

Written evidence from the Equality and Human Rights Commission (COV0131)

Introduction

1. The Equality and Human Rights Commission has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws, and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

Summary and recommendations

2. We support the primary role of government in the current context: to keep people safe and protect our future. We recognise the particular challenges the pandemic poses in prisons and the steps the Government has taken to manage the risks.
3. The pandemic and the Government's response have significant and wide-ranging implications for human rights. This submission focuses on the impact on women in prisons. It follows the Committee's oral evidence session on 8 June and aims to support the Committee's consideration of those issues. It highlights: the use of custody for women; the health risks to women in prisons; temporary release and post-custody accommodation; the impact of restricted regimes; the need for regular contact between women and their children; the importance of protecting pregnant women, new mothers and their babies; and the need for improved data on the numbers and needs of women in prison who have children or are pregnant.
4. To protect the rights and health of women in prison and their children we recommend that the UK Government:

Use of custody for women

- (1) Renews its focus on reducing the use of custodial sentences for women, in line with its human rights obligations.
- (2) Undertakes a review of progress made so far in implementing the 2018 female offender strategy.

Risks to women in prison during the pandemic

- (3) Implements the UN Subcommittee on the Prevention of Torture's published guidance on protecting detainees during the pandemic.

Temporary release from prison

- (4) Expedites appropriate releases from women's prisons, prioritising those at heightened risk of harm. This includes those who are pregnant or have new babies, ethnic minority women and those with underlying health conditions.
- (5) Publishes regular updates on the protected characteristics of those temporarily released and in relation to all deaths in custody due to COVID-19.

Post-custody accommodation

- (6) Takes steps (including working with relevant bodies in Wales) to ensure all women leaving prison have safe and appropriate accommodation in place.
- (7) Takes urgent steps to ensure lack of accommodation is not preventing or unnecessarily delaying release from custody under the temporary release schemes.

Impact of restricted regimes

- (8) Takes immediate action to understand, monitor and mitigate any disproportionately negative impacts of restricted regimes on the mental health of women in prison.
- (9) Prioritises the reinstatement of mental health services as social distancing restrictions are eased, and, in the interim, provides alternative methods of delivery wherever possible.

Contact with children and families

- (10) Publishes its plans and timetable for reinstating face-to-face visits across the women's estate.
- (11) Takes action to ensure video-visits are available across the women's estate with sufficient provision to allow women to maintain regular contact with their children and families.
- (12) Fully implements the recommendations of the Farmer Review for Women in relation to visits and contact with families. This includes making significant improvements to the Assisted Prison Visits scheme for primary carers in prison.

Pregnant women and new mothers

- (13) Takes urgent steps to ensure social distancing and good hygiene can be maintained to protect the right to health of pregnant women and new mothers, where it is not possible to release these women from prison.
- (14) Completes and publishes the review of its policies in relation to mother and baby units in prison, to ensure that pregnant women and new mothers are appropriately accommodated and receive the care they need, during the pandemic and in the longer term.

Data on women in prison

- (15) Continues to improve the collection and analysis of data on the numbers and needs of women in prison who have children or are pregnant, disaggregated by protected characteristic. This data should be published, subject to confidentiality requirements, and used to ensure policies and services are appropriate to these women's needs, both in the immediate context of the pandemic and in the longer term.

5. We further recommend that HM Inspectorate of Prisons:

Independent oversight

- (16) Takes steps to ensure short scrutiny visits are carried out for all women's prisons as a priority, expands inspections as far as possible and reinstates full inspections as soon as it is safe to do so.

Use of custody for women

6. There are well documented concerns about the suitability of custody for women, particularly those who are mothers or primary carers.¹ The vast majority of women in prison sentenced in 2019 committed non-violent offences (88.9 per cent)² and most were given short sentences of six months or less (62.2 per cent).³ More than half of women in prison have experienced domestic or other abuse, which is often related to their offending, and many have had adverse experiences in childhood or spent time in care.⁴ Women from ethnic minority backgrounds are

¹ See Ministry of Justice (2019), '[The Farmer review](#)'; Prison Reform Trust (2016), '[Transforming lives: reducing women's imprisonment](#)'; Women in Prison (2017), '[A response to the female offender strategy call for evidence](#)'; Home Office (2007), '[The Corston report](#)'; Prisons & Probation Ombudsman (2017), '[Learning lesson bulletin, issue 13](#)'.

² Ministry of Justice (2020), '[Offender management statistics quarterly: October to December 2019](#)', see Table A2_9i '[Prison receptions: 2019](#)'.

³ Ibid. at Table A2.7.

⁴ Ministry of Justice (2019), '[The Farmer review](#)'. Offending may also be linked to mental health needs, drug and alcohol problems, financial difficulties and debt. See Prison Reform Trust (2016),

overrepresented in prison, making up 18 per cent of the prison population⁵ compared with around 14 per cent of the general population.⁶ Black or Black British women, Muslim women and Gypsy, Roma and Traveller women are particularly overrepresented.⁷

7. A number of organisations have consistently called for a reduction in women's imprisonment and improved support in the community,⁸ including the UN Committee on the Elimination of Discrimination against Women's (CEDAW).⁹ This approach is also in line with the UN Bangkok Rules.¹⁰ The UK Government's commitment in the Female Offender Strategy to address these calls is welcome.¹¹ During and beyond the pandemic, particularly as a backlog of cases moves through the courts, **we urge the UK Government to renew its focus on reducing the use of custodial sentences for women, in line with its human rights obligations. We also recommend that the Ministry of Justice undertakes a review of progress made so far in implementing the 2018 female offender strategy.**

Risks to women in prison during the pandemic

8. The World Health Organisation has reported that people in detention are 'not only likely to be more vulnerable to infection with COVID-19, they are also especially vulnerable to human rights violations'.¹² Prison conditions significantly increase

['Transforming lives: reducing women's imprisonment'](#).

⁵ Prison Reform Trust (2017), ['Counted Out: Black, Asian and minority ethnic women in the criminal justice system'](#).

⁶ Office for National Statistics (2011 Census), ['Table DC2101EW – Ethnic group by sex by age'](#).

⁷ For example, Black or Black British women make up almost 9 per cent of the female prison population, compared to 3 per cent of the general population in England and Wales, while Muslim women represent almost 6 per cent of the overall female prison population, and over 35 per cent of the Black, Asian, and minority ethnic women's prison population. Women in Prisons, ['Key Facts'](#) (accessed 12 June 2020). HMIP survey responses report 9-10 per cent of women at certain prisons identifying as Gypsy, Roma and Travellers, see Prison Reform Trust (2017), ['Counted Out: Black, Asian and minority ethnic women in the criminal justice system'](#).

⁸ See Home Office (2007), ['The Corston report'](#); Prison Reform Trust (2016), ['Transforming lives: reducing women's imprisonment'](#); Women in Prison (2017), ['A response to the female offender strategy call for evidence'](#); The Commission on Justice in Wales Report (October 2019), ['Justice in Wales for the People of Wales'](#).

⁹ The CEDAW Committee recommended in 2019 that the UK Government should continue to develop alternative sentences other than imprisonment, including community interventions and services, for women convicted of minor offences, and provide enough resources to effectively implement the Female Offender Strategy: CEDAW Committee (2019), ['Concluding Observations'](#), para 58.

¹⁰ [The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders \(2010\)](#), known as the Bangkok Rules.

¹¹ Ministry of Justice (June 2018), ['Female Offender Strategy'](#). See our discussion of the strategy in Equality and Human Rights Commission (February 2019), ['Women's rights and gender equality in 2018: update report'](#), pp.35-38. A separate 'female offending blueprint' exists in Wales. Welsh Government (21 May 2019), ['Supporting female offenders'](#).

the risks associated with coronavirus, particularly poor sanitation and limited access to healthcare.¹³

9. The UK Government has positive obligations in domestic law to protect the rights of people in detention, including the right to life; freedom from torture, inhuman and degrading treatment; and the right to a private and family life, which includes the right to physical and psychological integrity. These rights are protected under articles 2, 3 and 8 of the European Convention on Human Rights, given domestic effect by the Human Rights Act 1998. The Government also has a duty under international law to respect the right to health in detention, as recognised by the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to health is defined under article 12 of the Covenant as ‘the enjoyment of the highest attainable standard of physical and mental health’. The Mandela Rules require prisoners to have access to healthcare, at the same standard as in the community.¹⁴ The UN Subcommittee on the Prevention of Torture (SPT) has recently published guidance on protecting detainees in light of COVID-19.¹⁵ In our analysis, further action is required by Government to ensure these standards are met. This includes: reviewing the use of bail for all but the most serious cases; respecting minimum requirements for daily outdoor exercise; ensuring legal assistance is accessible; and protecting the health of prison and medical staff.¹⁶ **We recommend that the UK Government implements the SPT guidance on protecting detainees during the pandemic.**

10. HM Inspectorate of Prisons (HMIP) has acknowledged there is a risk during this period that ‘both conscious and unintentional mistreatment’ will increase, making external oversight for closed institutions ‘even more important than usual’.¹⁷ While we welcome efforts to maintain oversight for critical aspects of treatment in prisons during the pandemic, we remain concerned about the lack of full scrutiny.¹⁸

¹² WHO Europe (March 2020), ‘[Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance](#)’.

¹³ Ibid.; National Preventive Mechanism (2020), ‘[Letter to UK Secretary of State for Justice Robert Buckland QC MP](#)’; see also Equality and Human Rights Commission (2019), ‘[Torture in the UK: update report](#)’.

¹⁴ UN General Assembly (2016), ‘[United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#)’, Rule 24 p.12.

¹⁵ Office of the United Nations High Commissioner for Human Rights, Human Rights Treaties Branch (April 2020), ‘[Compilation of statements by human rights treaty bodies in the context of COVID-19](#)’ at ‘SPT - Advice of the Subcommittee on Prevention of Torture to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic, CAT/OP/10 (7 April 2020)’, at pp.14-19.

¹⁶ Ibid.

¹⁷ HM Chief Inspector of Prisons (19 May 2020), ‘[Report on short scrutiny visits to prisons holding women](#)’, p.5.

¹⁸ Full inspections were suspended in March and HMIP is instead carrying out short scrutiny visits.

We recommend that HMIP take steps to ensure short scrutiny visits are carried out for all women's prisons as a priority, expand inspections as far as possible and reinstate full inspections as soon as it is safe to do so.

Temporary release from prison

11. Both the CEDAW Committee and the SPT have called on governments to consider alternatives to custody during the pandemic to reduce the higher risks of infection in places of detention.¹⁹ The CEDAW Committee recommends particular consideration is given to low-risk offenders and those near the end of their sentences, as well as pregnant women, older women and those who are disabled or have health problems.²⁰
12. We welcome the introduction of two schemes to release women from custody where they meet the qualifying criteria and risk assessment,²¹ including pregnant women and new mothers.²² However, we share stakeholders' significant concerns about the slow progress to implement these schemes.²³ At 8 June, only 22 women had been released (16 women in mother and baby units and six pregnant women).²⁴ HMIP has said the two early release schemes have been 'largely ineffective in reducing the population' and that the slow progress to release people from custody is a 'failure of national planning'.²⁵
13. **We recommend that the Ministry of Justice expedites appropriate releases from women's prisons, prioritising those at heightened risk of harm. This includes those who are pregnant or have new babies, ethnic minority women²⁶ and those with underlying health conditions. It should**

See HM Inspectorate of Prisons (1 June 2020), '[COVID-19 update](#)'.

¹⁹ Office of the United Nations High Commissioner for Human Rights, Human Rights Treaties Branch (April 2020), '[Compilation of statements by human rights treaty bodies in the context of COVID-19](#)' at 'Guidance Note on CEDAW and COVID-19 (22 April 2020), pp.4-7, and at 'SPT - Advice of the Subcommittee on Prevention of Torture to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic, CAT/OP/10 (7 April 2020)', pp.14-19.

²⁰ Ibid. at 'Guidance Note on CEDAW and COVID-19 (22 April 2020), p.7.

²¹ Ministry of Justice (4 April 2020), '[Measures announced to protect NHS from coronavirus risk in prisons](#)'.

²² Ibid.; Ministry of Justice (31 March 2020), '[Pregnant prisoners to be temporarily released from custody](#)'.

²³ Prison Reform Trust (6 May 2020), '[PRT and Howard League publish government Covid-19 documents and call for further urgent action](#)'.

²⁴ Joint Committee on Human Rights (8 June 2020), '[Oral evidence to inquiry on the Government's response to COVID-19: human rights implications](#)'.

²⁵ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)', p.8.

²⁶ Outbreaks of COVID-19 in women's prisons may disproportionately affect ethnic minority women prisoners. Public Health England (June 2020), '[COVID-19: review of disparities in risks and outcomes](#)'; Butcher, B. and Massey, J. (June 2020), '[Why are more people from BAME backgrounds](#)

publish regular updates on the protected characteristics of those temporarily released and in relation to all deaths in custody due to COVID-19.

Post-custody accommodation

14. We are concerned that women due to leave prisons during the pandemic may face homelessness on release, potentially increasing their exposure and vulnerability to COVID-19, and/or increasing their risk to sexual violence and abuse.²⁷ We are further concerned that a lack of suitable accommodation is presenting a barrier to implementing the temporary release schemes put in place to manage the risks during the pandemic.²⁸
15. The Corston report identified housing as one of the most significant issues women face when leaving prison.²⁹ HMIP's short scrutiny visit to three women's prisons in May identified a significant number of women leaving custody without accommodation: 20 per cent of women leaving Foston Hall and 40 per cent of women leaving Bronzefield and Eastwood Park prisons had no accommodation on the day of their release.³⁰ Overall, 89 women were released from prison into rough sleeping or other forms of homelessness in the period from 23 March to 30 April, according to Government figures.³¹
16. Safe and appropriate accommodation is particularly important for women who are mothers or primary carers. Without this, children are unlikely to be returned to their care. Appropriate accommodation also has a positive impact on reducing re-offending, and can therefore help ensure that women who are mothers or carers are supported and do not return to custody.³²
17. **We recommend HM Prison and Probation Service (HMPPS) take steps (including working with relevant bodies in Wales) to ensure all women leaving prison have safe and appropriate accommodation in place. Further,**

[dying from coronavirus?](#) BBC.

²⁷ St. Mungo's (2020), '[Policy briefing: Rough sleeping and single homelessness during the coronavirus \(COVID-19\) crisis](#)'; End Violence Against Women Coalition (UK) (April 2020), '[Initial Briefing on the COVID-19 Pandemic and the Duty to Prevent Violence Against Women & Girls](#)'.

²⁸ Temporary release from custody during the pandemic is conditional on suitable accommodation being available. Ministry of Justice and HMPPS (24 April 2020), '[End of custody temporary release](#)'.

²⁹ Home Office (2007), '[The Corston report](#)'.

³⁰ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

³¹ Grierson, J. (15 June 2020), '[Over 1,000 prison leavers left homeless amid pandemic, MoJ figures show](#)', The Guardian.

³² Wilson, W. (17 October 2017), '[Briefing Paper: Housing Support for Ex-Offenders \(England and Wales\), Number 2989](#)', House of Commons Library.

HMPPS should take urgent steps to ensure lack of accommodation is not preventing or unnecessarily delaying release from custody under the temporary release schemes.

Impact of restricted regimes

18. Prison regimes have been severely restricted to manage the risks from coronavirus.³³ HMIP has reported that women in prison are generally spending 23 hours a day in their cells, with some women receiving just 30 minutes out of their cell each day to exercise, and some not given access to a daily shower.³⁴ A small number of female prisoners with 'very high needs' have had the support they usually receive drastically reduced or stopped, 'creating a risk that these prisoners' welfare could seriously deteriorate'.³⁵
19. We share stakeholder concerns that restricted regimes, including solitary confinement and reduced visits, are resulting in a deterioration of women's mental health.³⁶ This is likely to be exacerbated by the reduction in mental health services in response to the pandemic.³⁷ Women in prison already have a disproportionately high need for mental health services (compared to both women in the general population and to men in prison), which is often unmet.³⁸ Women from ethnic minority groups report less access to such services and to mental health support within prison.³⁹

³³ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

³⁴ Ibid. The SPT has urged states to 'prevent the use of medical isolation taking the form of disciplinary solitary confinement'. Office of the United Nations High Commissioner for Human Rights, Human Rights Treaties Branch (April 2020), '[Compilation of statements by human rights treaty bodies in the context of COVID-19](#)' at 'SPT - Advice of the Subcommittee on Prevention of Torture to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic, CAT/OP/10 (7 April 2020)', p.16.

³⁵ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)', para 1.19.

³⁶ Howard League for Penal Reform (21/22 May 2020), '[Women in prison under Covid-19: Issues for charging, remand and sentence](#)'; Prison Reform Trust (5 June 2020), '[PRT comment: HMIP report on women's prisons during Covid-19 period](#)'; Clinks (May 2020), '[Written evidence submitted by Clinks \(DEL0297\)](#)' (submission to the Health and Social Care Select Committee inquiry into the impact of the pandemic into core NHS services).

³⁷ Ibid.; HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

³⁸ See Women in Prisons, '[Key Facts](#)' (accessed 12 June 2020); Prison Reform Trust and Penal Reform International (2020), '[Women in prison: mental health and well-being](#)'; Mason, S et al. (2019), '[Patients or Prisoners: Implications of Overlooking Mental Health Needs of Female Offenders](#)', British Journal of Community Justice.

³⁹ Prison Reform Trust (2017), '[Counted Out: Black, Asian and minority ethnic women in the criminal justice system](#)'.

20. We have serious concerns that restricted regimes could increase levels of self-harm. In the year to September 2019, women accounted for 18 per cent of all self-harm incidents in prison, despite making up only around 5 per cent of the UK prison population.⁴⁰ HMIP reported that in all three women's prisons visited in May, the rate of self-harm had increased since the implementation of restricted regimes.⁴¹
21. **We recommend that the UK Government take immediate action to understand, monitor and mitigate any disproportionately negative impacts of restricted regimes on the mental health of women in prison. As social distancing restrictions are eased, we urge HMPPS to prioritise the reinstatement of mental health services and, in the interim, to provide alternative methods of delivery wherever possible.**

Contact with children and families

22. Healthy, supportive relationships are critical for women in prison, both while detained and upon release. The Farmer Review for Women reported that people who receive family visits are 39 per cent less likely to reoffend than those who do not.⁴² The suspension of visits⁴³ in response to the pandemic raises particular concerns for women who have children. More than half of women in custody have dependent children and they are likely to have been the primary or potentially sole carer prior to their prison sentence.⁴⁴
23. The Farmer review also found that separation for children caused mothers in custody significant anxiety.⁴⁵ This could have a greater impact on Black women who are more likely to receive a custodial sentence and spend longer periods in prison than white women.⁴⁶ HMIP's visit to three women's prisons in May 2020 identified that some women had not seen their children for two months.⁴⁷ These women were sentenced before the pandemic, and therefore the full impact of detention on them or their children cannot have been taken into account by the sentencing court.⁴⁸ This has implications for both mothers' and children's Article 8

⁴⁰ Women in Prisons, '[Key Facts](#)' (accessed 12 June 2020).

⁴¹ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'. While the number of incidents remained the same at one of the three prisons, that prison population had reduced, meaning the rate of self-harm actually increased.

⁴² Ministry of Justice (2019), '[The Farmer review](#)'. This figure applies to both women and men.

⁴³ Ministry of Justice (24 March 2020), '[Prison visits cancelled](#)'.

⁴⁴ Ministry of Justice (2019), '[The Farmer review](#)'.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

right to respect for private and family life,⁴⁹ and on children's right to maintain personal relations and direct contact with their parents.⁵⁰ **We recommend that HMPPS publish its plans and timetable for reinstating face-to-face visits across the women's estate.**

24. In the absence of visits during the pandemic, it is critical that women are able to contact their children using other means. The SPT has advised that authorities must provide sufficient other methods of contact in places of detention while restricted regimes are in place, including telephone, email and video communication.⁵¹ Contact should be both 'facilitated and encouraged', frequent and free of charge.⁵²

25. While we welcome the provision of additional phone credit to prisoners at this time,⁵³ and the Government's commitment to prioritise virtual visits in women's prisons,⁵⁴ we are concerned that video-visits are not yet in place across the women's estate. HMIP has reported that women are 'understandably frustrated' by this.⁵⁵ Where video-visits are possible, they are available on average once a month.⁵⁶ Video-visits can be a protective factor for the mental health and wellbeing of women and their children, and thus in fulfilling their right to the highest attainable standard of mental health,⁵⁷ as well as supporting their Article 8 rights. **We recommend that HMPPS takes action to ensure video-visits are available across the women's estate with sufficient provision to allow women to maintain regular contact with their children and families.**

⁴⁸ The Lord Chief Justice of England & Wales has confirmed that the impact of current conditions in prisons due to COVID-19 on sentencing are relevant factors in sentencing, including lack of visits and restricted regimes. See paragraph 41, *R v Manning* [2020] EWCA Crim 592.

⁴⁹ [Article 8, European Convention on Human Rights](#). The right to respect for privacy and family life is also guaranteed under Article 17 [International Covenant on Civil and Political Rights](#) (ICCPR) and Article 16 [UN Convention on the Rights of the Child](#) (CRC).

⁵⁰ Under Article 9(3) CRC, children who are separated from one or both parents have a right to maintain personal relations and direct contact with both parents on a regular basis, unless this is contrary to the child's best interests.

⁵¹ Office of the United Nations High Commissioner for Human Rights, Human Rights Treaties Branch (April 2020), '[Compilation of statements by human rights treaty bodies in the context of COVID-19](#)' at 'SPT - Advice of the Subcommittee on Prevention of Torture to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic, CAT/OP/10 (7 April 2020)', pp.14-19.

⁵² *Ibid.*

⁵³ See Beard, J. (18 May 2020), '[Briefing Paper: Coronavirus: Prisons \(England and Wales\), Number 8892](#)', House of Commons Library, p.3.

⁵⁴ Joint Committee on Human Rights (8 June 2020), '[Oral evidence to inquiry on the Government's response to COVID-19: human rights implications](#)'.

⁵⁵ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

⁵⁶ *Ibid.*

⁵⁷ Article 12 [ICESCR](#).

26. As restrictions on travel due to coronavirus⁵⁸ will be lifted, further efforts are needed to facilitate visits to women in prison from their children and other family members. The time and costs involved in visiting can be prohibitive. On average, women are held 63 miles from home⁵⁹ (compared with 50 miles for men),⁶⁰ with a significant number of women held more than 100 miles from home.⁶¹ There are no women's prisons in Wales, and all women living in Wales who are sentenced to custody are accommodated in prisons in England, on average 101 miles from home.⁶² **We recommend that HMPPS fully implement the recommendations of the Farmer Review for Women in relation to visits and contact with families. This includes making significant improvements to the Assisted Prison Visits scheme for primary carers in prison.**⁶³

Pregnant women and new mothers

27. Pregnant women in prison may be at heightened risk during the pandemic.⁶⁴ There are particular concerns for pregnant women from Black and other ethnic minority groups, who have been admitted to hospital with COVID-19 at disproportionately high rates.⁶⁵ Researchers from Oxford University stressed this needs 'urgent investigation and explanation'.⁶⁶ Despite acknowledgements from the Ministry of Justice in March of the 'clear' need to temporarily release pregnant women and new mothers from prison, and a commitment to do so 'within days',⁶⁷ only 22 had been released as at 8 June.⁶⁸

⁵⁸ We note that different travel restrictions apply in England and Wales.

⁵⁹ Ministry of Justice (June 2018), '[Supporting data tables: Female Offender Strategy](#)', at Table 5.1a.

⁶⁰ Prison Reform Trust (February 2017), '[Why focus on reducing women's imprisonment?](#)'

⁶¹ Ministry of Justice (June 2018), '[Supporting data tables: Female Offender Strategy](#)', at Table 5.1b. (652 prisoners as at 31 May 2018).

⁶² Prison Reform Trust (August 2019), '[Why focus on reducing women's imprisonment? Wales Fact Sheet](#)'.

⁶³ Ministry of Justice (2019), '[The Farmer review](#)'. This includes recommendation 183.

⁶⁴ Pregnant women are considered 'clinically vulnerable' and advised to 'take particular care' to minimise contact with others. Cabinet Office (12 June 2020), '[Our plan to rebuild: the UK Government's COVID-19 recovery strategy](#)'. Pregnant women with significant heart disease are classed as 'clinically extremely vulnerable'. The guidance advises people in this group may now leave their homes but are 'strongly advised to stay at home as much as possible and keep visits outside to a minimum'. Public Health England (5 June 2020), '[Guidance on shielding and protecting people who are clinically extremely vulnerable from COVID-19](#)'.

⁶⁵ Knight, M. et al. (8 June 2020), '[Characteristics and outcomes of pregnant women admitted to hospital with confirmed SARS-CoV-2 infection in UK: national population based cohort study](#)', The British Medical Journal. The study found that 56 per cent of pregnant women admitted to hospital with COVID-19 were from black or other ethnic minority groups

⁶⁶ Ibid. Women from ethnic minorities also experience higher maternal mortality: Asian women are twice as likely and Black women five times more likely than white women to die during or up to one year after pregnancy. See MBRRACE-UK (November 2018), '[Saving lives, improving mothers' care](#)'.

⁶⁷ Ministry of Justice (31 March 2020), '[Pregnant prisoners to be temporarily released from custody](#)'.

⁶⁸ Joint Committee on Human Rights (8 June 2020), '[Oral evidence to inquiry on the Government's](#)

28. Although evidence suggests some pregnant women accommodated in mother and baby units in prisons are shielded,⁶⁹ other pregnant women may be located in the general prison population. There may be no easy way to limit contact, in line with social distancing and shielding guidance. Following visits to three women's prisons in May, HMIP reported that in two of the prisons there were 'many areas . . . where it was very difficult for prisoners and staff to socially distance'.⁷⁰ Isolation arrangements were not always effective, and some 'medically vulnerable' women were not isolating because the accommodation in isolation areas was poorer and access to showers was limited.⁷¹
29. We are encouraged by HMIP's recent findings that antenatal care in the prisons they inspected was being maintained to the same standard as in the general community.⁷² However, we remain concerned about the provision of perinatal care across the female prison estate, particularly in light of concerning evidence on the quality of care reported previously by the Committee, and following the tragic death of a baby girl in HMP Bronzefield.⁷³ Research by the Nuffield Trust found that in 2017/18, more than one in ten of the prisoners who gave birth during their prison sentence did so either in their prison cell or on their way to hospital.⁷⁴ During this period, 83 female prisoners were admitted to hospital for medical care related to pregnancy or childbirth, including 28 with high-risk pregnancies.⁷⁵ In the year ending March 2019, more than half of applications for a place in a mother and baby unit were refused or did not proceed.⁷⁶ Restricted regimes could further exacerbate some of the pre-pandemic barriers women in prison face in accessing health care.⁷⁷

[response to COVID-19: human rights implications](#)'.

⁶⁹ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Joint Committee on Human Rights (9 September 2019), '[The right to family life: children whose mothers are in prison](#)'.

⁷⁴ Davies, M. (22 November 2019), '[Pregnancy and childbirth in prison: what do we know?](#)', Nuffield Trust.

⁷⁵ Ibid.

⁷⁶ HM Chief Inspector of Prisons (19 May 2020), '[Report on short scrutiny visits to prisons holding women](#)'.

⁷⁷ For example, the Royal College of Midwives had already expressed [concern](#) about maternal services in prison before COVID-19, and had recommended all women's prisons implement Birth Companion's [Birth Charter](#) – which to our knowledge has not occurred. The Royal College of Midwives (12 November 2019), '[All women in prison must have access to equivalent maternity care as women outside the prison system](#)'.

30. Where it is not possible to release pregnant women and new mothers from prison, we recommend that HMPPS take urgent steps to ensure social distancing and good hygiene can be maintained to protect the right to health of these women and their children. We also ask the UK Government to complete and publish the review of its policies in relation to mother and baby units in prison, to ensure that pregnant women and new mothers are appropriately accommodated and receive the care they need, during the pandemic and in the longer term.⁷⁸

Data on women in prison

31. The pandemic has highlighted the need for robust data on the number of women in prison who have children or are pregnant so that their needs can be properly understood and met.⁷⁹ The Government has acknowledged that more needs to be done to ensure consistent data is available at a national level, and committed to collect more data centrally and use this to inform policies and improve services.⁸⁰ **We recommend that the UK Government continue to improve the collection and analysis of data on the numbers and needs of women in prison who have children or are pregnant, disaggregated by protected characteristic. This data should be published, subject to confidentiality requirements, and used to ensure policies and services are appropriate to these women's needs, both in the immediate context of the pandemic and in the longer term.**

17/06/2020

⁷⁸ The review was due to be published in March 2020. Ministry of Justice (November 2019), ['Government Response to the Joint Committee on Human Rights Twenty-Second Report of Session 2017-19: The right to family life: children whose mothers are in prison'](#).

⁷⁹ Joint Committee on Human Rights (9 September 2019), ['The right to family life: children whose mothers are in prison'](#).

⁸⁰ Ministry of Justice (31 October 2019), [Letter from Lucy Frazer MP to Joint Committee on Human Rights re: information on the number of pregnant women in prison.](#)