

Prison Reform Trust response to Justice and Home Affairs Committee inquiry into community sentence – June 2023

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promoting equality and human rights in the criminal justice system.

www.prisonreformtrust.org.uk/

Introduction

1. We welcome this inquiry into community sentences. Our response has not covered all questions, but only those where PRT has knowledge and information we believe would be of use to the committee. Most of PRT's work in this area has been concentrated on the experiences of women in the criminal justice system, and so much of our response focusses on this group. However, many of these experiences will be relevant to other groups, including men, in the criminal justice system.
2. Community sentences are a robust and credible alternative to custody – particularly for those who would otherwise serve a short prison sentence. Unlike imprisonment, they allow for maintenance of family ties, jobs, and childcare responsibilities – all factors which reduce the risk of reoffending. The Centre for Justice Innovation has suggested that community sentences also address the underlying factors which lead to offending, and repair harms caused by it.¹ The Ministry of Justice's own evidence shows that reconviction rates are lower for people on community orders than short sentences, and the positive impact is even more marked for people with mental ill-health.²
3. PRT will soon be publishing our 'Women's local area data resource' which helps to inform understanding of local trends in the use imprisonment. We will send the committee these resources once published.³

¹ Centre for Justice Innovation. (2020). *Smarter Community Sentences*.

² Hillier, J. & Mews, A. (2018). *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?*

³ The previous version of the resource is available at the following link <http://prisonreformtrust.org.uk/womens-local-data-resource/>

Questions

- 1. How have the numbers of community orders handed down to offenders evolved over time? Why, and with what consequences?**
4. The use of community sentences has dropped by almost half (48%) for women, and 50% for men in the last decade.⁴ Research from the Centre for Justice Innovation has found that, at least in part, this is because relationships between courts and probation have been damaged by probation reforms, underinvestment, and the disruption of court closures.⁵
5. This may also be linked to challenges since the reunification of the probation service. The Institute for Government commended the transition but found there was a loss of innovations from independent providers.⁶ Since the reunification, 13 of 28 Probation Delivery Units inspected have been rated as 'inadequate'.⁷ Even with recent recruitment, there is a shortage of probation staff, with a shortfall of 1,771 FTE against required staffing levels.⁸ When caseloads are stretched, this may hamper the ability of provide detailed support, including detailed Pre-Sentence Reports. This is particularly the case for 'lower risk' individuals, who may not be receiving the coverage needed, so drift more towards a higher severity of offending, and are caught up in the cycle of imprisonment.

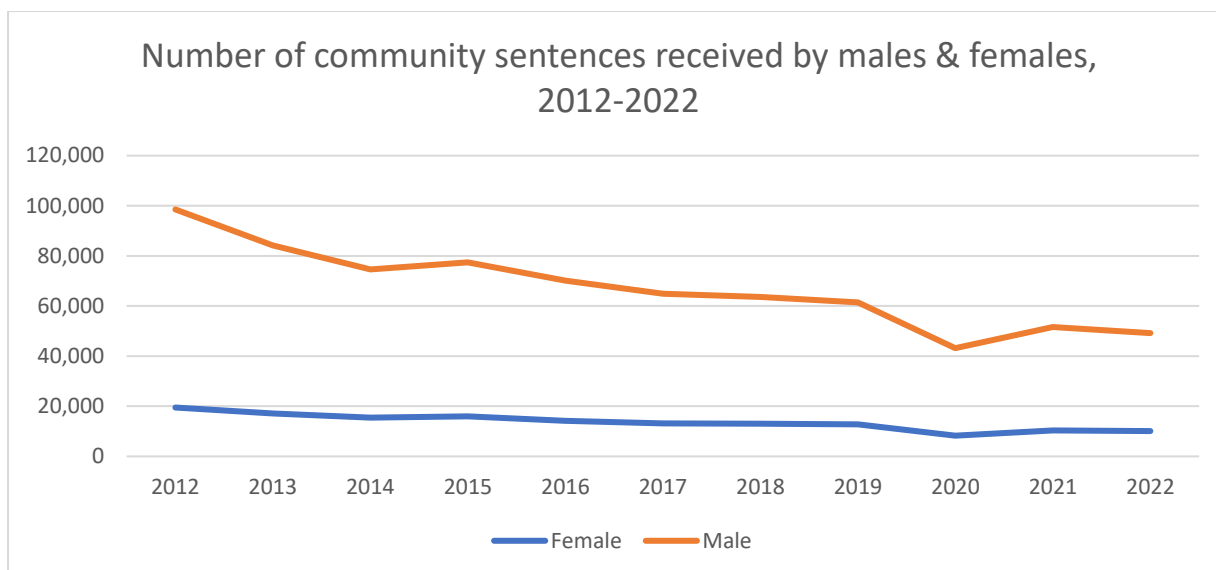
⁴ Ministry of Justice. (2023). *Outcomes by offence data tool*. Criminal Justice System Statistics quarterly: December 2022.

⁵ NAO. (2019). *Transforming Rehabilitation: Progress review*. and Whitehead & Ely. (2019). *Renewing Trust: How we can improve the relationship between probation and Justice Innovation*. Referenced in: Centre for Justice Innovation. (2020). *Smarter Community Sentences*. p.2

⁶ Johal, R. & Davies, N. (2022). *Reunification of probation services*. Institute for Government.

⁷ Russell Webster. (2023). How good is your probation service? [How good is your probation service? - Russell Webster](#)

⁸ HMPPS & Ministry of Justice. (2023). *HM Prison and Probation Service workforce quarterly: March 2023*.



6. A further reason for the reduction in community sentences may be linked to the lack of mental health beds, treatment centres and wraparound provision within the community. Evidence suggests that some people in contact with the criminal justice system who are in mental crisis are being remanded to prison for their 'own protection' or sent to prison as a 'place of safety'. Women in prison seem to be particularly vulnerable to this trend. Although the Mental Health Bill⁹ proposes provisions to change this practice, IMBs have found the number of women held under these provisions has increased in some prisons.¹⁰
7. The decline in the use of community sentences is of particular concern for women, who are more likely to be primary carers, and who often enter the criminal justice system with multiple and complex needs.¹¹ The government's own Female Offender Strategy focuses on the importance of early interventions and community-based solutions¹² but a series of inquiries since publication in 2018 have criticised the lack of governance, and implementation of the strategy.¹³ The government recently published its Female Offender Strategy Delivery Plan which continues to focus on improving community sentences.¹⁴ PRT welcomed this publication, and the inclusion of clear deliverables within the document. We hope now for better implementation of its aims.
8. Previous PRT consultation with women with lived experience of the criminal justice system highlighted some potential barriers to women with previous experience of custody from receiving community sentences. Many of the women we spoke to said once you had been to prison, sentencers were reluctant to give community sentences or explore alternatives to custody. One woman said:

"The thing is once you have been to prison once, then that's all you get is custodial."¹⁵

⁹ See [Draft Mental Health Bill 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/draft-mental-health-bill-2022)

¹⁰ Independent Monitoring Boards. (2023). *Mental health concerns in women's prisons*.

¹¹ Ministry of Justice. (2018). *Female Offender Strategy*.

¹² Ministry of Justice. (2018). *Female Offender Strategy*.

¹³ Prison Reform Trust. (2022). *Why focus on reducing women's imprisonment?*

¹⁴ Ministry of Justice. (2023). *Female Offender Strategy Delivery Plan 2022-25*.

¹⁵ Prison Reform Trust. (2020). *Women's Voices – London. Report of the User Voice London Women's Council*.

3. What are the attitudes of sentences towards community sentences? How have these attitudes evolved over time and what shapes them?

9. The Centre for Justice Innovation has found that courts are over 10 times more likely to impose a community sentence if a pre-sentence report (PSR) is conducted.¹⁶ However, the decline in the use of PSRs is closely linked to the sharp fall in the number of community sentences.¹⁷ Oral PSRs, compiled hurriedly on the day are unlikely to include all the relevant information a sentencer needs to assess the full picture. Standard PSRs – the most detailed type of report – have almost entirely been phased out, falling by 95% since 2011.¹⁸
10. In a PRT consultation with women with lived experience of the criminal justice system, one woman explained the value of a PSR to her experience of the system and the outcome she received:

“I was lucky because I had a pre-sentence report completed and the judge looked at it. It mentioned my mental health and my history. The judge was really good, he listened to everything and then gave me a community sentence along with a referral to sort out my mental health issues.”¹⁹

4. What are the main obstacles to the effective delivery of community sentences? What are the best practices for the delivery of community sentences?

11. There have been some recent policy developments, which, if built upon and backed by sufficient resource, could help enable the delivery of effective community sentences. These include:

Problem-Solving Courts (PSCs)

12. PSCs include a range of distinct models, which put judges at the centre of rehabilitation and offer an intensive community sentence with specific components as an alternative to custody for a target group, to reduce reoffending and improve outcomes.²⁰ The government’s Sentencing White Paper²¹ committed to piloting up to five PSCs and the Police, Crime, Sentencing and Courts Act introduced the legislative provision for the pilots. In July 2022 the government announced the start of three court pilots.²²

Community Sentence Treatment Requirements (CSTRs)

13. CSTRs are a form of community sentence which aim to reduce reoffending by improving access to mental health and substance misuse treatment in the community through greater use of treatment requirements in the community or suspended sentence orders. A CSTR can include the imposition of a Drug Rehabilitation Requirements (DRRs),

¹⁶ Centre for Justice Innovation. (2018). *The changing use of pre-sentence reports*.

¹⁷ Centre for Justice Innovation. (2018). *The changing use of pre-sentence reports*.

¹⁸ Centre for Justice Innovation. (2018). *The changing use of pre-sentence reports*. Referenced in Prison Reform Trust. (2023). *Bromley Briefings Prison Factfile. January 2023*. p.11

¹⁹ Prison Reform Trust. (2019). *Women’s Voices – West Midlands. Report of the User Voice Birmingham Women’s Council*.

²⁰ UK parliament website. (2023). [Approved work: Problem-solving courts - POST \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2023/pscs)

²¹ Ministry of Justice. (2020). *A Smarter Approach to Sentencing. A Smarter Approach to Sentencing (publishing.service.gov.uk)*

²² Government website. (2022). [New Problem-Solving Courts to combat drug and alcohol-fuelled crime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/new-problem-solving-courts-to-combat-drug-and-alcohol-fuelled-crime)

Alcohol Treatment Requirements (ATRs) and Mental Health Treatment Requirements (MHTRs) or a combination of these requirements.

14. In 2018 pilots were announced to help people with mental health, alcohol and substance abuse issues. CSTRs were established in five areas of England, bringing together health and justice services to assess, and where appropriate divert people from short prison sentences, and improve access to treatment. Early evidence has shown increased confidence among sentencers and more CSTRs issued in those areas.²³ The substance misuse and mental health needs of those in contact with the criminal justice system are well evidenced, and there is a consensus in favour of expansion of CSTRs.²⁴ However, the Justice Committee criticised the government's aim of 50% coverage across England and Wales by 2023 as insufficiently ambitious.²⁵

Liaison and Diversion (L&D) services

15. These services, available in police stations and courts, identify people who have a mental health need, learning disability, substance misuse or other vulnerabilities when they first come into contact with the criminal justice system. They are not a disposal, but rather a way of identifying needs and vulnerabilities in order for them to be met as part of a disposal, or to be diverted out of the criminal justice system into treatment and care if appropriate. L&D services achieved full coverage across England in March 2020.²⁶

8. How effective are community sentences at reducing recidivism? Which of the 16 requirements, if any, are effective? Why?

16. Reoffending rates are difficult to measure. Published figures almost invariably use reconviction as a proxy measure. But reconviction can be affected by many factors, in particular the ability of the police to detect crime and the priorities they set in doing so.²⁷ In this question, we will refer to published material on reconvictions as the best available indicator.
17. Community sentences are more effective than short prison sentences at reducing reoffending.²⁸ They are also particularly effective for those who have many previous offences (more than 50) and those with mental health problems.²⁹ For women specifically, research has shown that women released from prison are more likely to reoffend, and reoffend sooner, than those serving community sentences.³⁰
18. Research has also found receiving treatment for drug and alcohol addictions in the community can reduce reoffending. A study by Public Health England found that there was a reduction of 44% in the number of reoffenders, and a 33% reduction in the number

²³ Government website. (2018). <https://www.gov.uk/government/news/vulnerable-offenders-steered-towards-treatment>

²⁴ Centre for Justice Innovation. (2021). *Delivering a smarter approach: Community Sentence Treatment Requirements (CSTRs)*.

²⁵ House of Commons Justice Committee. (2021). *Mental health in prison*, HC 72.

²⁶ NHS England website. <https://www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/about/>

²⁷ Prison Reform Trust. (2023). *Bromley Briefings Prison Factfile. January 2023*. p.52

²⁸ Ministry of Justice. (2013). *2013 Compendium of re-offending statistics and analysis*.

²⁹ Hillier, J. & Mews, A. (2018). *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?*. Ministry of Justice.

³⁰ Hedderman, C. & Jolliffe, D. (2015). *The Impact of Prison for Women on the Edge: Paying the Price for Wrong Decisions, Victims & Offenders*. An International Journal of Evidence-based Research, Policy, and Practice. 10, 152–178.

of offences committed in the two years following treatment.³¹ In January 2021 the government announced £80m of funding to expand drug treatment services in England, intended to address substance misuse and reduce drug-related deaths and crime.³²

19. Greater use of community sentences has the potential to deliver cost-savings to the government, especially if used as an alternative to custody for women. In the women's estate, given the large proportion of women serving short sentences, significant cost savings could be achieved through a sustained focus on reducing the use of short sentences and increasing the uptake of community alternatives. The cost of a place in prison is £52,121.³³ By contrast, the cost of support at a women's centre ranges from £1,223 to £4,125 per woman, depending on needs. Furthermore, women's centres can play a vital role in reducing reoffending, providing safe, non-stigmatising settings for women to address issues surrounding their offending behaviour such as access to support with abusive relationships.³⁴

9. Community sentences entail a punitive and a rehabilitative component. How do offenders experience these two components? Do different cohorts of offenders, such as female offenders, experience them differently?

20. Particular attention should be given to tailoring the punitive element of community sentences to those who may have more difficulties adhering to the requirements and lead to a technical breach, as they may experience these differently. This could include young people, women, and those with particular support needs such as mental ill health, learning disabilities and substance misuse problems.

21. Sentencing requirements should consider abilities and needs, to avoid unreasonable or unrealistic expectations being imposed without appropriate support and other reasonable adjustments being put in place. For example, previous consultations carried out by PRT found some pregnant women experienced difficulties in adhering to community sentence requirements, whilst also attending hospital appointments. One woman said:

"I had problems with the baby having to go to the hospital, I nearly got breached. Tag kept going off. But you tell them, but it still goes off and it still gets reported. Having to get permissions, it's just extra stress you don't need when you're pregnant and having problems."³⁵

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³¹ Ministry of Justice. & Public Health England. (2017). *The impact of community-based drug and alcohol treatment on re-offending*.

³² Government website. (2021). *Multimillion pound investment and 'Project ADDER' to protect communities from crime cause by illegal drugs*. <https://www.gov.uk/government/news/148-million-to-cut-drugs-crime>

³³ Women's Budget Group. (2020). *The case for sustainable funding for women's centres*.

³⁴ Radcliffe, P., & Hunter, G. (2013). *The development and impact of community services for women offenders: an evaluation*. ICPR.

³⁵ Prison Reform Trust. (2020). *Women's Voices – London. Report of the User Voice London Women's Council*.