white paper is a missed opportunity to make much needed changes that are indicated by the data.

Policy analysis

> *"...there are few better tools for reducing reoffending than a regular pay cheque."*
>
> *"A smarter approach to sentencing", par. 260*

The MoJ is correct to focus on employment discrimination against people with criminal records. The evidence shows that discrimination is significant, and also that unemployment is a major factor in reoffending. There is a clear link between discrimination and reoffending, and so reoffending can be reduced significantly if discrimination is also reduced.

However, the MoJ proposals fall short of genuinely tackling employment discrimination. Some 50,000 of the 75,000 people per year who receive custodial sentences[2] will receive a shorter disclosure period, but this will only shorten the time that discrimination lasts, not eliminate discrimination. The other 25,000 people will not even receive this slight improvement.

While Unlock agree that being discriminated against for a shorter time is preferable to a longer time, the discrimination is still real, unjust and substantial. Reducing the period of disclosure does nothing to improve employment prospects during the disclosure period. The negative impact on employment will be shorter but it will still be keenly felt, and it will still prevent many people from finding a job after they complete their sentence.

The need to disclose is the root cause of discrimination, but the MoJ do not seem willing to engage with this. They have not even proposed a universal reduction in disclosure for all custodial sentences, offering only some reductions for some sentences. Even the reductions that the MoJ do propose are not drawn from evidence, and do not have clear reasoning behind them.

Most damningly, lifelong disclosure will be largely retained in the same form that has existed since before the ROA was implemented in 1974. The MoJ have adopted the same approach as their forebears in 2012 and 1974, and not questioned whether lifelong disclosure is necessary or proportionate. They somewhat restrict it's use, but in doing so show that such a broad and intrusive measure is not supported by evidence and is both disproportionate and harmful.

Finally, many unjust anomalies are being retained in the new system, including subjecting children to the adult disclosure regime if they turn 18 before they are convicted. The MoJ has

[2] Approximate figure based on 2019/20 sentencing rates, taken from Criminal Justice Quarterly March 2020 - https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2020

neither tried to justify this, nor shown any interest in changing it. This is again retained from previous iterations of the law without any critical consideration.

While their proposals will give some benefit to a good number of people, the fact remains that employment discrimination will still be faced by all individuals following their release from prison. By retaining the structure of the existing legislation, the changes are not able to deliver the major improvements to employability, reoffending or rehabilitation which the white paper promises.

Life disclosure

The white paper proposes that some convictions which led to a sentence of over four years should become spent after seven years. Previously all sentences over four years would have to be disclosed for life. For those who benefit from the proposal, this will have an enormous impact on their lives.

However, the reach of this policy will be severely limited as the MoJ have proposed that "*serious sexual, violent and terrorist offences*[3]" should be excluded. The Lord Chancellor has since clarified that he intends to use the list of offences from Schedule 15 of the Criminal Justice Act 2003 (CJA) to determine which offences will be excluded.

Unlock estimate that around 65% of all sentences over four years are imposed for crimes on this list, so the MoJ proposal will only apply to a minority of people serving longer sentences. Further, the list of offences being used is not well suited for this purpose.

The "dangerous offenders" provision referenced in Schedule 15 of the CJA describes when very long and life sentences should be imposed by the courts. However these offences also have a very wide range of outcomes: 27% of Schedule 15 offences in 2019 only received community orders[4] despite being classified as "serious".

Schedule 15 is simply not designed to be used to determine reoffending risk or whether large groups of people should have their offences become spent. The "seriousness" of these offences is supposed to be reflected during sentencing, not during disclosure.

By allowing for *some* longer sentences to become spent, the MoJ seems to accept that life disclosure is unjust, and unjustified; and that it drives unemployment and reoffending:

> *"[Becoming spent] would mean that those who have served their time and stopped committing crime are not unfairly discriminated against in the job market."*[5]

However, of those who will be excluded from spending the MoJ says:

> *"We are, however, mindful of safeguarding concerns and the need to ensure that any changes are proportionate and take into account the level of harm caused by the individual's offence, and the possibility of further harm should they offend again"*[6]

It is extremely troubling that the MoJ considers a lifetime of discrimination against *some* people who serve longer sentences to be "unfair", but not for the majority of people who do. The MoJ seem to have discounted the possibility that people who will still disclose for life could stop committing crime, and instead argue they present a safeguarding risk for life.

In arguing for continued lifelong disclosure, the MoJ is effectively arguing that these people are incapable of being rehabilitated, even by the limited definition used in the ROA. Not only is this a

[3] A smarter approach to sentencing, par. 259
[4] Criminal Justice Statistics Quarterly: Sentencing Tool – Ministry of Justice - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895527/sentencing-tool-2019.xlsx
[5] A smarter approach to sentencing, par. 258
[6] A smarter approach to sentencing, par. 259

dubious conclusion, it also shows two fundamental misunderstandings about spending and the rationale of the ROA.

First, the ROA is not a tool for public protection or aimed to manage reoffending, and that is quite clear in the context of the original act[7]. The ROA aims to protect people with criminal records from unjust discrimination; not to protect the public from people with criminal records.

Second, the ROA and the process of becoming spent has no connection to safeguarding. Professions with safeguarding concerns, such as teaching and medicine, are specifically exempt from the ROA and convictions must be disclosed whether they are spent or not.

The MoJ's reasoning regarding a reduction in safeguarding protections is simply a non-sequitur. The MoJ even acknowledge that amending the ROA's disclosure periods would not impact on the normal process of safeguarding:

> *"It is important to reiterate that any changes to the rehabilitation periods would apply to* ***basic*** *checks only... This provides assurance that such changes would retain the necessary balance between safeguarding concerns and enabling those who have previously offended to move on with their lives."* [8]

Just as the MoJ outline, disclosure periods are applicable to *basic* checks only, while safeguarding is addressed by Standard and Enhanced criminal record checks, which not only include spent convictions but are also legally required to meet safeguarding laws.

As these nebulous safeguarding concerns are the only reason that the MoJ offers for retaining lifelong disclosure, we must challenge them to provide a more coherent argument. They make a strong case that people "*who have served their time and stopped committing crime*" should be able to move on with their lives, and do not say why so many people should be excluded.

If there is not a clear and compelling case backed by strong evidence for why lifelong disclosure is genuinely necessary then it should be abolished, and converted into a fixed period of disclosure, just as it will be for non-Schedule 15 offences.

Reoffending risk

Perhaps the greatest flaw in the MoJ's proposals to retain lifelong disclosure is simply assuming that there is a genuine need for it to exist at all. The MoJ does not challenge or even seriously examine whether lifelong disclosure is indicated in *any* cases, let alone the *many* cases they propose it should be retained for.

While the ROA does not attempt to reduce reoffending, the MoJ claims that the risk of further offending and harm should be considered, at least for lifelong disclosure. Even if we accept their inclusion of this factor, there is no evidence which suggests a genuine reoffending risk for life.

In fact, evidence published by the MoJ directly contradicts this position:

---

[7] The rationale behind the Rehabilitation of Offenders Act 1974, A Henley, 2020 - https://www.unlock.org.uk/wp-content/uploads/Rationale-behind-the-ROA.pdf

[8] A smarter approach to sentencing, par. 265

"This analysis suggests that those serving longer custodial sentences may be disproportionately hindered from opportunities to fully participate in society, such as gaining employment… [T]he analysis suggests that they may be rehabilitated [showing no elevated criminal risk] after around 7 years for adults, and 11 years for children."[9]

The MoJ's own study, one of the most comprehensive ever undertaken in the UK, concluded that reoffending risk is the lowest for people who serve sentences over four years for a Schedule 15 offence, and that this group are the quickest to reach the point of where no elevated offending risk is detected.

While Unlock must emphasise that reoffending risk is not a part of the ROA, and should not be considered in determining disclosure periods; even when this is factored in it does not point to lifelong disclosure. Even a very cautious reading of the evidence would conclude that perhaps 10 or at most 14 years of disclosure was more than adequate. There is no evidence at all to suggest that reoffending risk remains elevated for life for all Schedule 15 offences.

Human rights compatibility

This lack of evidence also impacts whether the proposals are compatible with Article 8 of the Human Rights Act 1998 (HRA). This spells out the right to privacy, and requires that intrusions be necessary to maintain public safety. This has been interpreted by the Supreme Court to include a need to be proportional, as well as showing a plausible link to a positive public outcome.

The need to disclose a criminal record for life, without any way to challenge or review that requirement, and without any articulated public policy goal is legally precarious. In an analogous case, the Supreme Court ruled[10] that even a system that was far less public and much more targeted, the sex offenders register, could not be imposed for life without a review mechanism.

By arguing that some longer sentences should be eligible to become spent, the MoJ tacitly admits that lifelong disclosure was never necessary for those people affected. However, the MoJ have not examined whether that is more broadly true for all lifelong disclosure. The criteria they have used to judge who should still be subject to lifelong disclosure is still broad and arbitrary, and does nothing to explain why it is necessary.

Either the MoJ must follow their own reasoning and abolish life disclosure, or they must demonstrate why everyone who discloses for life presents a risk to society for their whole life, and that this evidence is so strong that no review mechanism is needed.

[9] Reoffending Following Custodial Sentences or Community Orders, by Offence Seriousness and Offender Characteristics, 2000–2018, pages 2 and 3 – Ministry of Justice - https://www.gov.uk/government/publications/reoffending-following-custodial-sentences-or-community-orders-by-offence-seriousness-and-offender-characteristics-2000-to-2018

[10] R (F) v Secretary of State for the Home Department [2011]

Disclosure periods vs evidence

The MoJ has proposed the following changes to disclosure periods for adult custodial sentences:

Sentence	Present period	Proposed period	Difference
6 months	2 years	1 year	1 year
6 to 12 months	4 years	1 year	3 years
6 to 30 months	4 years	4 years	No change
30 to 48 months	7 years	4 years	3 years
Over 48 months	Life	7 years (with exceptions)	20+ years

On the surface, these offer some significant reductions. Those who's sentences were between six and 12 months will doubly benefit from becoming part of the lowest tier, and the lowest tier becoming shorter. Those who's sentences were between 30 and 48 months will also substantially benefit, as will the people who will no longer have to disclose for life.

These changes will offer a lot of people, as many as 50,000 per year[11], a shorter period of disclosure and that will be a major benefit to them. However, it should be stressed that these changes are not universal to all sentences. 25,000 people who receive custodial sentences each year will see no benefit, nor will the hundreds of thousands of people each year who receive lesser penalties such as fines.

Even where there are reductions, the MoJ has not discussed how or why they have arrived at these figures. While Unlock do support these reductions, it is concerning not to see a base of evidence offered for those choices, or even a broader public policy justification. To see disclosure reduced from two years to one year is positive; but why is one year the correct length? Why not six months, or 18 months?

This becomes even more obvious when considering sentences over four years; some of which would become spent after seven years under the proposals and some that would still never become spent. Seven years of disclosure is a long time, but this pales into insignificance when compared to 70 years of disclosure. This is not a hyperbolic figure; Unlock has worked with numerous people who are now in their 80s or even older and are still forced to disclose crimes committed in their 20s.

There is no rationale given for this huge difference in scale, or the smaller differences between disclosure periods for shorter sentences. It is hard for Unlock not to see this approach as the MoJ plucking numbers out of the air. Even while they are better numbers than we have previously seen, it is frustrating to see them chosen in an arbitrary manner.

The MoJ has not even argued that the proposed disclosure periods are the *correct* periods; they have simply argued that they are *shorter* and thus lead to less discrimination. By their own

[11] Approximate figure based on 2019/20 sentencing rates, taken from Criminal Justice Quarterly March 2020 - https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2020

argument, one year is better than two years; but six months would be better, and three months better still.

The MoJ do not address this, or even entertain larger reductions as an option, and in doing so they undermine the credibility of their own position. If the MoJ wanted to make a larger impact, then by their own argument they could do so by moving to even shorter disclosure periods.

The choice not to do so; even when this seems to be indicated by their reasoning and would directly contribute to the success of the policy; is quite conspicuous. It seems that the MoJ are not taking their own argument seriously, and not trying to maximise the benefits they claim to be pursuing.

It should be noted that reducing disclosure periods is not a new idea. It was the core of the changes in LASPO, and more recently it has been proposed by Lord Ramsbotham[12]. The MoJ have taken on board much of the reasoning in Lord Ramsbotham's bill, but not duplicated provisions like reducing the disclosure period for "medium length" sentences to two years, even though they directly argue this would be a positive move.

The MoJ seems to suffer from cognitive dissonance in this regard. They argue that reducing disclosure periods reduces discrimination, and thus is a positive, but then don't do that in some cases, and don't address why they chose not to. If it would be positive, and they cannot give a reason not to, then it would seem to be an obvious choice as this would ensure their policy would be more successful.

Policies are simply not capable of delivering their aims if they do not have a clear evidentiary basis. This makes it very unlikely that the MoJ's proposals will deliver any measurable success, and that a further review will be required within a few years. Just as in 2012, the 2020 proposals lack ambition and do not grapple with the core problems of criminal records system.

[12] In the Criminal Records Bill [HL] 2017-19

Licence vs disclosure

Rehabilitation periods alone do not show the full picture of disclosure for unspent convictions. The present paradigm for sentencing means that a person will serve half of their sentence in prison, and half released on licence. During their licence they will have to disclose their convictions, and this is then followed by the disclosure periods set out in the ROA. The two periods are consecutive, not concurrent.

Even if post-sentence disclosure were completely abolished, licence would still account for significant employment discrimination against prison leavers. Almost all prison leavers are still serving their sentence on licence, and while on licence convictions must be disclosed because they have not yet become spent.

As licence adds to the effective length of disclosure, in practise people face much longer periods of disclosure than figures themselves indicate. To give examples, using the proposed disclosure periods offered by the MoJ:

Sentence	In custody	On licence	Disclosure after licence	Total disclosure in the community
1 year	6 months	6 months	1 year	1.5 years
2 years	1 year	1 year	4 years	5 years
4 years	2 years	2 years	7 years	9 years
10 years	5 years	5 years	7 years	12 years

Reducing disclosure periods alone does, slightly, reduce the total disclosure period but, as this period only starts after licence, the lengths in practice still remain significant. This has various unintended effects; disclosure periods have a disproportionate impact on those serving the shortest sentences in each bracket, while licence disproportionately impacts those serving longer sentences.

In the public's perception there is no real difference between a person being on licence and having an unspent conviction; the law means both are required to disclose their criminal convictions if asked and both are discriminated against. Other aspects of licence are handled between the person and official agencies, not in the public sphere.

Given the uneven and unfair impacts of these two schemes, we ask the MoJ to consolidate them and set disclosure periods timed from the moment of release, using the proposed periods in the white paper as a basis.

This would see a general reduction to the total periods during which someone must disclose their conviction, but would not reduce the official disclosure periods. It would only make the figures given by the MoJ the final and total period of disclosure.

People released on licence would still have to disclose their conviction for the full period of licence, and having completed their sentence without reoffending would have a slightly reduced period of subsequent disclosure.

This would not solve the problem of discrimination but at least this would mean discrimination would be definitively restricted to the length of the disclosure period, and that it is not impacted

in an uneven way by the length of someone's licence. If the evidence shows that four years is the proper time that someone needs to disclose their conviction for, then this should translate to four years of disclosure from release, rather than six when licence is added.

This has particular relevance to the white paper proposals, due to the MoJ's intention to require some people to serve more of their sentence in prison. Under the present system, someone who spends more of their sentence in prison will actually have less total disclosure time than someone who serves the same sentence but is released on licence earlier. These cases will likely be rare, but the possibility of this occurring demonstrates how licence and disclosure do not work well together.

Children convicted as adults

The present ROA treats the criminal records of children differently to adults. Broadly, offences committed by children become spent in half the time it would take for an adult. This is positive, and in principle allows for children to move on more quickly after receiving a criminal record.

There is however a significant flaw in how the legislation enacts this, which leads to many unjust cases where crimes committed by children have the adult disclosure regime imposed on them. The legislation states:

> *"...where the sentence was imposed on a person who was under eighteen years of age at the date of his **conviction**..."*[13]

The date of a person's conviction is significantly after the date of the offence, and is often months or even years later. As a result a large number of 17 year olds, and even some 16 year olds are forced to endure the adult spending regime. Around 1400 cases per year[14] can be seen just in the official statistics, and many more are not directly reported. This figure is also projected to rise.

This leaves thousands of children facing a punitive spending regime, instead of the less severe approach that we rightly offer under-18s and this is directly counter to the purpose of the law. The white paper does not propose to close this loophole, and this is a serious omission which will continue to impact thousands of young people if the MoJ do not act.

There are numerous causes of delay, even under the best of circumstances. Investigations have to take place, charging decisions made, pleas to be heard, cases presented and finally a verdict reached. The British courts are often overbooked, and this has only been exacerbated by the Coronavirus pandemic. Many people already waited weeks or months for their day in court, and in the coming years many will have to wait longer still.

The accused has no control at all over the date and time of their conviction, and it is unconscionable that many young people are denied the opportunity to quickly move on simply because of accidents of scheduling. It is not acceptable that someone can suffer four years of disclosure rather than two entirely because their case came to court a day or two later.

Unlock proposes that the childhood spending regime should be applied based on the person's age at the time the offence was committed. Additional disclosure serves no purpose, and only makes it harder for young people to find a job, add to their education and live a normal adult life.

[13] Rehabilitation of Offenders Act 1974, as amended, s. 5(2)(a) - https://www.legislation.gov.uk/ukpga/1974/53/section/5
[14] Timely Justice: Turning 18 Briefing, page 7 - Just for Kids Law - https://justforkidslaw.org/sites/default/files/upload/YJLC%20Turning%2018%20briefing%20(June%202020).pdf

Diversion, support and other measures

Unlock welcome attempts by the MoJ to use non-judicial approaches to solving crime and addressing reoffending. The root cause of employment discrimination is from the stigma of having a criminal record, and using other measures which do not include a permanent blot on someone's record is a positive approach.

We particularly support the use of early interventions that make use of multi-disciplinary approaches to solve underlying problems. This is far better than criminalising people who are young, vulnerable, or who have specific issues that result in offending. In all of these cases, aggressive criminal penalties are very unlikely to be successful, while tackling the root cause has a high likelihood of curtailing or completely ending criminal behaviour.

These approaches are doubly valuable because they not only focus on solving the causes of crime, they also allow a person to avoid a formal criminal record. The existence of a criminal record is a key factor in the vicious cycle of reoffending; one offence creates discrimination, stigma and exclusion, which makes it harder to work and study, and in turn this directly increases the likelihood of further offending. It is positive to see the Government attempting to break this cycle.

However, care needs to be taken in how these measures are designed and implemented. Funding needs to be guaranteed for a significant period, and the process must not become a political football. For the system to work, the MoJ should set reasonable targets for use and provide reasonable funding to achieve that.

The MoJ also need to commit themselves fully to diversion approaches, and remember their "smarter approach" rationale for increased use. The MoJ must robustly defend this choice of policy in public. These are not "soft" options, they are *smart* options; the evidence shows that they are more effective and more cost effective. While certain parts of the public and the press might prefer stricter measures, these have been proven to fail time and again.

The best way to avoid the harms of a criminal record is to never receive one, but some forms of out of court disposal do still create a criminal record. Conditional cautions have a three month spending period, and will be disclosed on higher level checks even after this. This undermines their value as a problem solving tool, as they still create the same barriers as any other low level criminal disposal.

Creating more ways to handle problems without also creating a formal criminal record is positive, and ensures that early interventions do not stigmatise people who need support rather than punishment. Unlock hope that the MoJ will see this policy through and ensure that these measures have the funding to be successful, and are also genuine alternatives that benefit both the community and the person they apply to.

Better policy

Throughout the reoffending sections of their white paper, the MoJ makes strong arguments which are largely backed by evidence. Their stated aims to reduce reoffending by reducing employment discrimination, increasing employability and helping people live more stable lives are extremely positive. Unlock do not disagree with any of these, and welcome the MoJ's efforts.

However, we are disappointed with the scale of changes that the MoJ are proposing. The proposals are fundamentally positive, but limited and lack ambition. Changes to the core legislation are typically made only once or twice a decade, and so this relatively small adjustment will leave the problems of employment discrimination largely intact for the next government to fix. This means that the MoJ will simply not have achieved the outcomes that they claim to be targeting.

While we appreciate that the MoJ does not want to overreach in their proposed changes, this does not excuse the obvious under-reach either. We would not, for example, expect the MoJ to remove all post-sentence disclosure, even if this is the direction of travel and is supported by the MoJ's argument. However, there are a number of obvious extensions of their proposals which would go much further in achieving the outcomes they want to see:

- Abolish lifelong disclosure
- Universal reductions in disclosure periods, informed by evidence
- Young people to disclose based on their age at the time of the offence
- Disclosure periods to begin at release, not after licence
- Proactive use of non-criminal disposal measures, with long term commitment

Adding these changes to the package of reforms that the MoJ is proposing would be a much more significant step forward for criminal record disclosure. This is completely compatible with the sentencing reforms that are proposed in the white paper; the goal is to be smarter and use interventions that work.

The MoJ already accepts that reforming disclosure is the best approach. Taking a bolder step can not only deliver better results, but can leave a lasting legacy with an ROA which is ready for the future, instead of lagging behind the times.

The evidence backs larger reforms. The Prime Minister backs larger reforms. Parliament would welcome larger reforms if they were backed by evidence. The public will support the MoJ in reducing reoffending, if the MoJ is willing to put the case for a smarter policy. The MoJ is in the enviable position of having the desire and the evidence to create a lasting impact.

We hope that they will not waste this opportunity by offering a limited package of reforms that says all the right things, but does relatively little.

