

Prison Reform Trust response to the Welsh Justice Commission's Call for Evidence – June 2018

The Prison Reform Trust (PRT) is an independent UK 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 Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

Between 2012-15 the Prison Reform Trust (PRT) led a programme to reduce women's imprisonment, supported by the Pilgrim Trust. Following a major grant from the Big Lottery Fund, PRT has renewed its drive with a UK-wide programme, '*Transforming Lives – reducing women's imprisonment*', in partnership with Families Outside (Scotland), Soroptimist UK, and User Voice as well as working with women's services (including Llamau and Gibran – now Include) to ensure that women's experiences of the criminal justice system inform our approach to women's justice reform. Further information about the programme's aims, objectives and methods are at <http://www.prisonreformtrust.org.uk/women>

Introduction

Prison Reform Trust has long called for a step change in how the criminal justice system responds to women and welcomes the opportunity to influence the Commission's focus on this issue. It is now over ten years since the Corston Report on Women with Particular Vulnerabilities in the Criminal Justice System, and five years since the Angiolini Commission on Women Offenders (Scotland). These and other inquiries and reports since then have all concluded that prison is rarely a necessary, appropriate or proportionate response to women who get caught up in the criminal justice system.

In this submission we focus on how to improve outcomes for women, noting the synergies with other priorities identified in the new *Framework to support positive change for those at risk of offending in Wales*, including the focus on young people/care leavers and families. We have previously set out in our response to the Welsh Affairs Committee into prison provision in Wales our proposal for a radically different approach, a whole systems approach with a focus on diversion, problem solving approaches by the police and community-based women's services all playing a key role. Other supporting evidence includes our bibliography of recent Prison Reform Trust publications that present relevant evidence in more detail is included at Annex A. Much of the data and critical evidence to underpin a women offenders

strategy is summarised in the briefing *Why focus on reducing women's imprisonment* (February 2017)¹ – we are in the process of updating this.

Although criminal justice is not (yet) devolved, there are other key elements of policy, legislation and governance in Wales that are auspicious for improving women's justice – including on Violence Against Women and Girls, on housing and on the Wellbeing of Future Generations.

1. Women in the Justice System: responding to complex needs

It would be helpful if an all Wales Justice Strategy sets out in an opening statement the different drivers to women's offending and the prevalence of multiple and complex needs, including the incidence of previous trauma, and a reminder of the evidence base demonstrating that the solutions to most offending by women lie in the community and not in custody, and that a disproportionate use of custodial responses impacts harshly on children and families as well as women themselves. The use of remand and custodial sentences can create a disastrous 'ripple effect' for vulnerable women and their children, including severe disruptions to childcare, housing, income and access to local services, from which women and their families may struggle to recover. The strategy should establish a strong presumption against imprisonment, especially very short sentences of under six months which offer little opportunity for rehabilitation and often exacerbate women's problems and the disadvantages that accrue to their children and families and communities.

The strategy should seek to embed a response to women offenders at all stages of the criminal justice process which is not only gender-sensitive but also trauma-informed. All agencies should be equipped to identify at an early stage the circumstances of the woman and to respond appropriately. These may include young women in the care system, those with primary care responsibilities for dependent children; pregnancy; mental health and substance misuse needs; experiences of abuse and coercion²; experiences of human trafficking or modern slavery; poverty and housing needs. Information about these circumstances should guide decision-making about arrest, charge, bail, conviction and sentencing. Clear expectations about this should be placed on the police, prosecutors, defence solicitors and barristers, the judiciary, Community Rehabilitation Company, the National Probation Service, and the prison service, backed up by guidance and training. It is a dangerous nonsense that the rate of completion of written pre-sentence reports should have plummeted when we know so clearly the threats to the safety of both female offenders and their families that any custodial sentence brings. Any evidence led strategy must surely insist on proper evidence being made available to the sentencing court in any individual case.

The Strategy could reference Section 10 of the Offender Rehabilitation Act 2014 which places a statutory duty on the Secretary of State for Justice to ensure that arrangements for the supervision or rehabilitation of offenders identify any specific provision for women. It enshrines in the criminal justice statutory framework a key principle of equality law requiring active steps to deliver gender informed services for women in contact with the criminal justice system:

¹ Prison Reform Trust (2017) *Why focus on reducing women's imprisonment?*, London: Prison Reform Trust, available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/why%20women_final.pdf

² Prison Reform Trust (2017) *There's a Reason Why We're in Trouble – domestic abuse as a driver to women's offending*, London: Prison Reform Trust, available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf

“(6A) The Secretary of State must ensure that arrangements under subsection (2) or (5) for the supervision or rehabilitation of persons convicted of offences—

(a) state that the Secretary of State has, in making the arrangements, complied with the duty under section 149 of the Equality Act 2010 (public sector equality duty) as it relates to female offenders, and

(b) identify anything in the arrangements that is intended to meet the particular needs of female offenders.”

A key principle of the strategy should be to ensure that women in minority groups do not suffer a particular disadvantage as a result of ethnicity, religion, sexuality, disability, foreign national status or literacy/language barriers. The findings of the Lammy review³ are helpful in identifying the differential experiences of Black, Asian and Minority Ethnic (BAME) women in the criminal justice system⁴ and we summarise some of the available evidence in more detail at Annex C. Foreign national women may need help to understand their rights due to language and cultural barriers and difficulties accessing legal representation. The interaction between criminal justice and immigration processes means that foreign national women are likely to need additional support especially if they have dependent children.

2. Supporting and diverting vulnerable women when they first come into contact with the criminal justice system?

We welcome the commitment to intervening early with women who come into contact with the criminal justice system. The evaluation of the Wales Pathfinder highlights that women were overwhelmingly positive about the scheme and analysis demonstrated improvements across a range of dimensions. The cost benefit analysis showed that for every £1 spent, the Police recoup £2.35. It is positive that the Pathfinder will continue, funded by Welsh Government and the two PCCs in the South and we welcome the intention to ensure a different approach to diversion across Wales.

In *‘Fair Cop: Improving outcomes for Women at the Point of Arrest’* the Prison Reform Trust makes the case for greater use of problem-solving approaches for women at the point of arrest in cases where the harm caused by an offence is low but the needs of the individual may be multiple and/or complex. It draws on detailed research and interviews with police, probation staff and women’s voluntary sector providers and showcases how problem-solving approaches have been used to break the cycle of women’s offending, encourage multi-agency working and manage the changing demands on police resources at a time when money is short. We would welcome a focus in the strategy removing barriers to diversion. For example in some parts of Wales, women who are prosecuted for domestic abuse offences are automatically excluded from diversion schemes. These women may be victims of

³ Lammy, D. (2016), Letter to the Prime Minister on the interim findings of the Lammy Review of Race and the Criminal Justice System, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/569218/open-letter-to-prime-minister.pdf

See also Cox, J. and Sacks-Jones, K. (2017) “Double disadvantage”: The experiences of Black, Asian and Minority Ethnic women in the criminal justice system, London: Women in Prison and Agenda, available at <http://www.womeninprison.org.uk/perch/resources/double-disadvantage-1.pdf>

⁴ Prison Reform Trust (2017) Counted out: experiences of Black, Asian, and minority ethnic women in the criminal justice system, London: Prison Reform Trust, available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Counted%20Out.pdf>

domestic abuse who have used reactive violence against a primary aggressor and need referral to specialist services.

3. Improving community sentences for women in a way that inspires sentencer confidence, provides a viable alternative to custody for some women and that enables rehabilitation

For too long, a lack of sentencer confidence has been presented as a barrier to the appropriate use of community sentencing for women. It is time for practice on the ground to catch up with the evidence base which shows that the solutions to most women's offending lie in the community and not in custody. Sentencers need to be well-informed about the impact of different penalties, the circumstances of the individual and the options available.

- Women comprise about 18% of individuals being supervised on community orders or suspended sentence orders in Wales in 2017.⁵ There is a smaller proportion of women than men from Black and Minority Ethnic communities being supervised in the community (2% compared to 4%).⁶
- There has been a year on year rise in the use of suspended sentence orders and a decline in the use of community orders. In 2007, 356 women in Wales were given suspended sentences rising to 584 in 2017. By contrast, between 2007 and 2017 the number of women in Wales receiving community orders dropped from 1,148 to 861 (a 25% decrease).⁷
- In Wales in 2017, a total of 572 women were sentenced to immediate imprisonment. There has been a 22% increase between 2012-2017 in Wales overall of women being sentenced to immediate imprisonment. Over the same five year period there has been a 41% increase in women serving short sentences.⁸
- In South Wales in 2012, 262 women were sentenced to less than 6 months, which increased to 326 in 2017 (a 40% increase). For North Wales it increased from 41 in 2012, to 75 in 2017 (an 85% increase). Over the same period, both police force areas have seen a decrease in the number of women sentenced to sentences of more than 12 months.⁹
- Short sentences have the worst reoffending outcomes. Almost half (48%) of all women leaving prison are reconvicted within 12 months – for those serving sentences of less than 12 months, the reconviction rate rises to 61% and to 78% for women who have served more than 11 previous custodial sentences.¹⁰ The extent to which community sentences outperform short spells in prison with respect to reoffending is greater for women than for men (9.7% v 7%). Women released from custody are also more likely to reoffend, and reoffend sooner than those serving community sentences.
- The impact on children of parental involvement in the criminal justice system, especially prison, can be traumatic: they are twice as likely as their peers to

⁵ Ministry of Justice (2018) Criminal Justice System statistics quarterly: December 2017, Court Outcome by Police Force Area Data Tool, London: MoJ

⁶ Ministry of Justice (2017) National Offender Management Service Offender Equalities Annual Report 2016/17, London: MoJ

⁷ Ministry of Justice (2018) Criminal Justice System statistics quarterly: December 2017, Court Outcome by Police Force Area Data Tool, London: MoJ

⁸ Ministry of Justice (2018) Criminal Justice System statistics quarterly: December 2017, Court Outcome by Police Force Area Data Tool, London: MoJ

⁹ Ministry of Justice (2018) Criminal Justice System statistics quarterly: December 2017, Court Outcome by Police Force Area Data Tool, London: MoJ

¹⁰ Table 6.07, 6.09 and 6.10, Ministry of Justice (2016) Women and the criminal Justice system 2015, London: Ministry of Justice

have poor mental health (Murray et al, 2009), and are more at risk of poverty, poor health, and insecure housing and finances (Smith et al, 2007). The last Criminal Justice Joint Inspection review of resettlement recommended more focus on the specific needs of women as parents.

- The provision of safe and suitable accommodation is essential – see the evidence collated in [Home Truths – housing for women in the criminal justice system](#), and all the recent HMIP inspection reports on women’s prisons.

Imprisonment is not only the most onerous kind of penal measure available to the courts, especially for women who are often primary carers, it has particularly poor outcomes for women. Punishment in the community should be seen as the default option, not a ‘soft option’ or ‘viable alternative’. Decisive action must be taken to reverse the significant decline in the use of community orders¹¹ for women in Wales (see Annex B). The strategy should establish a strong presumption against imprisonment, especially very short sentences of under 6 months which offer little opportunity for rehabilitation and often cause huge disruption to family life.

Steps must be taken to improve the provision of timely and high quality information to the courts and including in setting out the offer to support women taking account of their diverse and complex needs. In recent years we have seen a transition away from detailed written pre-sentence reports (PSRs) to ‘on the day’ oral reporting. As the Probation Inspectorate reported in their thematic review of women’s services, PSRs did not usually differentiate the needs of women from those of men, and sentencers lacked information about interventions specifically designed for women, in particular rehabilitation activity requirements and local support services. More generally the Inspectorate has found that court staff were not sufficiently aware of what Community Rehabilitation Companies could offer, so as to advise the court appropriately. This lack of communication has been exacerbated by the Transforming Rehabilitation reforms.

Improving the dialogue between probation staff and the courts is critical if sentencers are to understand the root causes of an individual’s offending and be aware of the programmes and services available in the community. This is especially important in cases involving dependent children. As set out in the ‘Sentencing of Mothers’ paper, a series of Supreme Court and Court of Appeal decisions have addressed the need for sentencing courts to consider the welfare of dependent children and the consequences for family life. These make clear that non-custodial sentences are preferable for women with dependent children, with custodial sentences to be considered when the offence is serious or violent or the woman represents a continuing danger. A custodial sentence should only be given after considering the best interests of the child or children, whilst ensuring that appropriate provision has been made for their care. There is an onus on lawyers, court officials and probation staff to ensure that information about a defendant’s care responsibilities and consequences for children and other dependents is put to the court. It is therefore positive to see the focus on offenders’ families in the new Wales Framework including the intention to undertake Child Impact Assessments.

Women who have experienced abuse and coercion, trafficking or modern slavery need to be supported to disclose these circumstances. There is some evidence that women may plead guilty simply in order to avoid the trauma of court proceedings or because they do not fully understand the implications of doing so. This is particularly

¹¹ Du Mont, S. and Redgrave, H. (2017) Where did it all go wrong? A study into the use of community sentences in England and Wales, London: Crest Advisory, available at <http://crestadvisory.com/wp-content/uploads/2017/04/community-sentences-report-where-did-it-all-go-wrong.pdf>

important in the case of women who have experienced abuse, foreign national women, and those with literacy or learning difficulties or other communication needs. Achieving this requires a review of the process and training for prosecutors, defence solicitors and barristers, probation officers and the judiciary.

In summary, sentencer “confidence” can only come from radically improved practice by the individuals and agencies on whom they depend for information and advice. Sentencers are bound to react against anything that appears to be a demand for preferential treatment on the basis of gender, or an attempt to cut costs. But their confidence to take individual decisions that do balance the aims of sentencing and take account of the specific needs of the woman before them can be enhanced by the availability of a strong offer of support for women, good information; effective training and sound knowledge of existing law, policy and guidance; and systems for feeding back the impact of their decisions and the interventions available in the community.

4. Supporting Women’s Centres as an integral element of Community Sentences

In recent decades a series of inquiries and reports have demonstrated that women’s centres can be more effective than imprisonment in addressing women’s offending:

- In 2015 the Justice Data Lab assessed the impact on re-offending of support provided to female offenders by women’s centres throughout England. The one year proven re-offending rate for 5973 offenders who received support provided by women’s centres throughout England was 30%, compared with 35% for a matched control group of similar offenders from England. This was based upon analysis of information that has been supplied by 39 women’s centres throughout England to the National Offender Management Service (NOMS).
- A careful analysis by Hedderman and Jolliffe (2015) found that women released from prison are twice as likely to reoffend as a comparable cohort of women given community orders. Propensity score matching using information on over 3,000 women’s current offence and criminal history was used to create a sample of 320 women who had been sentenced to prison who were equivalent on all measured variables to 320 women who received a community sentence. Twelve months after release those from prison were found to have committed significantly more and more costly offences and were more likely to be sent back to prison. The overall additional cost of prison in this sample was conservatively estimated to be £3.6m.
- There is also evidence from the National Offender Management Service (NOMS) that women are more likely to comply with a community order or period of licence supervision than men, which justifies confidence that many will engage constructively with an out of court disposal.

Despite the growing evidence base about the effectiveness of women’s centres, funding is precarious and this vital community infrastructure is at risk. The current position in Wales is that Working Links/the CRC are providing no funding to support these centres. However, the IOM Pathfinder has supported some women subject to community sentences, 2% and 7% subject to Suspended Sentence Supervision Orders and 7% Community Orders. This points to the potential development of this holistic, women centred approach. The sustainability of women’s community services has long been a concern, a point recognised by the Justice Committee in its March 2015 follow-up report on women offenders: *“We are concerned that funding appears*

to be a recurring problem for women's centres and that future funding arrangements have not been put on a sound basis as we recommended...we reiterate our recommendation that sustainable funding of specialist women's services should be a priority." The HM Inspectorate of Probation's thematic review of services in the community for women who offend (2016) found that *"Women's centres are particularly vulnerable and some have already lost funding, yet they have an important role to play. We found cases where they had been pivotal in turning women away from crime and helping them to rebuild their lives."* Women in minority groups are likely to be particularly badly affected by weaknesses in the provision of specialist, gender-specific local services.

While detailed information on the overall financial envelope available for women in the criminal justice system is not publicly available, the proposed support for women's services, both capital and revenue, is currently disproportionately weighted towards investment in new custodial facilities. Our proposal is that the Ministry of Justice should allocate between 25%- 50% of the funding currently earmarked for new women's community prisons to pump prime the MOJ Female Offender Strategy through a national network of women's centres that enable both criminal justice and non-criminal justice agencies to intervene earlier and more constructively, reducing both harm and cost.

Because women's centres are both cheaper to establish and to run, and can lever in funding from diverse sources, the capital and revenue spend earmarked for new prisons could achieve a much broader impact geographically, in terms of the number of individuals affected, and the range of potential benefits and savings achieved. The women's prison population could be significantly reduced, with associated savings across government.

Conclusion

We hope this submission is helpful and would be happy to provide further evidence and information to the Commission as its work progresses.

Annex A: Prison Reform Trust Publications: Women and the Criminal Justice System

There's a reason we're in trouble – domestic abuse as a driver to women's offending — November 2017

Raises awareness and proposes solutions to the links between women's experience of abusive and coercive relationships and their offending. Download [here](#).

Fair Cop? Improving outcomes for women at the point of arrest — March 2017

This briefing looks at the variations in how police forces deal with women who come into the criminal justice system, and provides solutions and examples of positive work being delivered by police. Download [here](#)

Why focus on reducing women's imprisonment? — February 2017

This updated briefing summarises the evidence relating to women in the criminal justice system and builds the case for reducing the imprisonment of women for minor offences. Download [here](#).

Leading Change: the role of local authorities in supporting women with multiple needs — October 2016

This report sets out the case for change and suggests practical ways in which local authorities can prioritise and address the needs of some of the most vulnerable citizens in their local area. Download [here](#).

Home truths: housing for women in the criminal justice system — September 2016

This report summarises research on housing for women in the criminal justice system, identifies the barriers they face and highlights best practice across the UK. Download [here](#).

Sentencing of Mothers: Improving the sentencing process and outcomes for women with dependent children — November 2015

This discussion paper provides an overview of current sentencing practice for women with dependent children and sets out proposals for improving the operation of the justice system. Download [here](#)

Transforming Lives: Reducing Women's Imprisonment — January 2015

This report, based upon evidence collected by the Soroptimists, provides a country-by-country overview of current practice relating to women in the criminal justice system. Download [here](#)

Working it out: Employment for women offenders — January 2015

This briefing summarises research on employment opportunities for women offenders, identifies the particular barriers they face and highlights good practice in the community and custody. Download [here](#)

Brighter Futures — March 2014

This report profiles innovative approaches to reducing women's offending and calls for the development of coordinated services to help women turn their lives around. Download [here](#)

**International good practice: alternatives to imprisonment for women offenders
— September 2013**

An information resource produced by the Prison Reform Trust to inspire and support efforts to reduce the unnecessary imprisonment of women. Download [here](#)

Action Pack: Reducing Women's Imprisonment — April 2013

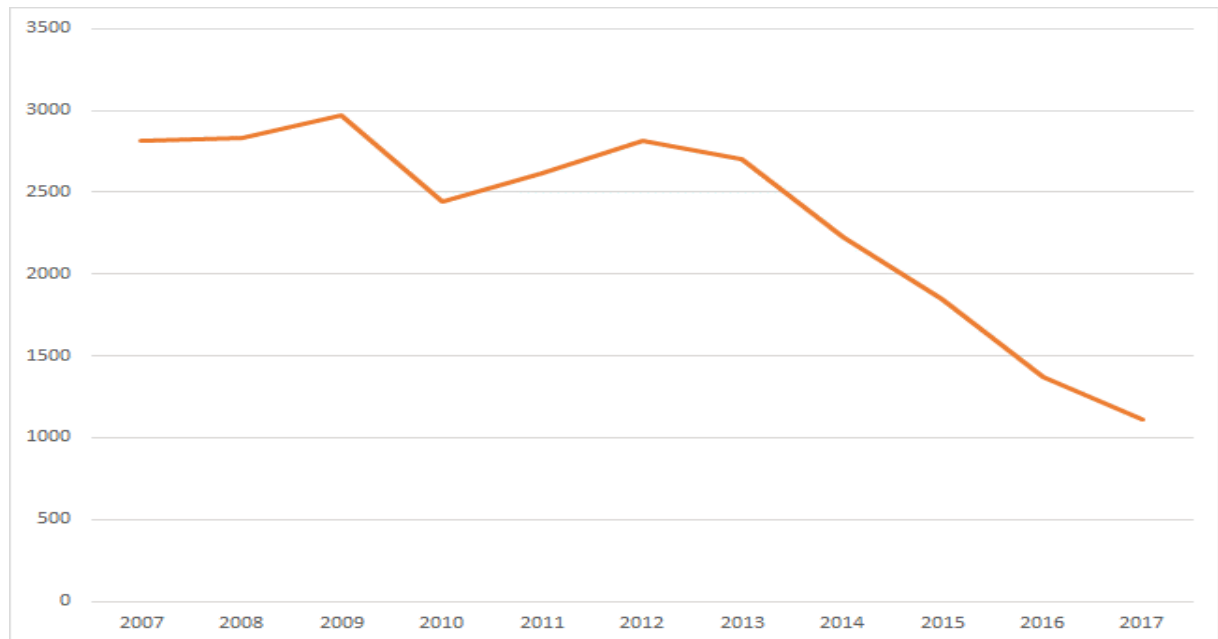
This action pack was produced by the Prison Reform Trust in partnership with the Soroptimist UK Programme Action Committee Download [here](#)

No Way Out: A briefing paper on foreign national women in prison in England and Wales — January 2012

This briefing, drawing on the experience and work of the charity FPWP Hibiscus, the Female Prisoners Welfare Project, recommendations which could be used to inform a much-needed national strategy for the management of foreign national women in the justice system. Download [here](#) (currently being updated).

Annex B: Women in the Criminal Justice System

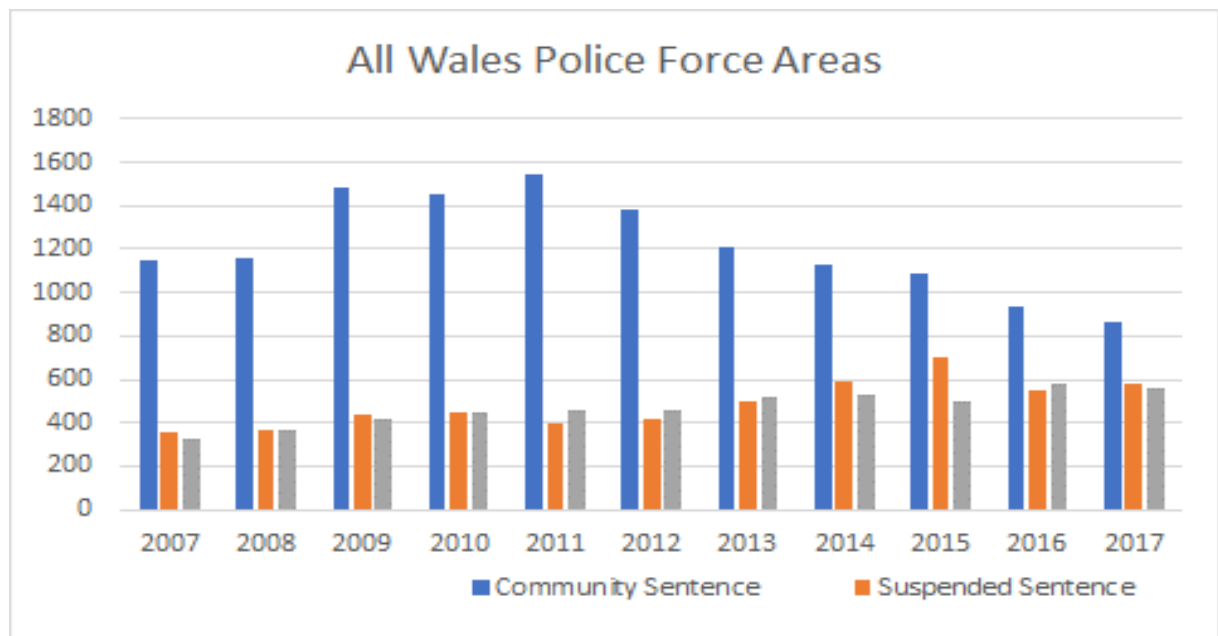
Use of Cautions for women in Wales, 2007–2017



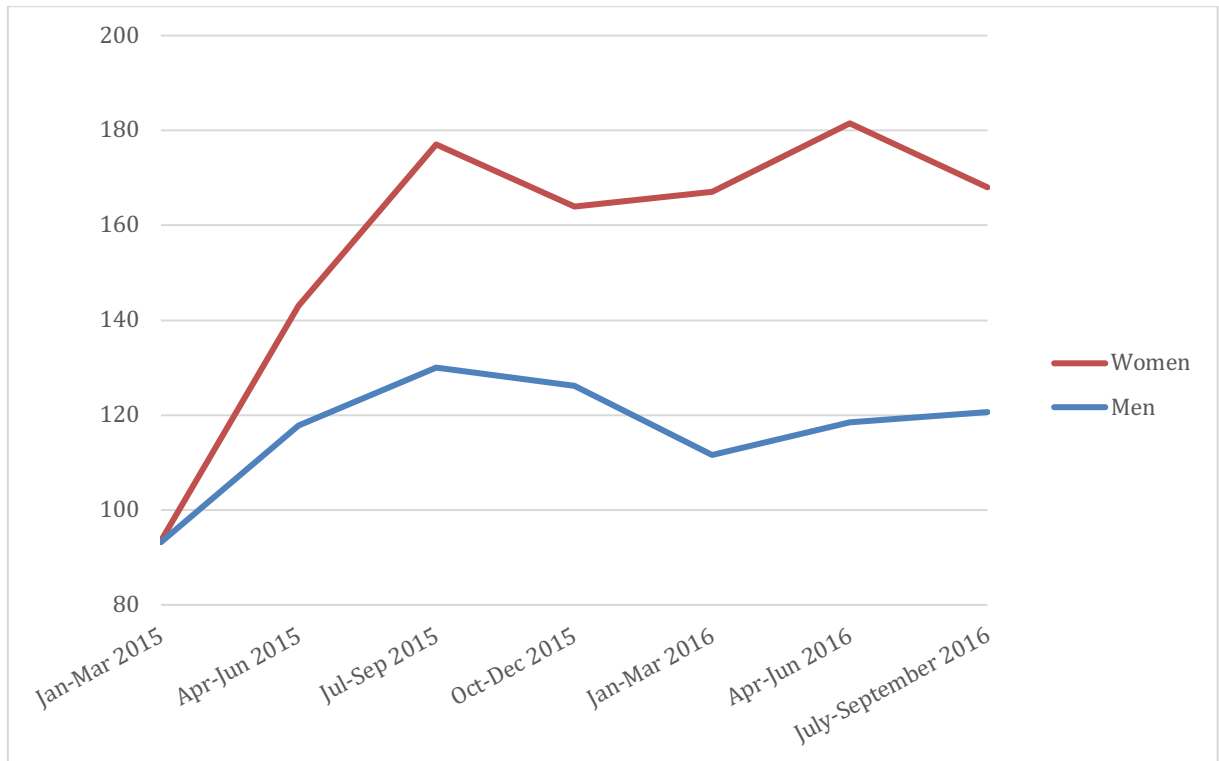
| 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 2,811 | 2,830 | 2,974 | 2,446 | 2,614 | 2,810 | 2,703 | 2,225 | 1,845 | 1,370 | 1,112 |

Source: Ministry of Justice (2018) *Criminal Justice System statistics quarterly: December 2017, Out of Court disposals tool*, London: MoJ

Use of Community Orders, Suspended Sentences and Immediate Custody for women in Wales, 2007–2017



Number of men and women recalled to prison. Indexed Change over time, Jan-Mar 2015–July Sep 2016



| Recall period | Jul-Sep 2015 | Oct-Dec 2015 | Jan-Mar 2016 | Apr-Jun 2016 | Jul-Sep 2016 |
|---|--------------|--------------|--------------|--------------|--------------|
| National Probation Service | 127 | 107 | 105 | 111 | 112 |
| Determinate sentences | 124 | 103 | 100 | 106 | 107 |
| Less than 12 months | 28 | 22 | 16 | 30 | 28 |
| 12 months or more | 96 | 81 | 84 | 76 | 79 |
| Indeterminate sentences | 3 | 4 | 5 | 5 | 5 |
| IPP | 0 | 3 | 3 | 2 | 4 |
| Life sentence | 3 | 1 | 2 | 3 | 1 |
| Community Rehabilitation Companies | 227 | 221 | 229 | 252 | 224 |
| Determinate sentences | 227 | 221 | 229 | 252 | 224 |
| Less than 12 months | 139 | 134 | 147 | 170 | 148 |
| 12 months or more | 88 | 87 | 82 | 82 | 76 |

Source: Ministry of Justice Offender Management Quarterly

Annex C: BAME women and girls in the criminal justice system in England and Wales—submission to the call for evidence by the Advisory Board on Female Offenders, April 2017

BAME women are over-represented in prison, making up 19% of the prison population¹² compared to 14% of the general women's population.¹³ Black British women make up 10% of the women's prison population, more than three times higher than the 3% they comprise of the women's general population.¹⁴ Analysis conducted for the Lammy review (2016) found that black women are twice as likely as white women to receive a custodial sentence in the Crown Court for drugs offences. Asian and other minority ethnic women are over 40% more likely than white women to be convicted at magistrates' court.¹⁵

There has been a sustained and significant reduction in the numbers of young people going into custody since 2008, as well as a drop in young people entering the criminal justice system. However, this has not been consistent across ethnicities. Among girls receiving convictions, there has been an 81% drop over ten years since 2006 in the numbers of white girls being convicted, compared with a 65% drop for black girls and a 40% drop for Asian girls.¹⁶ Numbers of black and Asian girls receiving convictions rose in 2016.¹⁷

Ten years ago, the Corston Report stated that BAME women are '*further disadvantaged by racial discrimination, stigma, isolation, cultural differences, language barriers and lack of employment skills,*' and asserted that more effort was needed to promote diversity within women's services, with additional support and interventions.¹⁸ Imkaan has recently identified the core principles for working with BAME women and girls, including the need for an intersectional approach in order to understand the multi-faceted experiences of ethnic minority women.¹⁹ Muslim Hands highlights the additional barriers Muslim women may face in prison, including increased isolation from families resulting from shame and family dishonour, and discrimination from within their own communities.²⁰

The interim findings of the government-commissioned Lammy review found pronounced disproportionality in the treatment of BAME women throughout the criminal justice process, including at the point of arrest, in relation to custodial remand and sentencing, and in adjudications of prison discipline.²¹

Recent prison inspection reports have highlighted concerns about safety for BAME women and access to support. The Prison Reform Trust's analysis of inspectorate reports at seven prisons published since February 2014 found:²²

¹² Table 1.4, Ministry of Justice (2016) Population bulletin: weekly 30 December 2016, London: Ministry of Justice

¹³ Table DC2101EW, Office for National Statistics (2012) 2011 Census, London: ONS

¹⁴ Women in Prison (2011) Breaking the cycle for women, London: WiP; NomisWeb, 2011 Census data

¹⁵ Ministry of Justice (2016) Black Asian and Minority Ethnic disproportionality in the criminal justice system in England and Wales, London: MoJ

¹⁶ Ministry of Justice (2016) Offending history data tool, September 2016, London: Ministry of Justice

¹⁷ *Ibid.*

¹⁸ Home Office (2007) The Corston Report. London: Home Office

¹⁹ Imkaan (2016) Imkaan safe minimum practice standards: working with black and minority ethnic women and girls, London: Imkaan

²⁰ Muslim Hands (2014) Muslim women in prison, Nottingham: Muslim Hands

²¹ Ministry of Justice (2016) Black Asian and Minority Ethnic disproportionality in the criminal justice system in England and Wales, London: MoJ

²² HM Inspectorate of Prisons inspection reports of HMP Eastwood Park (November 2016), HMP East Sutton Park (August 2016), HMP Drake Hall (July 2016), HMP Foston Hall (June 2016), HMP Bronzefield (November 2015), HMP Peterborough (July 2014) and HMP Send (February 2014)

- BAME women were more likely to say that they had been victimised by because of their race or ethnic origin by other prisoners, at all prisons except HMP East Sutton Park.
- BAME women were more likely to identify as Muslim at all prisons; at HMP Foston Hall, 9% of BAME women said they had been victimised by other prisoners because of their religious beliefs, compared to 2% of white women.
- BAME women were more likely at five out of the seven prisons to identify as foreign national.²³ At HMP Send, they were also less likely to understand written English than white women.²⁴ Hibiscus Initiatives have identified a growth in the numbers of people in the criminal justice system for whom English is not their first language, and that women and girls tend to have higher needs in this area as a result of more restricted access to education. This also impacts on women's ability to understand decisions made on criminal cases and immigration status.²⁵
- At HMP Bronzefield, where the governor has stated that over half of women are serving sentences of two weeks on average,²⁶ BAME women were more likely to say it was their first time in prison, and they were less likely to be sentenced.²⁷ Fewer women said that most staff treated them with respect, and they were less likely to say they had a member of staff they could turn to for help.²⁸ Survey responses from HMP Drake Hall and HMP Peterborough showed further negative experiences of receptions, as BAME women were less likely to say they had been searched in a respectful way,²⁹ or that they had been treated well or very well,³⁰ in reception, than white women in the same prisons.
- At HMP Drake Hall and HMP Foston Hall, BAME women were less likely to identify themselves as having emotional or mental health issues.³¹ Survey responses at four of the prisons indicated that BAME women were less likely to be taking medication.³² National research on mental health indicates that BAME people are more likely than the general population to be diagnosed with mental health problems, but more likely to experience a poor outcome from treatment, or to disengage with mental health services.³³
- BAME women were less likely to say that they were able to speak to a Listener at any time,³⁴ and at HMP Send, BAME women were less likely to go on association more than five times a week, or to go outside for exercise three or more times a week,³⁵ than white women.
- Other responses suggested that the food and products available did not cater to the specific needs of BAME women, despite prison staff undertaking consultations with women. Expected outcomes for prison inspections state

²³ HMP Eastwood Park (November 2016), HMP Foston Hall (June 2016), HMP Bronzefield (November 2015), HMP Peterborough (July 2014), HMP Send (February 2014)

²⁴ HMP Send (February 2014)

²⁵ Hibiscus Initiatives (2014) *The Language Barrier to Rehabilitation*. London: Hibiscus Initiatives

²⁶ Billington, R. (2017) 'Month by Month – April 2017', *Inside Time*, available at <http://www.insidetime.org/month-by-month-april-2017/> accessed 8 June 2018

²⁷ HMP Bronzefield (November 2015)

²⁸ HMP Bronzefield (November 2015)

²⁹ HMP Drake Hall (July 2016), HMP Peterborough (July 2014)

³⁰ HMP Drake Hall (July 2016), HMP Peterborough (July 2014)

³¹ HMP Drake Hall (July 2016), HMP Foston Hall (June 2016)

³² HMP East Sutton Park (August 2016), HMP Drake Hall (July 2016), HMP Bronzefield (November 2015), HMP Send (February 2014)

³³ Mental Health Foundation website, accessed 8 June 2018, available at <https://www.mentalhealth.org.uk/a-to-z/b/black-asian-and-minority-ethnic-bame-communities>

³⁴ HMP Drake Hall (July 2016), HMP Peterborough (July 2014), HMP Send (February 2014)

³⁵ HMP Send (February 2014)

that women should be offered varied meals and that food should be prepared and served according to religious, cultural and prevailing food safety and hygiene regulations. However, responses from four of the prisons showed that BAME were less likely to say that the food was good, and less likely to say that goods in the shop met their needs.³⁶ For example, at HMP Drake Hall 45% of BAME women thought the food was good, in comparison with 71% of white women. At HMP Bronzefield, 16% of BAME women thought the shop met their needs, in comparison with 54% of white women.

As long ago as 2006, the Fawcett Society identified gaps in the available data as a critical barrier to improving provision for BAME women in the criminal justice system.³⁷ Yet there is still a lack of published data which is disaggregated by both gender and ethnicity, for example in relation to prison receptions, directly hindering progress.

The ongoing disadvantages faced by BAME women in the criminal justice system and the continuing lack of diversity amongst criminal justice professionals, particularly in the judiciary, is recognised in the Equal Treatment Bench Book which was last updated in 2015.³⁸ NOMS guidance on working with women offenders, published in 2012, makes brief mention of the specific needs that BAME women offenders may have, but gives virtually no guidance on how services should meet those needs.³⁹ BAME women are not mentioned in the government's Strategic Objectives for Female Offenders⁴⁰, nor in the 2014 update on progress in meeting those objectives⁴¹.

There can be no progress in achieving equal treatment for BAME women in the criminal justice system until the gaps in data concerning their experiences and outcomes are filled, and until action is taken to address the current scarcity of specialist community services for these women. Progress in achieving diversity amongst criminal justice professionals, particularly the judiciary, should also be a key priority. Criminal justice professionals working with women in these groups need detailed guidance and strong links with specialist organisations.

A dedicated strategy, developed in consultation with BAME women and specialist organisations, is required in order to achieve equal treatment of BAME women offenders in the criminal justice system, to improve outcomes and to enable progress to be monitored.

³⁶ HMP Drake Hall (July 2016), HMP Foston Hall (June 2016), HMP Bronzefield (November 2015), HMP Peterborough (July 2014)

³⁷ Fawcett Society (2006) Good practice in meeting the needs of ethnic minority women offenders and those at risk of offending, London: Fawcett Society

³⁸ Judicial College (2013) Equal Treatment Bench Book, London: Courts and Tribunals Judiciary

³⁹ NOMS (2012) A Distinct Approach: A guide to working with women offenders, London: Ministry of Justice

⁴⁰ Ministry of Justice (2013) Strategic Objectives for Female Offenders, London: MoJ

⁴¹ Ministry of Justice (2014) Update on the delivery of the Government's strategic objectives for female offenders, London: MoJ