

Written evidence from Women in Prison

Women in Prison (WIP) is a national charity providing support to women facing multiple disadvantage, including women affected by the criminal justice system. Our policy and campaigns work is informed by our frontline support services for women. The experience and knowledge of staff enable us to see first-hand the effects of policy in practice and strengthen our recommendations for change. We also work collaboratively at a local level where our Women's Centres are based and nationally, with other providers of Women's Centres and specialist women's services. This submission is informed by knowledge gained from these partners.

Summary

The Government's strategy on women in the criminal justice system (CJS) (2018)ⁱ recognised that prison exacerbates the conditions that lead women to come into contact with the CJS. Together with the Concordat (2021),ⁱⁱ the Government provided a blueprint for change – shifting focus from custody to community and a 'Whole System Approach' (WSA) to addressing women's complex needs.

Regretfully, WIP has observed a lack of action in key areas in order to achieve this. To get back on track, we recommend the Government takes the following steps:

- 1. Halt plans to build 500 new prison places for women which will sweep more women into the CJS.** This is counter to the Government's own strategy and evidence which recognises the negative impacts of imprisonment and commits to reducing the women's prison population.
- 2. Radically reduce the women's prison population with reforms to sentencing and remand, focusing on schemes to divert women away from the CJS towards community-based support, backed by funding required to deliver these services.**
- 3. Commit to sustainable funding for Women's Centres** which offer holistic, trauma-responsive services led by women's needs. We recommend a model of matched funding where national and local Government, together with a local consortium of commissioners, share the costs of delivering the strategy's objectives.
- 4. Introduce a legal presumption against the imprisonment of primary carers and pregnant persons** in order to uphold the rights of dependent children and maintain family ties, which is key to reducing reoffending.

1. What progress has been made on commitments to reduce the number of women in custody since the publication of the strategy on women in the CJS?

Whilst Covid-19 has resulted in a temporary reduction in the women's prison population in England and Wales, the latest projections show a predicted rise from 3,217 in September 2020 to 4,500 by September 2025 due to the estimated impact of policies included in the Police, Crime, Sentencing and Courts Bill) and of an additional 23,400 police officers.ⁱⁱⁱ The MoJ explicitly notes that the women's strategy was not considered in these projections as it was not '*robustly quantifiable*' or '*measurable*.' This projected rise marks the Government's failure to achieve its policy objectives. Since the strategy's publication, we have consistently highlighted our concerns that the lack of adequate dedicated funding prevents the delivery of its outcomes.

It was within this context that the announcement in January 2021 to build 500 new prison places for women was met with widespread challenge.^{iv} The £150m capital cost for these places significantly dwarfs the funding committed to the community provisions hailed as the way forward in the 2018 strategy. Furthermore, the new plans to see prison places built across *‘five existing prisons’* appear to represent an explicit U-turn from the strategy which reversed 2016 plans to build *‘five new small community prisons for women’* on *‘land adjacent to existing sites.’*^v Indeed, the 2016 prison plans were scrapped in order to *‘shift our emphasis from custody to the community’* and to *‘reduce the female prison population.’*^{vi} Repeated requests from members of the Ministerial Advisory Board on Female Offenders and others to review the modelling that led to this decision have been repeatedly ignored.

• **What more can be done?**

Firstly, the Government must stop the 500 new prison places for women. These proposals will only shatter more lives and unnecessarily separate families. The Government must instead ensure that the intentions in the women’s strategy are backed up with a measurable implementation plan and adequate funding to ensure the effective delivery of the WSA - which is known to work in ensuring women are supported and [re]offending is reduced.

There are also a series of reforms to sentencing that the Government can implement immediately:

- 1. Introduce a legal presumption against imprisonment of primary carers and pregnant persons** to guarantee the rights of dependent children and maintain family ties, which is key to reducing reoffending.
- 2. End the use of Joint Enterprise laws** which enable sentences to be passed down to multiple defendants for a single offence based on weak circumstantial inferences. Research found in 90% of cases, women had no involvement in the violence for which they were convicted and in 50% of cases women were not present at the scene.^{vii}
- 3. Retrospectively abolish Indeterminate Sentences for Public Protection (IPPs)**, converting all IPPs to determinate sentences and removing the long-life licence which sees high numbers of people unjustly recalled to prison.^{viii}
- 4. End imprisonment for debt** by stopping custodial sentences for non-payment of council tax and fines associated with using a TV without a licence.^{ix}
- 5. End use of remand to prison for women’s ‘own protection’** by abolishing the power under the Bail Act 1976.^x
- 6. Strengthen the custody threshold** so that sentences can’t be escalated due to previous convictions, and to ensure short prison sentences are not given where a community-based order would be sufficient.^{xi}
- 7. Introduce a statutory defense for women whose alleged offending was driven by domestic abuse.**^{xii} Many women have been unjustly criminalised for actions linked to their abuse and the sentencing process has proved ineffective at uncovering the effects and histories of this trauma.^{xiii}

2. What has been done to reduce the number of women serving short prison sentences? Do community sentences currently offer a credible alternative to custody? (If no, why not?) What more could be done?

Recent statistics show that three out of five of women are sent to prison for less than six months.^{xiv} Whilst these figures remain far too high, there has been a 24% reduction in the use of immediate prison sentences for women of under six months since 2014.^{xv} The rate of imprisonment varies significantly according to postcode, and this largely results from pockets of local good practice. For example, Greater Manchester has seen a 60% reduction in the use of immediate prison sentences for women for sentences under six months^{xvi} since embedding a WSA from 2014.^{xvii} Below we highlight established alternatives to custody that both reduce the number of women serving short prison sentences and [re]offending.

- a. **Women's Centres** have a proven track record of working alongside women and providing effective, therapeutic and practical interventions in the community. They provide access to specialist advocacy, advice and support on housing, debt, substance misuse, mental and physical health, domestic abuse and family and parenting guidance - all under one roof, through in-house specialist staff or multi-agency partnerships.

We share the view of the Public Accounts Committee that *'community alternatives to prison have shown to be effective for women, but to date have been starved of investment.'*^{xviii} In order to effectively deliver the WSA, the network of Women's Centres need long-term adequate investment through a mix of funding and co-commissioning. **A significant amount of core funding for Women's Centres should be provided by central Government and matched funding granted from a local consortium of commissioners, which would save £2.84 for every £1 spent.**^{xix}

- b. **Problem solving courts (PSCs)** require people to engage with support services instead of being sentenced to a short prison sentence or a community order. A cost-benefit analysis of two PSCs in Greater Manchester found that of the women going through the PSC, 55.7% were at risk of custody and 71% of these women did not reoffend.^{xx} During Covid-19, the multi-agency planning meetings have been taking place at Women's Centres rather than in court buildings which staff have reported to be effective in increasing engagement and ensuring prolonged support. Despite positive outcomes, a key challenge to the model in Manchester is the short-term 12-month funding which undermines the credibility of the process.

WIP welcomes the proposed pilots of problem-solving courts for women. It is essential that these initiatives and associated support services receive sufficient long-term funding in order to ensure the public, judiciary and women who participate have confidence in the process.

- c. **Liaison and diversion schemes** have been found to reduce reoffending and engage women in long-term support at local Women's Centres. The Surrey Police initiative works with women outside of the court system and is run in association with the local Women's Centre. It has shown success in reducing the reoffending rate to 6% compared to a national average of over 25%^{xxi} and imprisoning the lowest number of women in the country.

Core to its success is the women's specific pathway and the embedded work of the Women's Centre rather than reliance on a referral process. This model must be followed by police forces across the country.

3. What progress has been made on the development of Residential Women's Centres? Do these offer a suitable alternative to custody?

We are concerned that residential women's centres (RWCs) will replicate the harms we see when women are sentenced to short periods in prison and will be counterproductive to reducing reoffending. RWCs would still involve women being uprooted from their communities with the associated risks of losing their home, employment and disrupting their children's lives. There is still uncertainty about how the RWC model will work, including the role of consent for women provided the 'option' of the RWC but who will face continued threat of imprisonment for non-compliance.

Ultimately, piloting a new system of RWCs diverts resources from the network of community-based Women's Centres which are already proven to be effective solutions to reducing [re]offending yet continue to battle with unsustainable funding arrangements.

4. What has been done to ensure that the welfare of dependent children is taken into account when sentencing decisions are made?

Currently, sentencers are expected to consider the impact of a sentence on the welfare of dependent children and pregnant women. In practice, existing case law and guidelines are not being applied consistently and do not go far enough to uphold the best interests of children. Research has found that there is a lack of awareness of case law relating to the sentencing of primary carers^{xxii} and that many women report their role as a primary carers is not considered by the court.^{xxiii}

Separation caused by the imprisonment of a primary carer (predominantly mothers) is a traumatic experience for children who subsequently face a significant upheaval in their lives. As many as 95% of children are forced to leave their home when their mother goes to prison.^{xxiv} As work by Birth Companions shows, the prison system also presents significant risks to the safety and wellbeing of pregnant and postnatal women.^{xxv}

The lack of a statutory framework around children affected by primary carer imprisonment means children's rights are currently not adequately protected. The duty to consider the impact of sentencing on children and pregnant women must be given statutory force in order to shift entrenched practice. The Police, Crime, Sentencing and Courts Bill is an opportunity to do this, and to ensure that data is collected and published on the number of parents in prison and children affected in order to better understand the nature and scale of the issue.

5. Since the publication of the women's strategy, what work has been done to improve conditions for those in custody?

The strategy committed to creating a prison environment that '*enables rehabilitation and delivers better outcomes*' for women. A significant obstacle to this are the lengthy waiting lists for programmes in prison. With the majority of women on a short sentence, by the time a place is secured, release can be imminent. This money could be more effectively invested into such programmes in the community which would provide women more stable long-term support.

Conditions for pregnant women and mothers of children under two may be improved by the forthcoming policy framework relating to this cohort,^{xxvi} but as we have seen, policy alone does not always improve practice.

6. Does the women's criminal justice system take a Whole System Approach (that considers all of the women's needs)? What does this look like in practice?

A WSA is achieved by bringing local agencies together to provide joined up, holistic and gender-responsive support which recognises and responds to women's distinct needs, including the specific needs of Black and minoritised women who are overrepresented in the CJS. WIP and other partner specialist women's services hoped that the Concordat would be the vehicle to enable the WSA at a local level. However, whilst it provides a vision for a mix of funding with local co-commissioning, it lacks resources and targets to achieve this model.

For services across the country, piecemeal funding streams lead to patchy provision and undermines the ability to provide a WSA. The recent Dynamic Purchasing Framework (DPF) competition for new probation delivery arrangements has been excessively bureaucratic and resource intensive. This has resulted in some specialist charities being locked out from applying, and the contracting of larger generic providers who claim they can deliver to economies of scale but lack the expertise in gender-specialist provision and local established partnerships. For those who secured the new contracts, the funding provided is insufficient to carry out the service and associated commercial-style contracting arrangements.

Following engagement between the MoJ, specialist providers and local commissioners, Manchester and London were taken out of the DPF and negotiated co-commissioning arrangements which allow for greater flexibility and collaboration. This approach is about maximising and sharing public community resources and curating agreements based on the expertise of those delivering and receiving the services. Our experience is that only this collaborative approach can deliver the WSA and effective local services that people need and use.

Black and minoritised women are over-represented in custody and remand, face longer sentence lengths and report experiences of discrimination throughout the CJS. They face additional challenges including racism, language and cultural barriers, immigration restrictions (including No Recourse to Public Funds), modern slavery and trafficking, and destitution. We refer the Committee to Hibiscus Initiatives' submission to this inquiry highlighting how too often these additional needs are overlooked or ignored. Capacity and expertise for responding to these must be part of a WSA that considers all women's needs. **Therefore, it's essential that prison and probation staff receive training on race equality, signpost to women's specialist services led 'by and for' Black and minoritised women, and that Government ring-fence funding for these services who risk being excluded from procurement processes.**

A barrier experienced by many specialist women's organisations is securing referrals from probation, even with the simplest of referral forms or phone-based referral. **Further work is needed to raise the profile of specialist women's services with sentencers, probation, police and prison workers in order to increase engagement and awareness of what these service offer and their value.**

7. How are women supported to maintain family ties in prison? What progress has been made on improving family ties since the Farmer Review? What effect has Covid-19 had on maintaining family ties for women in custody?

Covid-19 has had a devastating impact on women's family ties with many not seeing their children and family for over a year. Three in five women in prison have children under the age of 18 and face additional stresses as a result of this separation.

The MoJ failed to meet its own targets of early release of people who were pregnant or in mother and baby units, releasing approximately one third (25 out of 70) of those initially deemed eligible following advice from Public Health England, before the scheme was 'paused' at the end of August.^{xxvii} Virtual visiting facilities were introduced to mitigate the blanket ban on visits but were particularly inaccessible for women with small children who were unable to physically engage and bond.

The publication of the Farmer review progress report is nine months overdue and there has been a lack of action and funding committed to address its key recommendations. In most women's prisons there is just one Family Engagement Worker (FEW) despite the recommendation to fund additional FEWs due to their important role in maintaining family ties and supporting women with separation from their children. The absence of an allocated MoJ budget to fund a dedicated social worker in each prison, also recommended by Farmer, led the charity PACT to seek three-year charitable funding in order to fund social workers in two prisons. It is unacceptable that a charity was left to fill this gap and demonstrates the need for recommendations of the Farmer Review to be implemented as a matter of urgency.

8. What factors contribute to the high levels of self-harm in the female estate? What is being done to address the high levels of self-harm in the female estate? What more could be done?

For detailed information on this issue, please see Women in Prison's recent submission to the Justice Committee for the inquiry into Mental Health in Prison.

Since 2012, there has been a consistent year-on-year increase of self-harm in women's prisons. The latest figures show that rates of self-harm for women in prison are more than six times higher than for men, jumping to record levels since the start of the pandemic.^{xxviii}

It is a significant concern that the CJS is being used to respond to women in crisis as a result of chronic underfunding of mental health services. **WIP supports calls to repeal the use of custody for women's 'own protection' which currently sees women remanded to custody for their 'own safety'.**^{xxix}

9. Does the custodial estate offer a trauma-informed environment for females? (a trauma informed environment, being that which is about putting experience, behaviours and needs first, and creating a safer, healing environment that aims to reduce and prevent trauma and retraumatising an individual)

The custodial estate cannot offer a trauma-responsive environment. Themes of control and disempowerment are core to prisons, whose practice is driven by a focus on 'risk management,' achieving 'good order' and 'compliance.' Alternatively, trauma-responsive environments are built around values of safety, collaboration, trust, choice and empowerment.

Imprisonment is an inherently intrusive experience which can both exacerbate existing trauma and be itself traumatising. Research identified that over half of women in prison (53%) have survived emotional, physical or sexual abuse during childhood and almost two thirds (63%) are reported to be

survivors of domestic abuse.^{xxx} These experiences make the physically invasive measures of pat downs, strip searches and restraint all the more harmful. The most that prison staff can achieve - with initiatives like the 'Enabling Environment' and working with women's charities and others - is try to limit this damage. The core focus has to be on a radical reduction in the number of women in prison. This in itself would free up more time and space for staff to focus on the needs of individuals.

10. What support is available to ensure that women are successfully resettled into the community upon release and reduce reoffending? Are there any barriers to effective resettlement, and reduced reoffending?

Successful resettlement requires multiple agencies working alongside women in prison for a period prior to release. However, our frontline workers have recently faced three weeks' waiting times to do an initial assessment as a result of high demand for virtual visiting slots, making it challenging to plan for release.

Our frontline workers highlight that the lack of housing provision for women on release from prison is the main barrier to resettlement and 'sets women up to fail.' Even short periods of imprisonment can result in losing a home or place in a hostel. This could be improved through a more streamlined referral service for women being resettled and investment in social housing. Access to Universal Credit has been supported by the introduction of a dedicated line for people leaving prison – enabling people to make a claim over the phone and apply for an advance from the day of release. WIP are also pleased that the Government will increase the prison discharge grant for the first time in 25 years from £46 to £76.

However, further support upon release is needed including the provision of mobiles phones with credit. In order to support people to access and maintain tenancies without being pushed into problem debt, the UC advance loan must be switched to a grant and Local Housing Allowance rates must cover average local rents.

WIP are extremely concerned that the new model of probation delivery that does not adequately fund services for women in their 'home areas', has also missed a vital piece of the puzzle – support provided to women in prison throughout their sentence, particularly relating to housing on release. This gap must be addressed as a matter of urgency.

11. What support does the female adult estate offer to girls transitioning from the youth custodial estate?

There is a lack of continuity in the CJS and arbitrary cliff-edge in support for young women turning 18, with many services reducing or dropping off suddenly in the transition into adult provision. There must be more recognition for the need for a distinct age- and gender-specific approach for young women to address the risks they face at this time in their lives.

The support needs of young adult women are often distinct from those of older adult women, including having more recent experiences of child criminal and sexual exploitation, leaving care, and exclusion from education. Whilst older adult women in contact with the CJS may also have faced these challenges, the impact on women in young adulthood means they are likely to present with more immediate needs or 'in crisis' as a result.^{xxx1}

We support Agenda's recommendation in their submission that the MoJ should integrate an age-informed response to young adult women within their strategy on women and the Concordat, including a focus on sentencing, the vulnerabilities arising around transitions at 18, and considering a more flexible endpoint to young women's supervision by Youth Offending Teams.

June 2021

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