



Press release 30 January 2019

“About time: Perhaps now the Government will finally stop trying to defend the indefensible and start to redress it”

Women’s charity welcomes further ruling from Supreme Court that elements of the Disclosure and Barring services regulations are operating disproportionately.

The Disclosure and Barring Scheme (DBS) regulations govern when and to whom criminal records are disclosed when individuals are applying for employment or indeed even for volunteering, internships and education and training in certain roles.

In March 2018, the Supreme Court found the DBS to be disproportionate and a breach to the right to a private life in the case of a number of women who had been coerced, groomed and trafficked into prostitution as girls and young women including aged 15 and upwards. Although they had all exited prostitution many years since, their convictions for prostitution under the Street Offences Act were revealed on enhanced DBS checks every time they applied for roles even 20 or 30 years later. Knowing that they would have these records revealed has meant many women would not even apply for roles to avoid the stigma and prejudice of having to discuss what, for many of them, is effectively a history of abuse. Even where they did go ahead and apply they commonly were turned down for roles they had been offered subject to DBS checks.

There have been a number of repeated rulings that the DBS, regulations are unlawful and disproportionate. The Government made some amendments to the scheme under the Rehabilitation of Offenders Act and hoped this would satisfy the criticisms but further rulings have continued to find against the Government. In the meantime the Home Office and Ministry of Justice, instead of accepting and addressing the injustice, decided to fight it out through the Courts.

Charities today welcomed the latest Supreme Court judgement in Re:P. which, while upholding the DBS scheme in general, found it to be disproportionate in its operation in some areas. In particular they found that the disclosure of criminal convictions received as a juvenile and the blanket disclosure of all offences where there is more than one conviction are disproportionate.

Karen Ingala Smith, chief executive of **nia**, a charity working on violence against women and girls - including supporting women to exit prostitution, which supported the women in the earlier successful case said, “It is about time: Perhaps now the Government will finally stop trying to defend the indefensible and start to redress it.”

She continued, “It is patently the case that the system was operating unjustly and this has been demonstrated repeatedly in the Courts, yet Government not only has failed to take adequate action

to redress the situation but has dug its heels in and continued to drag this through the Courts while the individuals at the sharp end continue to wait and suffer.”

“In the women’s case which we supported these were women who were sexually exploited as girls and coerced and abused in prostitution – the pimps and buyers who benefitted from their abuse never faced any consequences. Yet these women have been stigmatised, marginalised and excluded for years. It took great courage on their part to bring this case and years of activism in which Ms Broadfoot waived her anonymity to highlight the injustices of the scheme.”

“We welcome this latest ruling that affirms our own but it feels like once again it reflects the everyday sexism of women’s experiences where they are not believed and not taken seriously. The activism, courage and commitment, and even the legal win in the Supreme Court, of women victims of violence was not deemed enough to take seriously and act on but had to be confirmed by other sources. Let us hope that finally Government will accept the need to reform and change these rigid, inflexible and disproportionate elements of this system and work closely with charities like ours and like Unlock in shaping a new scheme.”

Spokeswoman: Karen Ingala Smith or Heather Harvey 0207 683 1270

Media coverage relating to landmark supreme court ruling that DBS disproportionate in the women’s case

<https://ukhumanrightsblog.com/2018/03/06/women-groomed-pimped-and-trafficked-as-teenagers-not-required-to-disclose-prostitution-convictions-to-employers/>

<https://www.independent.co.uk/news/uk/crime/criminal-records-disclosure-dbs-checks-unlawful-supreme-court-appeal-human-rights-a8406566.html>

<https://www.bbc.co.uk/news/uk-43261021>

<http://www.niaendingviolence.org.uk/perch/resources/im-no-criminal-final-report.pdf> nia’s report on impact of criminal records on women exiting prostitution which informed this case.

About Re:P case – the subject of today’s judgement also on disproportionate DBS regs

<https://www.supremecourt.uk/cases/uksc-2017-0121.html>

<http://www.unlock.org.uk/policy-issues/specific-policy-issues/filtering/cases-challenging-dbs-filtering-system/>

<http://www.unlock.org.uk/landmark-case-on-disproportionate-criminal-records-disclosure-regime-reaches-supreme-court/>

Earlier case (Re: T.) that entailed earlier changes to DBS and amendment to rehabilitation of offenders act.

<https://www.5rb.com/case/r-t-v-greater-manchester-chief-constable-ors-ca/>

[https://uk.practicallaw.thomsonreuters.com/3-530-5626?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&comp=pluk&bhcp=1](https://uk.practicallaw.thomsonreuters.com/3-530-5626?transitionType=Default&contextData=(sc.Default)&firstPage=true&comp=pluk&bhcp=1)