

Briefing on people with criminal records who are also victims of crime

About Unlock

Unlock is a national independent advocacy charity that supports, speaks up and campaigns for people facing stigma, prejudice and discrimination because of their criminal record. A core mission for Unlock is to provide advice for people in respect of their criminal record, including help overcoming the barriers they're facing. Our [website](#) provides vital information and guidance for people with criminal records, but we also have a [helpline](#) provided by dedicated staff and volunteers, which deals with specific queries. People can contact the helpline in various ways, including via email, WhatsApp or our free phone line.

This briefing outlines Unlock's position on issues concerning where people with criminal records are also victims of crime. Some key points are worth noting by way of context and introduction.

1. We have chosen to use the term "victim" in this briefing as we intend it to apply to all those who have been the victims of a crime, essentially reflecting the legal definition. However, it is important to consider that some people have experiences that do impact them as a victim even if they do not report this to the police or if no conviction is ever achieved.
2. Many of the points we raise are particularly pertinent to where individuals may define themselves as survivors owing to the nature of their particular experiences and trauma. It is crucial that this issue allows for those with lived experience to reclaim the narrative.
3. Although we have used the term "victims" to cover a wide breadth of experiences, we want to be clear that the link between victim status and criminal records is likely to be particularly pertinent for those who have suffered the most traumatic crimes.

Sometimes, someone can become a victim and a person with a criminal record as part of the same pattern of activity. Very often, past experiences of trauma increase the likelihood of future criminalisation, whilst having a criminal record places the types of barriers and disadvantages in front of people that can, in fact, increase the chances of falling victim to crime. At Unlock, we believe that these issues need to be recognised and for the rights of someone as a victim to be unaffected by any criminal record. Taking a progressive and thoughtful approach to these issues would be of benefit many individuals and to society more widely as it would underpin effective support to both victims and to people with criminal records, a group who already face significant stigma without finding themselves excluded from support they might otherwise have access to if they are also victims of crime.

Evidence

- Research we have conducted at Unlock found that 59% of women with criminal records had been a victim of domestic abuse.¹
- The Prison Reform Trust found that 29% of prisoners report having been a victim of emotional, physical or sexual abuse as a child.²
- A 2018 report by the Local Government Association highlighted the fact that adverse childhood experiences (ACEs) contribute significantly to the likelihood of that child becoming involved in youth offending and acquiring a criminal record.³
- The Prison Reform Trust reported in 2022 that in the twelve months to June 2021 there were 2,009 serious assaults in prisons in England and Wales.⁴

Many statistics around this issue are based on self-reporting and, as such, may well be significant underestimates. Nonetheless, these figures demonstrate the clear crossover between victims and people with criminal records. This highlights the need for the criminal justice system, and issues relating to criminal records in particular, to be mindful of this crossover.

Issues

The need to offer support to victims should not be undermined if that person also has a criminal record, but rather this should be seen as a further reason to provide any support needed to enable them to rebuild their life. That support is needed both because someone is a victim and if someone has a criminal record; in both cases, they may face stigma and discrimination in various aspects of life. It is in society's wider interest that people in both situations are supported, and this is only more true if someone meets both criteria. There are two main ways that this can happen. Firstly, being a victim of crime can make it more likely you will have a criminal record, either by your behaviour being criminalised or through being directly forced, as a victim, into criminal behaviour. Secondly, people with a criminal record may be more vulnerable to being victimised in future as a result of other barriers faced.

In the first example, sometimes, there is a direct link between someone being a victim being forced into criminal behaviour and therefore ending up with a criminal record. A clear example of this relates those convicted of soliciting. Having such a conviction on a criminal record sits at odds with the fact that those who have been criminalised in such a way are very often one or both of: a victim of sexual exploitation in the same instance or the victim of a prior crime such a trafficking. The link between criminal records and sexual exploitation has been highlighted in parliamentary debate and is an example of where there is often no clear demarcation between an individual's status as a victim and a person with a criminal record.⁵ This is also an example of

¹ <https://unlock.org.uk/wp-content/uploads/2021/10/The-impact-of-criminal-records-on-women.pdf>.

² <https://prisonreformtrust.org.uk/prisoners-need-improved-access-to-victims-services-and-support/>

³ <https://www.local.gov.uk/publications/relationship-between-family-violence-and-youth-offending>

⁴ <https://prisonreformtrust.org.uk/prisoners-need-improved-access-to-victims-services-and-support/>

⁵ In the House of Commons [committee stage debate](#) of the Criminal Justice Bill, note debate around "New Clause 26": https://publications.parliament.uk/pa/bills/cbill/58-04/0010/PBC010_Criminal_1st-16th_Compilation_30_01_2024.pdf.

where the issues of people with criminal records having their status as victims weakened by their conviction impacts women disproportionately.

Similarly, being a victim of a crime, especially violent crime, can lead to significant trauma. As noted above, significant proportions of people with criminal records suffered past abuse. This can have an impact on someone's future behaviour, such as by increasing the likelihood of substance misuse. This behaviour can often, then, lead to that person being criminalised. The barriers created by a criminal record – specifically relating to matters such as employment, housing, finance and personal relationships – compound the trauma experienced by people in these situations, hampering their ability to rebuild their lives. As such, further punishing someone in such circumstances by limiting their access to compensation as a victim is exclusionary given the link between their status as a victim and their offending behaviour.

Having a criminal record creates many barriers and obstacles for people, sometimes pushing people to the margins of society. This can increase the likelihood of being the victim of a crime. For example, challenges to accessing housing can cause homelessness, something that significantly increases vulnerability to crime. Furthermore, there is evidence (noted above) about the number of people who become victims of crime whilst in prison. These are clear examples of a link between having a criminal record, and the implications of it, and becoming the victim of a crime. Any erosion of victims' rights in such circumstances is likely to have a detrimental impact on someone's chances of rehabilitation. This underlines the broader point that there ought not to be a hierarchy of victims based on criminal records.

A particularly clear example of where a criminal record acts as an impediment to a victim's rights is in relation to the Criminal Injuries Compensation Scheme (CICS). This scheme includes an exclusionary rule, whereby people with unspent convictions are denied access to compensation that is otherwise available to those who have been a victim of a serious crime.⁶ By denying the right to compensation in such a blunt manner, a criminal record acts as a barrier to victims' rights. Denying specific rights to someone with an unspent conviction is unhelpful and exclusionary, given that there is clear evidence about the ways in which experiences as a victim can actually increase the likelihood of being criminalised. The stigma of criminal records is hardened through the message this sends and, as such, the principle of rehabilitation is eroded. This rule should be removed.

The removal of the exclusionary rule specifically for victims of child sexual abuse was a recommendation of the Independent Inquiry into Child Sexual Abuse (IICSA). This is due to the increased risk of criminalisation faced by those who have been the victims of childhood sexual abuse and related traumas and is just one example of such a link. However, no such change has been forthcoming. Between 2020 and 2023 the government has consulted three times on changes to CICS, including specifically on the exclusionary rule, but no response has been forthcoming (at time of writing in spring 2024).⁷

⁶ Further information on this can be found in our briefing on the topic: <https://unlock.org.uk/wp-content/uploads/2023/07/CICA-briefing-july-2023.pdf>.

⁷ Unlock's response to the consultation concerning the exclusionary rule can be found [here](https://unlock.org.uk/wp-content/uploads/2022/08/CICS-consultation-response-Aug-22.pdf): <https://unlock.org.uk/wp-content/uploads/2022/08/CICS-consultation-response-Aug-22.pdf>.

By linking the issues of victims' rights and criminal records, CICS exacerbates existing problems with the criminal records system. For example, someone with a summary motoring offence with an ancillary order attached (assuming that the offence was a recordable one) would be disqualified from CICA compensation for longer than someone who served a six-month sentence for ABH owing to the way in which these convictions would become spent.⁸ This is just one example of an idiosyncrasy in the criminal records system, a system that demonstrates unfairness and disproportionality. Spending periods, which are of relevance here as they are linked to compensation eligibility, do not always progress logically as sentences increase, meaning that using them as a proxy for having other rights returned to someone is problematic.

Legislative solutions?

In 2023, the government introduced the Victims and Prisoners Bill into parliament, following a commitment in the 2019 Conservative Party manifesto. This bill failed to explicitly recognise the cross-over between victims and people with criminal records. Failing to embed in legislation a recognition of this cross-over risks creating a hierarchy of victims, where those with criminal records are not treated equally on that basis. This itself risks deepening stigma and distrust faced by people with criminal records. This bill would also have been an obvious place to address the CICS exclusionary rule. With the Victims and Prisoners Bill, the government missed an opportunity to take the lead in recognising the intersections at play and to lessen any mistrust from some of the victims it ought to protect.

Conclusion and recommendations

In conclusion, there is a danger that a criminal record can act to create a hierarchy of victims. Concrete examples of this danger exist, whilst there is also clear evidence linking traumas to future criminalisation. In each instance, it is impossible to draw a neat distinction between victims and people with criminal records. All of this risks diminishing rights for certain victims, but also further stigmatises people with criminal records, undermining effective rehabilitation.

As such, we are calling for:

1. An explicit legal recognition that having a criminal record should not be a barrier to accessing the rights and support available to victims.
2. A response from government to the three CICS consultations that have taken place since 2020, through which the exclusionary rule is removed and people with unspent convictions can access compensation they are due if they have also been, or subsequently become, victims of crime.

⁸ This [page](https://unlock.org.uk/moving-on-the-impact-of-court-orders/) on our website gives information about where orders impact spending periods: <https://unlock.org.uk/moving-on-the-impact-of-court-orders/>

Further information

If you have any queries about this briefing, or wish to discuss the issues raised any further, please feel free to get in touch directly.

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