

Working together to develop our female offender strategy: Call for Evidence

I am pleased to enclose the Prison Reform Trust's response to the Ministry of Justice call for evidence on the forthcoming Female Offender Strategy promised in the White Paper.

We welcome the Department's commitment to ensuring the Female Offender Strategy is informed by the best available evidence. There is overwhelming evidence that the current reliance on punitive and custodial approaches delivers poor outcomes for women and their families - see for example the data on deaths in custody, on reoffending and on wider outcome measures in the attached Prison Reform Trust core briefings.¹ Evidence of the effectiveness of early interventions and community based responses is strong but inevitably affected by the patchy and often short-term provision of these responses, and the relatively small cohorts of women involved. It is important therefore to be realistic about the evidence and to consider evidence of what does not work as well as what does, and to give due weight to qualitative as well as quantitative evidence. Failure to do so will further disadvantage women as a minority in the criminal justice system.

Our submission includes a range of proposals to improve outcomes for women and questions the announcement of five new community prisons for women before the Female Offender Strategy has been published. While the Ministry of Justice have offered some reassurance that there is no intention to **increase** the capacity of the custodial estate for women, the development of the strategy provides an opportunity to **reduce** that capacity. It is time to recalibrate the criminal justice response to women to end the use of prison as a default sentencing option and the current postcode lottery of community provision.

By far the most significant element of any strategy is the decisions taken on where scarce public funds are to be spent. To commit to expenditure on building new prisons in advance of the strategy's publication, and despite compelling evidence in favour of investment in a national network of women's centres offering early interventions and community sentencing options, would be a missed opportunity to make up for a decade's halting progress.

¹ Bromley Briefing: Prison Factfile Autumn 2016; Why Focus on reducing women's imprisonment, February 2017

Prison Reform Trust response to the Ministry of Justice Female Offender Strategy Call for Evidence

The Prison Reform Trust

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. Our 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 2015-18'*, in partnership with Families Outside (Scotland), Soroptimist UK, Llamau, Hibiscus Initiatives, the National Council of Women Great Britain and User Voice.

Further information about the programme's aims, objectives and methods are at <http://www.prisonreformtrust.org.uk/women>

Introduction

The Prison Reform Trust welcomes the opportunity to contribute to the development of the Female Offender Strategy promised in the recent White Paper 'Prison Safety and Reform'. We have long called for a step change in how the criminal justice system responds to women. This year marks 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.

As the Ministry of Justice recognised in the recent White Paper Prison Safety and Reform, *'a specific approach is most effective in helping women to address the issues that may be underlying their offending and to turn their lives around'*.² Publication of the long awaited Female Offender Strategy presents a unique opportunity for the government to signal a fresh approach and invest in effective community options, including women's centres, that are proven to reduce women's offending.

In this submission we focus on the necessary elements of a strategy for improving outcomes for women, highlighting the importance of this for families and communities. A 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)³.

1. Have we identified the key principles or are there others that we should be considering?

We support the statement of principles set out in Annex A of the call for evidence but propose that they should include the following: a reminder that prison is the last resort and is not to be regarded as a 'place of safety' for women; the need to consider impacts on children and families given women's position as primary

² 2016 para 28

³ http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/why%20women_final.pdf

carers; recognition of the links between women's experience of domestic and sexual abuse and their offending. These additions would ensure the principles more fully reflect the requirements of The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules') to which the UK is signatory, and the revised Home Office strategy on Violence against Women and Girls.

It would be helpful if the rationale for a Female Offender Strategy were set out in an opening statement recognising 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. This statement should explicitly recognise that 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 primary care responsibilities for dependent children; pregnancy; mental health and substance misuse needs; experiences of abuse and coercion; 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 Companies, 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 should 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:

“(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 emerging findings of the Lammy review⁴ are helpful in identifying the differential experiences of Black, Asian and Minority Ethnic (BAME) women in the criminal justice system and we summarise some of the available evidence in more detail at Annex C. Foreign national women 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.

Recognition of the need for a cross- government strategy is welcome – this is essential and requires sustained high level leadership and engagement. As the recent HM Treasury Costing Project for Female Offenders made clear the costs associated with women in the criminal justice system fall across many departments and sectors, including the Ministry of Justice, Home Office, Department for Health, Department for Work and Pensions and the Department for Communities and Local Government.

2. What more can be done to support and divert 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. Prison Reform Trust has published two recent relevant reports.

In *'Leading change: the role of local authorities in supporting women with multiple needs'*, co-authored with the Association of Directors of Adult Social Services, we note that there are women with multiple needs in contact with, or on the edges of, the criminal justice system in every local authority area. Local, regional and national authorities and multiagency partnerships have overlapping responsibilities for their health and wellbeing. There is good and promising practice in some areas but many women do not receive the support they need. In the absence of timely support from health, care and housing services, the ongoing costs of addressing poor outcomes, and of crisis intervention, are high. Councils are uniquely placed to champion women. The Female Offenders Strategy needs to incentivise and support local leadership to achieve effective multiagency working to improve opportunities and outcomes for women offenders.

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 on how successful schemes can be replicated across England and Wales, and on removing barriers to diversion. For example in some areas, women who are prosecuted for domestic abuse offences are automatically excluded from diversion schemes. These women may be victims of domestic abuse who have used reactive violence against a primary aggressor and need referral to specialist services.

The significant decline in the use of out of court disposals for women since 2007 is of concern (see Annex B). Their use peaked in 2007 (96,457) and then began to fall at a significant rate. In 2015, 36,239 out of court disposals were given to women, a decrease of over 62%. It is also important to note that while many women appear in Court following arrest and charge a great many more women are prosecuted by other means. This

⁴ Lammy Review of Race and the Criminal Justice System: Interim Findings

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/569218/open-letter-to-prime-minister.pdf

See also Women in Prison and AGENDA (2017) "Double disadvantage": The experiences of Black, Asian and Minority Ethnic women in the criminal justice system. <http://www.womeninprison.org.uk/perch/resources/double-disadvantage-1.pdf>

includes TV licence evasion, welfare fraud, fare evasion and sanctions relating to the non-attendance of children at school. Because these cases are not dealt with by the police there is no option to use an out of court disposal. TV licence evasion accounted for 36% of all prosecutions for women, but only 6% for men. In 2015, 70% of all the 189,349 defendants prosecuted for this offence were women. In Fair Cop we recommend that *'The Ministry of Justice, under the auspices of the Advisory Board on Female Offenders, should undertake a review of 'non-criminal' pathways to the prosecution of women.'*

The Ministry of Justice, Home Office and Police and Crime Commissioners need to take steps to ensure that full use is made of out of court remedies, restorative justice and liaison & diversion services. The Ministry of Justice Whole System Approach funding has demonstrated what can be achieved through local public sector reform and we encourage the MOJ to roll this funding out to each police force area to ensure that effective police triage services are available across England and Wales to support women at the point of arrest. Academic evaluations are under way of the different initiatives described in Fair Cop with many reporting improved outcomes for the women who have participated in the schemes.

The Prime Minister has lent her personal support to an ambitious, cross-government strategy to end violence against women and girls, which explicitly recognises the vulnerability of women offenders who are affected by domestic abuse.⁵ The introduction of the offence of coercive or controlling behaviour is a step forward, although there have been few prosecutions to date.⁶ Sentencing guidance also recognises coercion as a mitigating factor in theft, fraud and drugs offences although it is not clear how extensively this guidance is being used.⁷ The existence and quality of pre-sentence reports is relevant here. Improvements in the police response to domestic abuse are starting to be seen following the 2014 HMIC inspection report and the College of Policing has undertaken work to improve the police understanding of the dynamics of domestic abuse, including controlling and coercive behaviour.⁸

These measures should improve responses to vulnerable women who have experienced abuse and coercion and who may be at risk of offending. However there is still much to be done before the legal and policy framework is translated into a consistent and robust response on the ground as illustrated in the following account given to the Prison Reform Trust by a woman in a recent focus group in London:⁹

"My little girl was with me...I tried to jump out the top floor window, I couldn't get out of it and so I called the police because he absolutely battered me. I had a fractured skull from it...and I had a warrant out for shoplifting or something and I got arrested and nothing happened to him...and this was something happened quite a lot."

The female offenders strategy should include a commitment to ensuring that the police are consistently able to (1) identify and investigate the offence of controlling and coercive behaviour and (2) identify the primary aggressor in incidents of domestic abuse and respond appropriately to individuals (usually women) who have

⁵ [Home Office \(2016\) Ending violence against women and girls. Strategy 2016-2020](#), London: Home Office

⁶ The Guardian newspaper, 31 August 2016: <https://www.theguardian.com/society/2016/aug/31/police-failing-to-use-new-law-against-coercive-domestic-abuse>

⁷ See the relevant Definitive Guidelines at: www.sentencingcouncil.org.uk

⁸ See [HM Inspectorate of Constabulary \(2014\) Everyone's business: improving the police response to domestic abuse](#), London: HMIC and [HM Inspectorate of Constabulary \(2015\) Increasingly everyone's business: A progress report on the police response to domestic abuse](#), London: HMIC

⁹ Prison Reform Trust research 'Abuse, coercion and women's offending' intended for publication in Autumn 2017.

used reactive violence or who have committed other offences.¹⁰ The police should be equipped and prepared to use their discretion not to arrest but to take measures to protect women from further abuse and refer them to specialist support services. Similar expectations must be placed on other criminal justice agencies, as well as defence solicitors and barristers, to identify where a defendant has been a victim of abuse or coercion and take appropriate action.

Similar concerns arise in relation to women offenders who have been victims of human trafficking or modern slavery. Despite the National Referral Mechanism (NRM), research in 2012 by the Cambridge University Institute of Criminology found that instead of being identified and referred through the NRM, many potential victims of trafficking (nearly half of whom were trafficked specifically for sex work) ended up in custody for offences they had been coerced into committing. One victim of sex trafficking, arrested for false documentation, described her experience thus:

“At the police station I was confused. They spoke quickly. They never asked if I needed an interpreter. I did not understand what was going on. I was crying...I just wanted to tell them everything – I wanted them to listen and understand. The solicitor just said ‘say no comment, no comment, no comment’. The only thing the police told me I could do was to make a phone call. Did they not see I was a foreigner and very frightened? No one would let me talk to them.”¹¹

Since then, the Modern Slavery Act 2015 has been introduced, including a statutory defence for victims who have been compelled to commit an offence as a consequence of human trafficking or modern slavery. However, as the Independent Anti-Slavery Commissioner has said, modern slavery remains a hidden and underreported crime. While the Home Office has estimated that there were between 10,000 - 13,000 potential victims of modern slavery in the UK, in 2014 just 2,340 potential victims were referred to the National Referral Mechanism.¹² The Commissioner has called for a ‘transformation’ of the NRM and the results of the NRM pilots are awaited. In the meantime, there is no denying the scale of the challenge in improving protection for victims who may have been compelled to commit offences. In recognition of the links between human trafficking and modern slavery and some women’s offending¹³, actively supporting efforts to meet this challenge should be a key element of the female offenders strategy. Prison Reform Trust is working with Hibiscus and other experts to develop more detailed briefings on the links between women’s victimisation and offending for completion in the Autumn.

3. How can we improve community sentences for women in a way that inspires sentencer confidence; ensures that they are seen as a viable alternative to custody for some women; and contain the right support/interventions to support 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. One way of rolling this out nationally would be to introduce specialist problem solving courts for women offenders nationwide, following the model in Salford. More broadly, sentencers need to be well-informed about the impact of different penalties, the circumstances of the individual and the options available.

¹⁰ For a relevant longitudinal study and account of earlier research see: Hester, M. (2009) *Who Does What to Whom? Gender and Domestic Violence Perpetrators*, Bristol: University of Bristol in association with the Northern Rock Foundation

¹¹ Hales, L. & Gelsthorpe, L. (2012) *The criminalisation of migrant women* Cambridge: Institute of Criminology

¹² Independent Anti-Slavery Commissioner website, viewed 02/05/17: <http://www.antislaverycommissioner.co.uk/>

¹³ Hales, L. & Gelsthorpe, L. (2012) *The criminalisation of migrant women* Cambridge: Institute of Criminology

- Women comprise about 15% of individuals being supervised on community orders or suspended sentence orders. There is a smaller proportion of women than men from Black and Minority Ethnic communities being supervised in the community (12.2% compared to 16.8%).
- 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 2006, 3,467 women were given suspended sentences rising to 7,097 in 2015. By contrast, between 2006 and 2015 the number of women receiving community orders dropped from 12,041 to 9,338.
- Short sentences have the worst reoffending outcomes. More than half (51%) of all women leaving prison are reconvicted within 12 months – for those serving sentences of less than 12 months, the reconviction rate rises to 62%. 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 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 orders¹⁴ for women in England and 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. 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 recent 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

¹⁴ Crest Advisory (2017) Where did it all go wrong? A study into the use of community sentences in England and Wales <http://crestadvisory.com/wp-content/uploads/2017/04/community-sentences-report-where-did-it-all-go-wrong.pdf>

sentences to be considered when the offence is serious or violent or the woman represents a continuing danger. Even when that is the case, 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.

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 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 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. How can government work with the sector to increase the resilience of women's centres?

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. Once it is gone it is difficult and costly to re-establish. 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 recent 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.

We are aware of some women's services that have been told they are "too expensive" by the responsible Community Rehabilitation Company (CRC), who say they have inherited greater numbers of probation staff than expected, so are reducing expenditure on external providers. We understand that some women's services have already closed, reduced their services or put their staff on redundancy notice, as a result of funding uncertainty following March 2015. Some CRCs did offer last-minute interim 3-6 months funding whilst they scoped and mapped service provision and reviewed plans. In other areas, CRCs are reported to be bringing women specific service provision in-house to save money or are putting contracts out to competitive tender, despite assurances during the bidding process that they would work with specified women's service providers which have proved their effectiveness. Moreover, the present demands upon finite CRC budgets may see some service providers focus exclusively on delivering baseline activities to the detriment of opportunities to think creatively about opportunities for prevention and early intervention. As the NAO recently noted *'CRCs are paid primarily for completing specified activities with offenders rather than for reducing reoffending, which also risks hindering innovative practice'*. There is a danger that the new contracting landscape introduces perverse incentives whereby the only way to unlock much needed support and resources for individuals with multiple and complex needs is to arrest them and draw them through the criminal justice system.

Funding for women's centres must be placed on a secure footing. On the 25 January 2017 PRT's Director, Peter Dawson, and Chair James Timpson attended a roundtable convened by then Justice Secretary Liz Truss. Peter encouraged the Justice Secretary to consider what more the MOJ could do to ensure a national network of women's centres. Significant parts of that network are in place, but there are major geographical gaps, including London, the South East and the North East. 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.

The White Paper and the funding allocated to new women's prisons provides a chance to make both the modest capital investment needed in the community and to give sufficient certainty on resource funding. This can attract the cross-sector support that characterises women's centres where they exist already. 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.

The answer to the question really is as simple as it appears – spend more of the available money on the effective technology of women's centres and less on the ineffective technology of custody. Given the

availability of capital funding for infrastructure, and the much lower running cost of women's centres compared to short term custody, the opportunity exists to make women's centres as intrinsic a part of the landscape as prisons are currently. As the sole commissioner of custody, only central government has the wherewithal to make this investment decision and carry the risk that the number of women requiring custody does not fall. But all the evidence supports the view that that risk is low, and is vulnerable principally to political rather than "real world" interference. In the long term, women's centres offer not just radically lower running costs than custody, but also a range of benefits to providers far beyond the criminal justice arena, with scope to derive revenue from the access they provide to women in need of support.

5. How do we move towards a higher quality women's custodial estate which is safe, secure, rehabilitative and closer to home for the majority of women?

The absolute priority for the future of the custodial estate must be to plan for fewer women in custody. The catastrophic outcomes for so many women who go to prison, both during and after their incarceration, show that the government's ambitions for safe, secure and rehabilitative custody cannot be met with the resources currently available. Higher quality must mean a better resourced and more person-focused system for a significantly smaller number of women for whom the seriousness of their offending makes custody unavoidable.

The next most important priority should be to complete an analysis of where prisons for that minority of serious female offenders are required geographically. There is no argument that the current female estate represents anything other than historical accident, with a variety of locations for prisons decided on the basis of their availability and, as often as not, their unsuitability for occupation by male prisoners. It may take many years to reach a genuinely planned estate for women, but there should at least be a plan, and it should be based on the premise that remaining close to home is the most important consideration for all but a tiny fraction of women in custody.

There follows a clear implication that women's prisons should be able to accommodate prisoners for the whole of the custodial part of their sentence, offering opportunities for progression within the same site, including both release on temporary licence and facilities for independent living in conditions of minimal security in the later part of a sentence. Only a small number of women in prison need to be held in conditions of high security, and only a small number require access to specialist facilities such as a therapeutic community. Even for those women, the planning presumption should be that being held in those conditions represents a temporary diversion from a sentence that is expected to be served close to home, and linked to the services in the community that will sustain the woman on release.

The problem with the announcement of 5 new "community prisons" is that it implies that the remainder of prisons for women will not be "community prisons". So there is a real concern that the prisons that close to make the running costs available for the new prisons will be open prisons, and that the new community prisons will effectively be filled with women who would already be judged suitable for open conditions or for daily release on temporary licence. The more radical approach should be to identify, on the basis of a postcode analysis, where the demand for capacity will be, and then to invest in a mixture of existing and new sites to provide the multifunctional, local capacity to meet that demand.

There is an unhappy history of accommodation for women being tacked on to existing male prisons – Durham and Winchester both being examples where such units had to be closed. So the prospect of returning to that practice is bound to generate concern. HMP Peterborough may suggest that a purpose built prison catering for both male and female prisoners has a better chance of success, but it also underlines the need to plan for a more dispersed estate of multi-functional prisons for women, given the absurd court

catchment area Peterborough serves. Again, an estate that is not being required to cope with an even higher turnover of short term and remand prisoners than the male estate has the opportunity to consider differently how it manages the reception of people from court and their early days in custody. There is no need for a small female estate dealing with prisoners facing lengthy sentences to follow the historic male model of large “local” prisons parcelling people up for long term training prisons. Continuity of a woman’s care from community to prison and back again offers a much better prospect of a safe sentence.

Similarly, the requirements of security open up different options for the female estate. Even in secure prisons for women, escape is rarely the concern with which security departments have to deal. Most women in prison have nowhere safe to escape to and no way of evading recapture if they were to escape. Similarly, the internal security risks are dominated by self harm and bullying rather than by concerted indiscipline. So the plan for the female estate can be ambitious in its vision for buildings that prioritise decency, independence and flexibility of use over physical security.

In short, the planning of the custodial estate for women cries out for a radical rethink from first principles of who these prisons are going to be for, where they need to be and what they need to be like. The precious opportunity of a significant capital spend should only be considered in the context of a long term plan informed by new expectations of which women will go to prison and for how long, and the normal “shape” of a custodial sentence served close to home. The announcement of five new community prisons in complete isolation from any evidence that such a plan exists, or, until this welcome call for evidence, any intention to consult about its content, has inevitably raised fears of a “quick fix”. “Female offender strategy first, estate strategy second” should be the department’s mantra.

Conclusion

The department’s willingness to consult widely and think strategically is very welcome. We look forward to helping to create a comprehensive and evidence based strategy that will make a difference to many thousands of women and their families for years to come.

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

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 to tackle low level, non-violent crime committed by women. 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 that bring together police, health, women's services and local authorities 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 has been produced by the Prison Reform Trust in partnership with the Soroptimist UK Programme Action Committee to inform and support the Soroptimists' campaign to end the unnecessary imprisonment of women in the UK. Download [here](#)

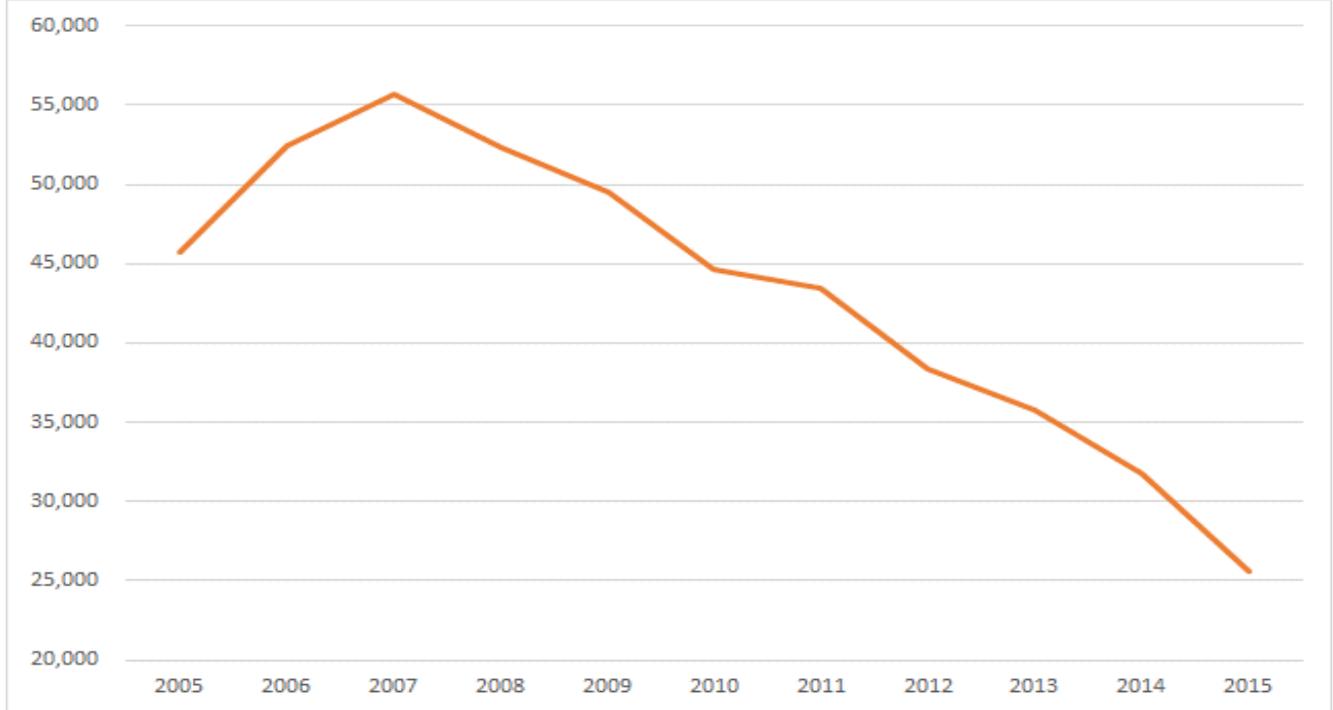
No Way Out: A briefing paper on foreign national women in prison in England and Wales - January 2012

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

It is currently being updated.

Annex B: Women in the Criminal Justice System

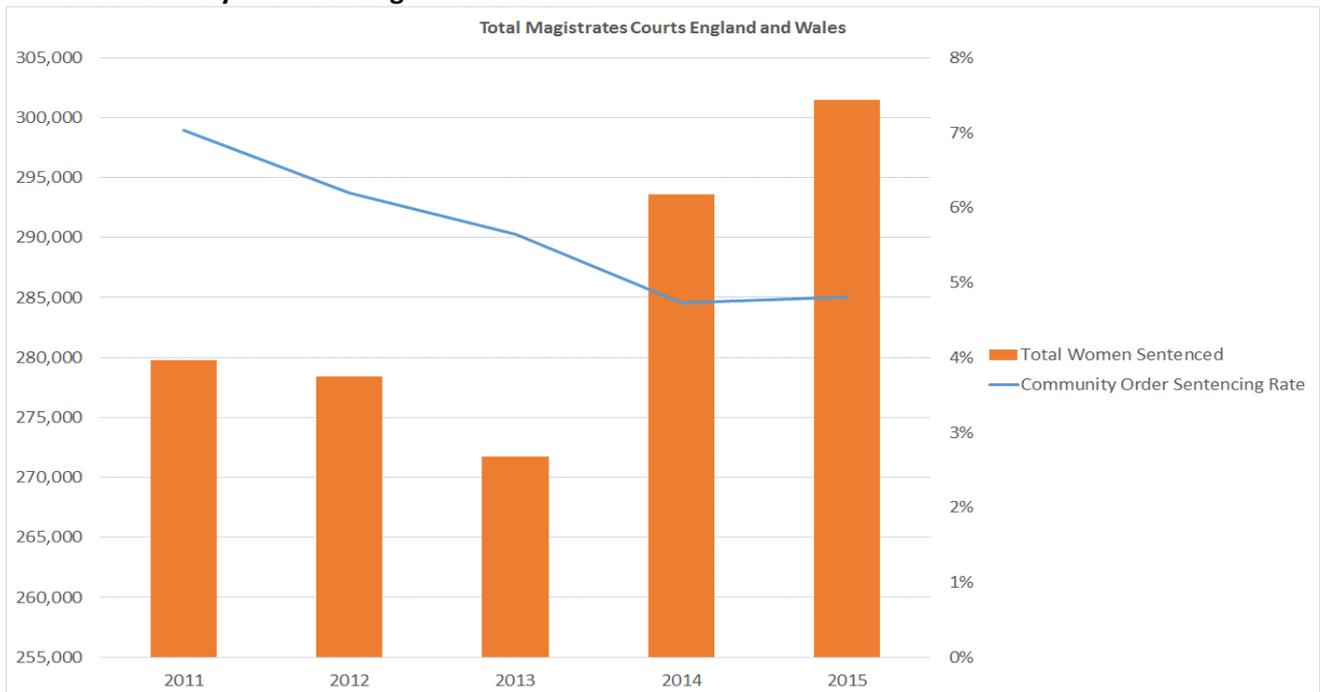
Use of Cautions for women in England and Wales, 2005 -2015



2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
45,768	52,390	55,740	52,336	49,566	44,633	43,466	38,328	35,798	31,707	25,598

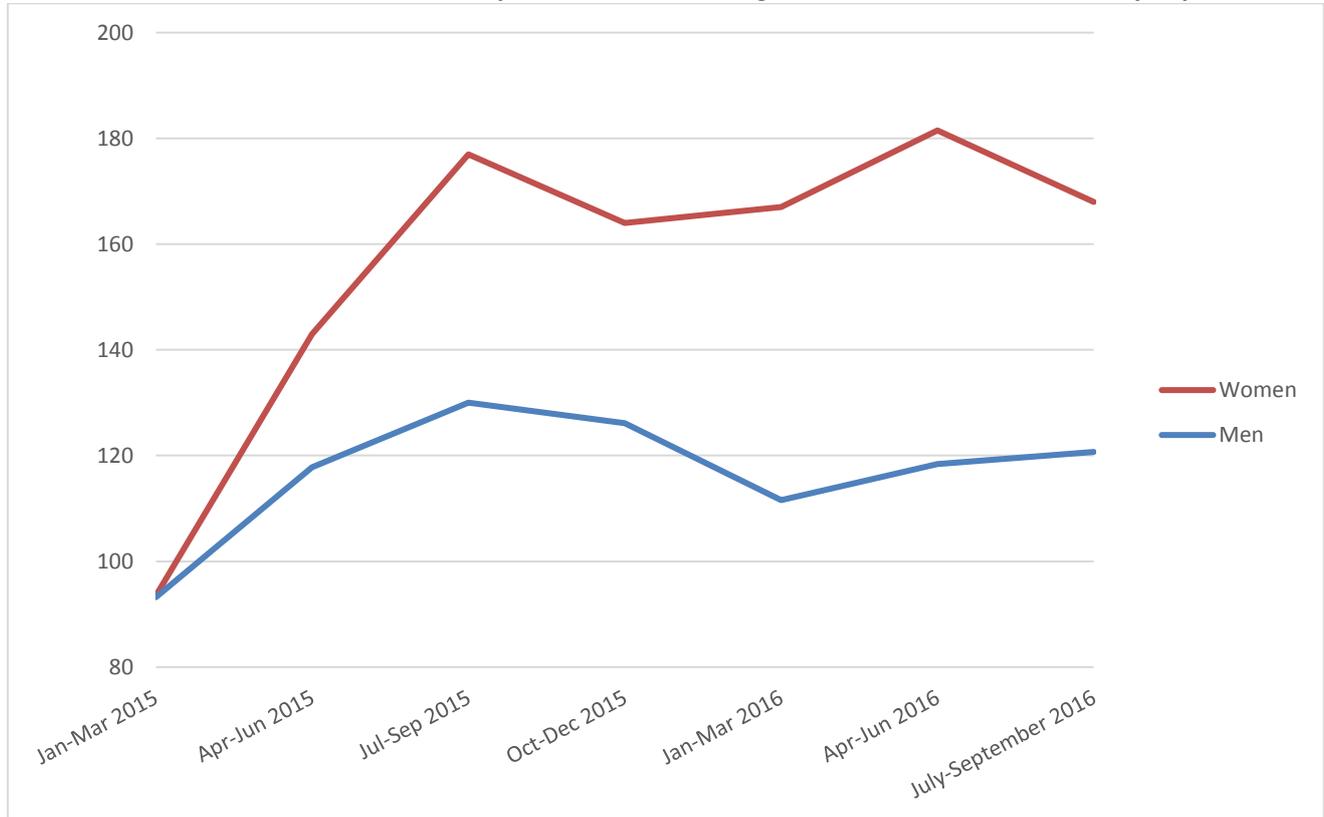
Source: MOJ Out of Court Disposal Data Tool.

Use of Community Orders in England and Wales



Source: Ministry of Justice Freedom of Information January 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 Offender, April 2017

BAME women are over-represented in prison, making up 19% of the prison population¹⁵ compared to 14% of the general women’s population.¹⁶ 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.¹⁷ 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.¹⁸

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% drop¹⁹ over ten years since 2006⁷ in the numbers of white girls being convicted, compared with a 65% drop for black girls and a 40% drop for Asian girls.¹⁹ Numbers of black and Asian girls receiving convictions rose in 2016.²⁰

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.²¹ 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.²² 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.²³

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.²⁴

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:²⁵

- 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.

¹⁵ Table 1.4, Ministry of Justice (2016) Population bulletin: weekly 30 December 2016, London: Ministry of Justice

¹⁶ Table DC2101EW, Office for National Statistics (2012) 2011 Census, London: ONS

¹⁷ Women in Prison (2011) Breaking the cycle for women, London: WiP; NomisWeb, 2011 Census data

¹⁸ Ministry of Justice (2016) Black Asian and Minority Ethnic disproportionality in the criminal justice system in England and Wales, London: MoJ

¹⁹ Ministry of Justice (2016) Offending history data tool, September 2016, London: Ministry of Justice

²⁰ *Ibid*

²¹ Home Office (2007) The Corston Report. London: Home Office

²² Imkaan (2016) Imkaan safe minimum practice standards: working with black and minority ethnic women and girls, London: Imkaan

²³ Muslim Hands (2014) Muslim women in prison, Nottingham: Muslim Hands

²⁴ Ministry of Justice (2016) Black Asian and Minority Ethnic disproportionality in the criminal justice system in England and Wales, London: MoJ

²⁵ 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 at five out of the seven prisons to identify as foreign national.²⁶ At HMP Send, they were also less likely to understand written English than white women.²⁷ 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.²⁸
- At HMP Bronzefield, where the governor has stated that over half of women are serving sentences of two weeks on average,²⁹ BAME women were more likely to say it was their first time in prison, and they were less likely to be sentenced.³⁰ 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.³¹ 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,³² or that they had been treated well or very well,³³ 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.³⁴ Survey responses at four of the prisons indicated that BAME women were less likely to be taking medication.³⁵ 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.³⁶
- BAME women were less likely to say that they were able to speak to a Listener at any time,³⁷ 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,³⁸ 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 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.³⁹ 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.⁴⁰ 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.

²⁶ HMP Eastwood Park (November 2016), HMP Foston Hall (June 2016), HMP Bronzefield (November 2015), HMP Peterborough (July 2014), HMP Send (February 2014)

²⁷ HMP Send (February 2014)

²⁸ Hibiscus Initiatives (2014) *The Language Barrier to Rehabilitation*. London: Hibiscus Initiatives

²⁹ <http://www.insidetime.org/month-by-month-april-2017/> accessed 25/04/17

³⁰ HMP Bronzefield (November 2015)

³¹ HMP Bronzefield (November 2015)

³² HMP Drake Hall (July 2016), HMP Peterborough (July 2014)

³³ HMP Drake Hall (July 2016), HMP Peterborough (July 2014)

³⁴ HMP Drake Hall (July 2016), HMP Foston Hall (June 2016)

³⁵ HMP East Sutton Park (August 2016), HMP Drake Hall (July 2016), HMP Bronzefield (November 2015), HMP Send (February 2014)

³⁶ <https://www.mentalhealth.org.uk/a-to-z/b/black-asian-and-minority-ethnic-bame-communities> accessed 25/04/17

³⁷ HMP Drake Hall (July 2016), HMP Peterborough (July 2014), HMP Send (February 2014)

³⁸ HMP Send (February 2014)

³⁹ HMP Drake Hall (July 2016), HMP Foston Hall (June 2016), HMP Bronzefield (November 2015), HMP Peterborough (July 2014)

⁴⁰ Fawcett Society (2006) *Good practice in meeting the needs of ethnic minority women offenders and those at risk of offending*, London: Fawcett Society

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 2015.⁴¹ 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.⁴² BAME women are not mentioned in the government's Strategic Objectives for Female Offenders⁴³, nor in the 2014 update on progress in meeting those objectives⁴⁴.

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.

⁴¹ Judicial College (2013) Equal Treatment Bench Book, London: Courts and Tribunals Judiciary

⁴² NOMS (2012) A Distinct Approach: A guide to working with women offenders, London: Ministry of Justice

⁴³ Ministry of Justice (2013) Strategic Objectives for Female Offenders, London: MoJ

⁴⁴ Ministry of Justice (2014) Update on the delivery of the Government's strategic objectives for female offenders, London: MoJ