

## Transforming women's justice

### Response from *Reforming Women's Justice*, Prison Reform Trust's programme to Reduce Women's Imprisonment to the Ministry of Justice Consultation

#### Transforming rehabilitation: a revolution in the way we manage offenders

The Prison Reform Trust 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's main objectives are:

- Reducing unnecessary imprisonment and promoting community solutions to crime
- Improving treatment and conditions for prisoners and their families

The Prison Reform Trust, supported by the Pilgrim Trust, has launched a three year strategy to reduce the imprisonment of women in the UK, which builds on the work of the Women's Justice Taskforce.<sup>1</sup> This response should be read in conjunction with the Prison Reform Trust's other response to the consultation.

#### Overview and key recommendations:

We welcome Government's recognition of the need for a distinct approach to working with women in the criminal justice system. To support the development of this we make the following recommendations:

- Funding for community-based women's services must be maintained during the transition to a new commissioning system or women's access to rehabilitation will be jeopardised
- A body should be established charged with national oversight of policy and practice for women offenders
- There should be a statutory obligation to ensure women-specific services in the community and improve support for vulnerable women
- Large contract package areas risk marginalising women's services, to prevent which the funding model must combine local commissioning, national standards and ring-fenced funds
- Consideration should be given to paying a premium for working effectively with women in recognition of their multiple and complex needs and the impact on children
- Cost savings and improved outcomes can be achieved by diverting women who commit non-violent and minor offences out of the criminal justice system at an early stage
- Local criminal justice agencies and partners including PCCs and Health and Wellbeing Boards should be required to engage with service providers and coordinate a local approach to reducing offending by women.

<sup>1</sup> For information about this programme [www.prisonreformtrust.org.uk/women](http://www.prisonreformtrust.org.uk/women)

The Ministry of Justice (MoJ) recognises the different characteristics and needs of women offenders, the low risk most of them pose to the community, and the need for a distinct approach. We welcome the Government's recent statements that it is "committed to addressing the factors associated with women's offending and to taking a different approach where there is a need to differentiate provision for female offenders ....We readily acknowledge that there are often many complex factors associated with women's offending including domestic violence, sexual abuse, substance misuse and homelessness."<sup>2</sup>

We note the recognition by senior MoJ representatives in the consultation forum we attended on 28 January 2013 that:

- Women tend to be more responsive to comprehensive packages of support and interventions
- Redesigning community provision around the different needs of women creates a real opportunity to reduce re-offending quickly and sustainably.

Prison Reform Trust supports a 'mixed economy' of service provision, in which the statutory and voluntary and community sector co-operate in the planning, delivery, monitoring and evaluation of services to women offenders and those at risk of offending. Funding of these services needs to achieve value for money and measurable outcomes are key, but some of the desirable outcomes will inevitably be long-term and not all of them will accrue directly or exclusively to the criminal justice system. For example, there will be improvements in family functioning and child welfare. We hope this will be reflected in the forthcoming government strategy on women offenders but meanwhile it must be reflected in the rehabilitation reform program and the cost-benefit analysis.

We welcome the MoJ's commitment to "effectively manage change while ensuring ongoing service delivery." We are concerned that many community-based women's services are experiencing financial insecurity and uncertainty which jeopardises women offenders' access to rehabilitation support while the system is being redesigned. We recommend that to safeguard service delivery there should be a transition period during which funding is maintained to these services while the new funding system is developed and put in place. During this period, work can proceed to agree appropriate contract frameworks, outcome measures, monitoring and evaluation systems for the smaller women's services.

### **A different approach for women**

The fact that women constitute only five percent of the total prison population means that their needs and circumstances have often been overlooked or dealt with as an afterthought. This can make quantitative research and authoritative analysis of the impact of different sentences and interventions harder to achieve. But the smaller number of women in the criminal justice system also means that with properly targeted effort and committed government leadership we can afford to get it right for them, and for their children.

Over the year Oct 2011 to Sept 2012 the total number of discharges from prison of sentenced women was 7,220.<sup>3</sup> The majority of these women (4,859) were released having served sentences of less than 12 months, meaning they currently receive no statutory supervision or support after release.

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<sup>2</sup> Damian Green MP, Hansard 7 February 2012, Crime and Courts Bill

<sup>3</sup> <http://www.justice.gov.uk/downloads/statistics/prison-probation/omsq/prison-q3-discharge-tables.xls>

It is clear from a wealth of research and inquiries that a gender-sensitive approach offers the best hope of a reduction in women's reoffending.<sup>4</sup> In designing the new commissioning system, it must be acknowledged that because the causes of reoffending for women are particularly complex and interrelated, working with them is often time-consuming and demanding, requiring high levels of teamwork, mutual support and supervision, and multiagency co-operation. A high incidence of mental health problems and trauma plus fear of child protection agencies for women who have children, render women distrustful of statutory agencies or indeed any interventions. In its scrutiny of offender management, the Criminal Justice Joint Inspection report *Equal but Different* found that "in nearly three quarters of all the cases and reports examined, the woman involved was seen as vulnerable in some way. Most of these women were or had been a victim of domestic abuse. Some were subject to sexual exploitation. There were concerns about self harm in around a third of all cases and of suicide in around one quarter of the cases. They are therefore a very needy group of offenders who clearly required both careful monitoring and active input during supervision."<sup>5</sup>

Women also encounter a culture of disbelief in the criminal justice system about the violence and exploitation to which they may have been exposed.<sup>6</sup> Sufficient time must be spent building trust and developing relationships so that women are able to disclose abuse they have experienced and their fears before efforts to promote change are likely to succeed.

It is encouraging to note the findings of our recent YouGov opinion poll which revealed strong support for public health measures to tackle women's offending. Treatment for drug addiction, help to stop alcohol misuse and mental health care were the top three measures to get public backing.<sup>7</sup>

Because effective cooperation across government and between commissioning bodies is so vital to addressing the causes of women's offending, and because of the substantial implications for child welfare and family functioning of ensuring women can get their lives back on track, we **recommend** the establishment of a body charged with national oversight of policy and practice for women offenders and those at risk of (re)offending. It should be charged with ensuring joined up working across the statutory, voluntary and private sectors, monitor commissioning / funding outcomes, promote good practice, develop measurement and evaluation frameworks, identify gaps in service provision and work to ensure national consistency. It should have as a central concern the welfare of any children involved.

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<sup>4</sup> Gelsthorpe, L. et al (2007) *Provision for women offenders in the community* London: Fawcett; Sheehan, R. et al ed, (2012) *Working with women offenders in the community* London: Willan. See also the Corston Review 2007 and preceding reports, and the report of the Women's Justice Taskforce, 2011.

<sup>5</sup> Criminal Justice Joint Inspection (2011) *Equal but different? An inspection of the use of alternatives to custody for women offenders* London: CJI

<sup>6</sup> See Hales, L. & Gelsthorpe, L. (2012) *The Criminalisation of Migrant Women*, Institute of Criminology: Cambridge.

<sup>7</sup> November 2012, YouGov poll of 1,500 people across Britain  
<http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/174>

## **Part B Extending our reform programme - Issues raised:**

### **Question B1: How can we maximise the results we get from our collective Government and public sector resources?**

Cost-savings and improved outcomes could be achieved by diverting women who commit non-violent and minor offences out of the criminal justice system at the first opportunity. For the minority of women whose offending is more serious, greater use of community sentencing options, in particular women's centres or other gender-sensitive interventions where they exist, are both significantly more cost-effective and have better outcomes than short prison sentences. Getting the intervention right in the first place is key.

A co-ordinated approach is key to reducing women's offending to ensure that they can access the right help at the right time. The Ministry of Justice alone cannot address the wide range of problems that women offenders generally face, as has been acknowledged by the Troubled Families programme which draws on cross-departmental budgets and expertise to tackle the often entrenched, systemic problems such families and communities face. Having a stable home and job to go to and childcare provision are some of the most important factors in the successful rehabilitation and resettlement of women released from prison. An MoJ survey cited in the Women's Justice Taskforce report found that those who have problems with both employment and accommodation on release from prison had a reoffending rate of 74% the year after custody compared to 43% for those without such problems.<sup>8</sup>

Co-ordination between health and criminal justice services is also critical given the high proportion of women offenders with mental and/or physical health problems. We note the Government's assurance that the forthcoming strategy for women offenders "*aims to ensure that women will benefit in key areas such as mental health and drug recovery. The strategy covers tackling violence against women, as well as troubled families and employment.*"<sup>9</sup> In relation to violence against women we note that Women's Aid was commissioned by the MoJ /Home Office to produce guidance on *Supporting Women offenders who have experienced domestic and sexual violence*, which includes a toolkit of good practice. However, it is not clear how widely this has been disseminated across criminal justice agencies and service providers.<sup>10</sup>

It is also important to have mechanisms for identifying and promoting best practice so that models of service delivery that are shown to be effective in addressing the causes of women's offending can be replicated.

### **Question B2: How can we use the reform of offender services in the community to enhance the broader range of social justice outcomes for individuals?**

The complexity of factors relating to women's pathways into crime point to the need for broadly based provision that can be individually tailored.<sup>11</sup> These pathways are a combination of indirect factors (such as experiences of physical and sexual abuse which can

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<sup>8</sup> Niven, S. & Olagundoye (2002) *Jobs and homes: a survey of prisoners nearing release* London: Home Office

<sup>9</sup> Damian Green MP speaking in Crime and Courts Bill debate, 7 February 2013.

<sup>10</sup> [http://www.womensaid.org.uk/core/core\\_picker/download.asp?id=3409&filetitle=Supporting+women+offenders](http://www.womensaid.org.uk/core/core_picker/download.asp?id=3409&filetitle=Supporting+women+offenders)

<sup>11</sup> Gelsthorpe, L. et al (2007) *Provision for women offenders in the community* London: Fawcett

impact on self-esteem and confidence) and direct factors (such as financial difficulties), all of which may be relevant to pathways out of crime.

As far as dynamic risk factors are concerned, financial difficulties are perhaps the most significant, exacerbated in some cases by drug dependency. Childcare responsibilities, drug misuse, lack of formal qualifications, and criminal records all act as barriers to achieving financial independence.

Joined up services that address the causes of women's offending, including domestic violence, health including mental health services, employment and housing support, will enhance social justice outcomes for women. Provision of childcare can be critical to women's outcomes, as missed appointments or court appearances are not uncommonly caused by lack of available childcare<sup>12</sup> and is a prerequisite for employment for many women. It is expected that devolution of budgets to local agencies including NOMS, local probation trusts and Police and Crime Commissioners will lead to better integration of services through joint commissioning at a local level, including with Health and Wellbeing Boards, based on local needs assessment. The government's intention to reinforce the rehabilitative impact of offender services is welcome and can only be achieved if there are functioning local partnerships and joint commissioning. We are also hopeful that the liaison and diversion schemes being funded by the Department of Health in police stations and courts will help to improve social justice outcomes for individuals with mental health problems and learning difficulties caught up in the criminal justice system. We will be working to ensure that these services are appropriate and effective for women.

Louise Casey's recent report *Listening to Troubled Families* exemplifies both the need and capacity for change, alongside the right kind of support, amongst the most disadvantaged.<sup>13</sup>

**Question B3: Should any additional flexibility be built into the community sentencing framework to strengthen the rehabilitative impact of community orders and the reintegration of offenders into society?**

We would welcome additional flexibility in the community sentencing framework if it allowed for a more tailored approach to the design and enforcement of community orders for women. For example, a woman who has childcare responsibilities will need to fit appointments, courses and programmes around that. The latest data available shows that in 2009 more than 1,000 women were imprisoned for breaching a court order, so in many cases their original offence did not warrant a custodial sentence in the first place. They are sent to prison for short periods for the breach, causing disproportionate harm and disruption that in most cases will set back the rehabilitation process. Breach accounted for 13% of women received into custody so increased flexibility in this area could be especially helpful for women's rehabilitation.<sup>14</sup> Women are over-represented among those imprisoned for breach, Those involved in providing community services and supervision should have the capacity to modify the terms or requirements or mode of compliance so that women are not breached for technical non-compliance, or for failure to comply with unrealistic conditions. Childcare problems can often be the cause of warrants being issued for missed court appearance

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<sup>12</sup> See, for example, paragraph 10.22, (2011) *Equal but different? An inspection of the use of alternatives to custody for women offenders* London: CJI

<sup>13</sup> <https://www.gov.uk/government/publications/listening-to-troubled-families>

<sup>14</sup> 2009 is the last year for which the MoJ published data on imprisonment where the primary offence is breach of a community order.

which in turn can lead to harsher court penalties, with adverse impact on dependent children.<sup>15</sup>

We believe that there should be a statutory obligation to ensure women-specific services in the community and improve support for vulnerable women, as this will provide the necessary underpinning in the new structure of rehabilitation service delivery. The Crime and Courts Bill presents the Government with an ideal opportunity to introduce this legislative underpinning and we remain hopeful that the Government will do so.<sup>16</sup>

## **Part C: System specification questions**

### **Contract specification**

#### **C1 – We propose 16 contract package areas. Do you think this is the right number to support effective delivery of rehabilitation services?**

We are concerned such large contract package areas would risk the continued marginalisation of women's services. Women will comprise a small proportion of the offender population within each contract package area, exacerbated by the geography of the women's secure estate. To mitigate this risk, funding would need to be ringfenced for women's services within each area and there would have to be tight contract specifications for women offenders, otherwise women's needs will be sidelined in a framework designed around the needs and characteristics of the majority male offender population.

Furthermore, the larger the contract area the more likely it is that bids will come from large prime contractors at the expense of full participation by smaller private and third sector providers, making the government less likely to achieve its goal of ensuring a diverse range of providers can bid for, or be involved in, payment by results contracts.<sup>17</sup>

The problems that women's services have been encountering in a range of commissioning regimes (including health, housing, domestic and sexual violence, employment) were considered in an EHRC report published last year.<sup>18</sup> The report findings suggest that commissioning procedures have disadvantaged women's service providers because:

- Larger providers are better resourced for preparing bids
- Large generic providers are thought to be more cost-effective
- Commissioning processes may be more inclined to place emphasis on short-term direct costs and immediate measurable benefits rather than 'whole life' value for money of the service or wider social return on investment.

The report also found that service specifications could be too prescriptive for small holistic services that tailor their support to individuals, the documentation for bidding too onerous and time-consuming, the time frame for submitting bids too tight to allow for the development of local partnerships or consortia and the payment terms and conditions unrealistic for smaller organisations.

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<sup>15</sup> Criminal Justice Joint Inspection (2011) *Equal but different? An inspection of the use of alternatives to custody for women offenders* London: CJI

<sup>16</sup> Information on the Crime and Courts Bill Schedule 15 Part 7 and ensuing parliamentary debates is at <http://www.prisonreformtrust.org.uk/GetInvolved>

<sup>17</sup> Nicholson C. (2011) *Rehabilitation works: ensuring payment by results cuts reoffending* London: CenterForum

<sup>18</sup> Hirst A & Rinne S (2012) *The impact of changes in commissioning and funding on women-only services* London: EHRC

We recommend that the findings of this research be carefully considered before final decisions on contract package areas are made so as to ensure opportunities for participation by smaller specialised providers and for the formation of consortia where appropriate. This is particularly important, as the EHRC report points out, for the providers of culturally appropriate services to women from ethnic and religious minority backgrounds.

## **C2 What payment by results payment structure would offer the right balance between provider incentive and financial risk transfer?**

### **C3 – what measurements and pricing structures would incentivise providers to work with all offenders including the most prolific?**

There are specific challenges in designing a payment-by-results system for the commissioning of women's services because the numbers involved in any one commissioning area/ local scheme will be relatively small, which makes proving impact to a statistically significant level much harder. This problem is exacerbated by the complexity of women's needs and means it is not an area of service delivery where there are likely to be quick, easy or cheap wins. Desistance from crime is a process in which skills and advantages accumulate over time, mutually reinforcing each other and gradually enhancing the woman's capacity to avoid recidivism.<sup>19</sup>

In any funding regime it is important to focus on outcomes for women offenders, not just on service outputs. But there needs to be agreement on which outcomes should be measured and will count as success. In a payment-by-results model the very survival of services can depend on getting this right. Whilst we can agree that the objective is to reduce offending, an exclusive focus on reconviction rates would be an extremely limited and partial measure of the effectiveness of programmes given what is known from the research literature on desistance. The binary model for a funding system would only work if the premium payable for demonstrated desistance at specified intervals were effectively a bonus payment, on top of the funding necessary to keep the service going. We note that the Troubled Families service payment system recognises "*progress towards work (but not in a job)*", and reduced, rather than no, reoffending.<sup>20</sup>

Ample evidence of both the challenges involved and the success that can be achieved in turning women's lives around is available from the network of women's community services that have been working with women offenders and at risk of offending over the last few years.<sup>21</sup> However, outcome measurement across the sector has been inconsistent and incomplete for a number of reasons. This needs to be resolved in consultation with the services as there is enormous potential to reduce women's reoffending providing these services can be funded on a secure and stable footing.

It was pointed out in the nef report *Unlocking Value* that the MoJ measures used to track the progress of non-violent women offenders are inadequate. The nef report supports the benefits of measuring self-confidence and sense of autonomy as outcomes of interventions for women as these "*could be valuable in laying a foundation for rebuilding their lives in the future*". Women interviewed for the research indicated that these were the "*first steps on a*

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<sup>19</sup> Gelsthorpe, L. et al (2007) *Provision for women offenders in the community* London: Fawcett

<sup>20</sup> Department for Communities and Local Government (2012) *The Troubled Families programme: Financial framework for the troubled families programme's payment-by-results scheme for local authorities* London: DCLG

<sup>21</sup> See for example *Women's Community Services, a wise commission*, nef, 2012



*road to dealing with their debts, poor relationships, drug use etc*".<sup>22</sup> Finding better ways to measure progress will help inform the development of better interventions. Nef and others believe that more research is required on whether short-term improvements in well-being can predict other outcomes such as reduced reoffending.

We need a coherent system of outcome measures that are properly informed by sound evidence from stakeholders who work with women who have offended or are at risk of offending. This would include a personalised assessment of distance travelled in terms of an individual's offending behaviour and the causes of it. Measures should include success factors to help focus on interventions that enable individuals to turn their lives around. The nef report has a useful appendix offering a theory of change for women offenders that maps inputs, activities, outputs and outcomes (Appendix 3).<sup>23</sup> Also of interest are the outcomes measured by the Asha women's centre:

- Participation, including take-up of courses, advice sessions, signposting
- Self-reported improvements in functioning measured at intervals
- Acquisition of qualifications and skills
- Progression to mainstream further education, employment, voluntary work.

As a recent article in the Probation Journal points out, "*work with women which addresses criminogenic needs (in both narrow and broad senses) will ultimately be required to demonstrate how the 'broad' work relating to social and personal needs impacts on women's pathways into crime. However the current level and quality of data recording observed in a number of the [women's community service] projects is not of a standard which supports the creation of an evidence base from which to extrapolate general conclusions about levels of need or progress made.*"<sup>24</sup> The authors recommend that "*investing now in toolkits to enable self-assessment and co-ordinating agreements about common measurement tools might facilitate development of a PBR approach some years hence*".<sup>25</sup>

Some women's services have found it particularly challenging to fit narrow commissioning models, as this quote from a domestic abuse service manager illustrates:

*The holistic support that we provide doesn't get accounted anywhere. So we may be helping women with mental health issues, as well as depression, as well as benefits, as well as giving refuge and shelter. A lot of preventive work is going on but the costs are being measured just for the refuge and it looks huge to people, they don't realise that within one roof the person gets everything and that's why she's able to shift, make that move and be safe, and it is kind of saving the children as well.*<sup>26</sup>

The regime of payments must recognise such factors and the need for funding stability for smaller organisations which cannot absorb the risk and uncertainty of larger rewards for longer term outcomes. There is a risk "*that many of the (mainly) small scale existing women's service providers may fall by the wayside because they do not have the resources*

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<sup>22</sup> New economics foundation (2008) *Unlocking value: How we all benefit from investing in alternatives to prison for women offenders* London: nef See also *Women's Community Services: A wise commission*

<sup>23</sup> Ibid.

<sup>24</sup> Gelsthorpe and Hedderman (2012) 'Providing for women offenders: the risks of adopting a payment by results approach' *Probation Journal* 59(4) 374-390

<sup>25</sup> Ibid.

<sup>26</sup> Hirst A & Rinne S (2012) *The impact of changes in commissioning and funding on women-only services* London: EHRC



*to wait several years in the hope of an uncertain financial return based on dubious estimates of likely impact and crude measures of actual change.”<sup>27</sup>*

The payment system adopted for the Troubled Families programme could provide useful lessons. It allows for the bulk of the service payment to be paid as an attachment fee per client at the outset of a service contract, supplemented by a success fee if specified outcomes are achieved a year later.<sup>28</sup>

Meanwhile we suggest that consideration should be given to paying a premium for working effectively with women – otherwise they will be sidelined for being too hard to work with because of their multiple and complex needs. In addition, account must be taken both of the additional costs involved in working with women offenders who have children, and of the longer term benefits to children, and subsequent intergenerational gains, where appropriate services are provided.

#### **C4 – How should we specify public sector oversight requirements in contracts to avoid bureaucracy but ensure public protection?**

We would like to see a broader view taken of public protection to ensure that contracts for women’s services are properly scrutinised. Supporting women to address the causes of their offending will improve the welfare and safety of children and families and help build resilient communities. As noted above, we recommend that the contracts for women’s services be scrutinised by a national oversight body.

#### **C5 - We want to incentivise through the gate provision but some prisoners will disperse to a different part of the country following release. How can we best account for that in contract design?**

Women are generally held in custody further from home and families than men because of the smaller number and greater dispersal of women’s prisons across England. For women in Wales the problem is particularly acute and through the gate services have to work across the border. We recently heard from a Welsh woman who had been made to serve most of her custodial sentence in Peterborough, making it impossible for her husband and children to ever visit her. This is despite the Bangkok Rule requiring that “*women prisoners shall be placed in prisons close to their homes, taking into account their caretaking responsibility as well as appropriate rehabilitative programmes and services available to them*”.<sup>29</sup> There are only two open women prisons in England which limits opportunities for women on long sentences to prepare for release closer to home. Half of all women on remand receive no visits from family.<sup>30</sup>

The Bangkok Rules set minimum standards for the provision of pre- and post-release reintegration programmes but current provision falls well short in many areas.<sup>31</sup> Preparation for release and in-reach services are as important as through-the-gate support and should

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<sup>27</sup> See Gelsthorpe L. & Hedderman C (2012) ‘Providing for women offenders: the risks of adopting a payment by results model’ *Probation Journal*, 59(4) 374-390

<sup>28</sup> Department for Communities and Local Government (2012) *The Troubled Families programme: Financial framework for the troubled families programme’s payment-by-results scheme for local authorities* London: DCLG

<sup>29</sup> Rule 4 of Bangkok Rules TO DO

<sup>30</sup> Women in Prison (2013) *State of the estate: Women in Prison’s report on the women’s custodial state 2011-12* London: WiP

<sup>31</sup> Ibid.

be well co-ordinated. According to research from the Social Exclusion Unit only 24% of women with a prior skill were able to use that in prison work; only 11% of women received help with housing matters while in prison.<sup>32</sup> Home Office research found that 41% of women in prison did not have accommodation arranged on release. Only a third of women prisoners who wanted advice on debts and benefits received that advice. Around a third of women prisoners lost their homes and often their possessions while in prison.<sup>33</sup> All women leaving prison, including those who have served very short sentences, should have access to a woman mentor.

The review of the women's secure estate that is currently in train provides an opportunity to ensure that through-the-gate services are able to arrange a woman's access to support services in whichever part of the country she is returning to. Given the additional work involved in helping a woman resettle far from the prison, the service payment may need to be enhanced to account for this.

### **Supply chain management**

#### **C7 - What steps should we take to ensure that lead providers manage and maintain a truly diverse supply chain**

#### **C9 - How can we ensure that the voluntary and community sector is able to participate in the new system in a fair and meaningful way?**

We welcome the government's commitment to ensuring participation by the voluntary and community sector. Currently most community support services for women are run by voluntary and community sector (VCS) agencies of varying size, type and focus so it is vital that the new system enables them to flourish. VCS women's services and centres have recognised expertise in addressing women's needs; they have freedom to innovate and pursue promising features of practice. The VCS has a long history of providing user-focused support and services to disadvantaged client groups and has shown itself able to engage with those deemed hard-to-reach. Women's services in particular understand the need to address issues of past and current abuse. Although there is limited evidence of causal relationship between domestic violence/ abuse and reoffending there is a relationship between abuse and poor mental health, substance misuse, homelessness and labour market participation, all of which are strongly associated with the risk of reoffending. Partnership working with rape crisis, domestic violence and counselling services is therefore very important.<sup>34</sup> Research and experience suggests that female offenders can only change their lives when they have access to the pre-conditions of social justice, particularly housing, employment and health facilities. But in addition, they need to feel that they are people of worth who have something of value to contribute and key to this are reciprocal relationships and mutuality. This is where the kind of support and relationship-building that women's centres/services provide is key. Narrow eligibility criteria do not fit well with the complexity of women offenders' lives – partnership working is needed to meet their needs and address the causes of their offending in a holistic manner. Also, the importance for women of access to programmes and services that provide support to both offenders and non-offenders in a non-stigmatising and normal environment need to be recognised. Any reluctance on the part of sentencers to accept this should be addressed.

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<sup>32</sup> Social Exclusion Unit (2002) *Reducing reoffending by ex-prisoners* London: SEU

<sup>33</sup> Niven, S. & Olagundoye (2002) *Jobs and homes: a survey of prisoners nearing release* London: Home Office

<sup>34</sup> Gelsthorpe, L. et al (2007) *Provision for women offenders in the community* London: Fawcett

We refer to points made above regarding contract package area size, payment/ funding system and commissioning framework that need to be addressed if the VCS is to be able to fully participate. See also the main submission from the Prison Reform Trust.

## **Legislative changes**

### **C10 - How can we best use statutory supervision on release from custody to ensure that offenders engage with rehabilitation effectively?**

The lack of statutory supervision for those on short sentences has particularly affected women, who are overwhelmingly imprisoned for short periods. Many of these short sentences are imposed for breaching a community sentence order. It will be important to ensure that extending statutory supervision does not unintentionally increase the imprisonment of women for technical breaches.

A prison sentence however short should not be the gateway to the support and supervision women need in the community. If implemented, this proposal could encourage the courts to hand down more short custodial sentences for women who have committed low level petty crimes in much the same way that the introduction of Detention and Training Orders under the Crime and Disorder Act 2000 led to a steep and unintended rise in youth detention because the detention went hand-in-hand with the training opportunity.<sup>35</sup>

We refer to the safeguards recommended in the main body of the submission which would be particularly important for women. We also reiterate the value of providing a statutory guarantee of specialist women's community services to provide for appropriate supervision and support as an alternative to, or following, custody.

### **C11 - How can we ensure consequences for non-compliance are effective without building in significant extra cost?**

The best way to promote compliance with conditions is to ensure that they are manageable for women, that they are consistent with childcare commitments and domestic circumstances, and realistic for those with mental health problems or continuing drug or alcohol problems. Women's community services have extensive expertise in this area, including in the provision of safe spaces for women and successful engagement.

## **System design**

### **C12 - What kind of delivery structure would be most appropriate for the public sector probation service?**

We are concerned about the proposal to reserve public sector probation services for higher risk offenders. In recent years some probation services have been delivering well-designed and responsive services to low-risk women offenders. The proposed retention of the public sector probation service for supervision of only the highest risk offenders means that very few women offenders will be supervised in this way and the expertise will be lost. They will almost all be supervised by contracted providers. This makes it particularly important that contracts are properly funded, managed and delivered and their effectiveness scrutinised. If

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<sup>35</sup> [http://www.barnardos.org.uk/locking\\_up\\_or\\_giving\\_up\\_final1\\_sept\\_08.pdf](http://www.barnardos.org.uk/locking_up_or_giving_up_final1_sept_08.pdf)

there is an accountability deficit, women offenders will be disproportionately affected and potentially disadvantaged.

**C13 - what else can we do to ensure the new system makes best use of local expertise and arrangements, and integrates into existing local structures and provision?**

**C14 - How best to maximise involvement of Police and Crime Commissioners and other key partners locally?**

We support recommendations made in the Criminal Justice Joint Inspection thematic report that there should be increased dialogue and co-operation between Police and Crime Commissioners, local Criminal Justice Boards and Community Safety Partnerships and Health and Wellbeing Boards and a requirement to engage with service providers and co-ordinate a local approach to reducing reoffending by women.<sup>36</sup>

**C15 - Ensuring professional standards? A professional body or institute?**

**C16 - What role can the Inspectorate of Probation play?**

**Equality implications**

**Q 17 How can we use this new commissioning model, including payment by results, to ensure better outcomes for female offenders and others with complex needs or protected characteristics?**

A key characteristic of women offenders is the likelihood of multiple presenting problems, so an effective response is likely to require the involvement of a range of voluntary and public sector organisations. Women's needs in relation to desistance are personal, relational, social and situational. Support networks are important to facilitate women offenders' resilience to personal and social hardship. They need help to develop social capital as well as individual skills.

Women interviewed as part of research from SOVA and Women in Prison reported limited opportunities for education, training and employment during their sentences, whether in prison or the community.<sup>37</sup> An earlier Home Office resettlement survey (cited above) found that only 18% of women, compared to 30% of men, had employment or training organised for their release.<sup>38</sup> Many women will not feel ready for employment and will prioritise "overcoming substance misuse problems, lack of suitable accommodation...and lack of emotional support."<sup>39</sup>

**Question 18**

**What are the likely impacts of our proposals on groups with protected characteristics?**

This response evidences the risk that the needs of women offenders could be marginalised if the contract package areas are as large as proposed. These risks would be exacerbated for

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<sup>36</sup> Criminal Justice Joint Inspection (2011) *Equal but different? An inspection of the use of alternatives to custody for women offenders* London: CJI

<sup>37</sup> SOVA/ WiP (2005)

<sup>38</sup> Niven, S. & Olagundoye (2002) *Jobs and homes: a survey of prisoners nearing release* London: Home Office

<sup>39</sup> Gelsthorpe, L. et al (2007) *Provision for women offenders in the community* London: Fawcett

black and ethnic minority and Muslim women in the criminal justice system. A way of mitigating this would be to adopt a different approach for women, such as separate contract/s for women's services and a specific oversight mechanism. It is well-recognised that equal treatment does not necessarily mean treating everyone the same, and that to achieve equal outcomes a different approach for some groups can be necessary.<sup>40</sup>

There is also evidence of extensive mental health needs going unrecognised and unmet in the criminal justice system. It will be necessary to ensure that the commissioning framework and contract payment system do not result in unfavourable treatment of offenders affected by mental health or learning difficulties as this would be unlawful disability discrimination.

**Reforming Women's Justice, Prison Reform Trust, February 2013**

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<sup>40</sup> Criminal Justice Joint Inspection (2011) *Equal but different? An inspection of the use of alternatives to custody for women offenders* London: CJI