

Written evidence from the Prison Reform Trust to the Justice Committee

About the Prison Reform Trust

1. The Prison Reform Trust (PRT) is an independent United Kingdom charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The PRT provides the secretariat to the All Party Parliamentary Penal Affairs Group, recently hosted the Independent Review into the over representation of looked after children in the youth justice system chaired by Lord Laming, and has an advice and information service for prisoners and families.
2. The PRT's main objectives are:
 - a. reducing unnecessary imprisonment and promoting community-based solutions to crime, and
 - b. improving treatment and conditions for prisoners and families.
3. The PRT is a member of the Standing Committee for Youth Justice (SCYJ). We have contributed to the SCYJ's submission to the Justice Committee and endorse fully its contents and conclusions. We are also a member of the Transition to Adulthood (T2A) alliance and similarly endorse their submission to the committee. What follows are supplementary points to that submission, born of our experience of working with children and young adults who have previously offended and who have, as a consequence, disclosable records of past convictions.

We are asked for our views 'on the appropriateness and effectiveness of the statutory framework applying to the disclosure to employers and others of criminal records relating to offences committed by people when under 18 years old'.

4. The statutory framework applying to the disclosure of criminal records relating to children¹, and to offences committed in childhood, should be designed to support the principal aims of the youth justice system. The fact that the existing system largely mirrors that applied to offences accrued in adulthood suggests that this cannot be said of the current arrangements. In support of the more detailed comments made by the SCYJ, we would emphasise three particular changes that we believe would make the existing arrangements more fit for purpose.
5. First, shorter rehabilitation periods should be introduced to better reflect the nature of childhood and the different time scales within which a child sees the world. We support, in their entirety, the proposals from the SCYJ in this respect.
6. Secondly, all cautions acquired by children should be automatically filtered after a two-year time frame. This change would recognise that the disposal applied to an offence is the most pertinent factor relevant to the protection of the public or employers.

¹ Throughout this submission, we use the words 'child' and 'children' to mean all those aged under 18.

7. Finally, we would propose that all those who offended during their childhood should have the right to apply to a suitably formed tribunal for all or part of their criminal records to be expunged. We believe that the potential impact of such an application on the individual concerned in terms of personal rehabilitation and redemption has long been overlooked and would, in a great many cases, build desistance and in so doing impact on further reconviction rates.

We are asked ‘whether the framework and the way in which it is operated in practice strike an appropriate balance between protection of employers and the public, on the one hand, and the rehabilitation of people committing offences when young, on the other hand’.

8. The PRT does not believe that the existing framework strikes such an appropriate balance. In our experience, children who offend, on being told (as they usually are) of the (for them) long term impact of the acquisition of a criminal record, are prone to believing that their past mistakes will haunt them forever. This encourages the development of an ‘anti social’ or ‘pro-criminal’ identity that is the very opposite of what is required in order to build desistance in the young. The best research² shows the significance of stigma and labelling in building such an ‘anti social’ identity. Without sensible modification the existing system risks acting against the statutory aim of the youth justice system of reducing offending by children.

We are asked for evidence on ‘the effects in respect of the disclosure of such records of changes made in 2013 to the filtering of offences from criminal records checks and in 2014 to rehabilitation periods’.

9. We believe that these changes made important improvements to the current system, but this reform needs to go further. We commend in this regard, and in their entirety, the proposals made by the SCYJ.

We are asked ‘whether the regime governing disclosure of such criminal records should be extended to apply to records of offences committed by older people, for example up to the ages of 21 or 25’.

10. As your committee has recently concluded there is now a compelling case for modifying aspects of the criminal justice system in order to acknowledge that the necessary maturity to take their full place in civil society is still developing in young adults, for example those aged between 18 and 25. At the same time we believe that it is important that children continue to be treated entirely separately to young adults, and therefore any system for young adults should not necessarily replicate all parts of the system as applied to children. We support the view of T2A that the precise nature of any changes to the regime governing young adults is worthy of separate and more detailed study.

² See for example McAra L and McVie S (2010) ‘Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime’ *Criminology and Criminal Justice* 2010 10:179

Other comments

11. There are two further points that we would like to make that appear to be pertinent to your inquiry.
12. First, from the accounts we have received from children and adults with convictions, there still appears to be widespread confusion over the issue of disclosure of criminal records, and with this apparent maladministration by employers. A conviction can be revealed by an employer asking, without any right in law, for disclosure of past convictions as well as by formal application to the Disclosure and Barring Service (DBS). While we only have this at anecdotal level the message is consistent. We would, therefore, emphasise that any system not only needs to be well designed and fit for purpose in the ways we have described, but also those who are responsible for its implementation, the DBS, have a continuing responsibility for researching how the system works in practice. This should include surveying the experiences of children and young adults, and within this looking at the experience of groups who may be particularly vulnerable to unfair discrimination, for example people from an ethnic minority, with a discernible disability, or who are prone to discrimination as a result of sexual orientation or other factors.
13. Secondly, our society is going through a period of very rapid change in terms of the definitions and boundaries of criminal behaviour. So far as children are concerned the emergence of a much greater understanding of, and focus on, the risks of child sexual exploitation, and in particular the specific arena of 'sexting', will place the operation of a fair and suitably protective criminal records systems under particular stress.