

Prison Reform Trust response to the Public Accounts Committee inquiry on Improving outcomes for women in the criminal justice system – January 2022

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. For more information on our work on women see www.prisonreformtrust.org.uk/women

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

The publication of the Female Offender Strategy in 2018 marked a welcome shift in policy direction on women's justice reform. But with a lack of governance, no resourced plan and insufficient funding, progress has been too slow. Unfortunately, it repeats a pattern that has characterised the government's approach to criminal justice reform more generally, with repeated and overlapping policy announcements that have not delivered change on the ground. The Prisons White Paper, published in December 2021, threatens to repeat that pattern on a grand scale and the government's ability to respond promptly and effectively to the National Audit Office's (NAO's) critique in relation to the Female Offender Strategy¹ represents a crucial test of the credibility of its wider ambitions.

A second major re-organisation of probation delivery, and the consequences of the pandemic of course bear some responsibility for the long delays. But we agree with the conclusions from the NAO's inquiry that management of the programme and accountability for outcomes have been weak, and the modest resources required have not been made available. Despite a professed prioritisation of community solutions, the government has actually chosen instead to invest very heavily in new prison capacity for women, based on the extraordinarily defeatist assumption that its strategy actually has no impact on its core aim of reducing the imprisonment of women. Thousands of vulnerable women, and the general public, continue to be failed as a result.

¹ National Audit Office (2022) [Improving outcomes for women in the criminal justice system: Ministry of Justice](#)

Advisory Board on Female Offenders (ABFO)

The NAO report hints at the poor treatment by the government of the ABFO since the publication of the strategy in 2018. The board was never given the information it needed to fulfil the remit set out in its terms of reference, and latterly was prevented altogether from fulfilling its role by not being convened. It was shabbily treated over the decision to build 500 additional prison places for women, with that announcement made only days after the board had met, when no mention had been made of it, still less any opportunity to advise on the wisdom of that policy in the context of delivering the strategy. A promised review of the board's role and constitution was delayed by over six months, despite its members being given a matter of days to submit applications to join a reconstituted board in the summer of 2021.

So it comes as no surprise that a letter abolishing the ABFO (attached in Annex A) should have been delivered to its members the day after the NAO published its report.

It is clearly a matter for ministers how they now choose to hold themselves to account for the delivery of the strategy, and the extent to which they are open to advice on issues of policy from outside the civil service. We welcome the apparent determination to reinvigorate the process of delivery within the department and within government. But the NAO's report shows in unflinching detail how very similar assurances of commitment have not been delivered since 2018. Without the presence – however fitfully – of ABFO it is very likely that the strategy would simply have withered on the vine like so many other promises in this field. So the move away from direct face to face ministerial accountability to experts in the sector is not without risk.

We therefore recommend that, at a minimum, the terms of reference for both the ministerially and officially chaired boards should be consulted on and then published, and that papers prepared for both boards, and the minutes of their meetings, should also be published. The lack of transparency over the strategy's delivery to date – whether through accident or design – cannot be allowed to persist. The NAO and PRT before it have shown what is required to track the promises made, and that work should now continue in the full light of public scrutiny.

The letter describing the new arrangements worryingly implies that there may be occasions on which the ministerially chaired board (WCJS) may have no external representation. We can think of no circumstances in which that would be necessary or appropriate and would encourage the committee to explore why that possibility is held open.

The letter also makes clear that the officially chaired board is to be charged with 'driving delivery' and advising on implementation. In our view, the experts assembled for that board should also retain a responsibility to advise on policy development. As we have seen only too clearly with the decision to invest in more prison places rather than more support in the community, ministers are capable of taking decisions on new policies which have a major and unwelcome impact on the strategy's delivery. The expertise that lies outside the department should be brought to bear to prevent that happening – or at the very least to give ministers the best advice before they institute new policies which may undermine the impact of those to which they are already committed.

A plan and progress against it

As the NAO report makes plain, the department has never had an adequate plan for the implementation of the strategy. It was not helped by the way the strategy was drafted, with commitments scattered throughout the text, almost invariably without deadlines attached for

delivery, measures to assess impact, or any estimate of the resources required. PRT undertook an exercise to extract the commitments within the strategy and assess what information was in the public domain to indicate progress.² From that limited information, we reached the same conclusion as the NAO now has, with its better access to material not in the public domain. That conclusion is that the strategy is far behind the few deadlines which were explicitly set, and even where commitments have been met through publication of guidance or instructions there is little or no information as to whether it is having the desired impact. We have identified below some key pressure points where implementation of the strategy is falling short.

Early Intervention

Pre-Sentence Reports (PSRs)

The use of timely, written PSRs is key in supporting better outcomes for women in the criminal justice system. The current review of PSRs must produce a step change in the provision of detailed, properly researched reports that draw on the information available to multiple agencies. Oral reports prepared hurriedly on the day a woman appears in court rarely give magistrates what they need to make the best decision. We question whether the department's ambition in relation to PSRs is adequate to the strategy's aim of 'ensuring that courts have better and more comprehensive information'.³ The pilots on which the government is relying need to be evaluated rapidly.

PRT supports the use of a Child Impact Assessment as part of the PSR process to increase sentencers' awareness of the impact of a prison sentence on children and encourage alternatives to custody.⁴ Child Impact Assessments have long been called for but not yet implemented. The assessments focus on children in their own right, ensuring their views are heard and decision take account of their needs.⁵

Magistrates' sentencing powers

On 18 January the deputy Prime Minister announced plans to double magistrates' sentencing powers, enabling them to pass a custodial term of up to a year.⁶ This announcement has the potential to undermine the strategy and disproportionately affect women, who are overwhelmingly sent to prison on short sentences. We invite the committee to press the government on whether the potential implications for women in the criminal justice system have been considered. We are not aware that any of the expert organisations represented on ABFO were consulted prior to this policy announcement, or that the consequences for the strategy's delivery were considered.

Community Solutions

Whole system approaches

Implementation of whole system approaches across the country are key in delivering the results promised by the strategy. In December 2020, PRT published an analysis of local

² See <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/1011>

³ Ministry of Justice (2018) *Female Offender Strategy*, London: MoJ, p.19

⁴ See <http://www.prisonreformtrust.org.uk/WhatWeDo/Projectsresearch/Women/News/vw/1/ItemID/785>

⁵ Robertson (2012) *Collateral Convicts: Children of incarcerated parents. Recommendations and Good Practice from the UN Committee on the Rights of the Child Day of General Discussion 2011*. Geneva: Quaker United Nations Office

⁶ Grierson (2022) Magistrates will get power to give one-year jail sentences to cut backlog, *The Guardian*, available at: <https://www.theguardian.com/uk-news/2022/jan/18/magistrates-will-get-power-to-give-one-year-jail-sentences-to-cut-backlog>

area court data on women's imprisonment rates.⁷ The analysis showed a postcode lottery of women's imprisonment across England and Wales. In Greater Manchester, an area with an embedded multi-agency strategy to address the causes of women's offending, the number of immediate prison sentences given to women has reduced by 44% since 2014, compared to the national reduction of 21%. The number of immediate prison sentences of less than 12 months given to women has reduced by 56% since 2014, compared to the national reduction of 24%.⁸ However, the ministry has not committed any further funding to support wider rollout of this model.⁹

Residential Women's Centres (RWC)

We share concerns raised by the NAO surrounding progress on the government's plans for the RWCs. The RWCs took the sector by surprise when they were included in the strategy – the clear priority for most had been the shoring up and expansion of non-residential women's centres. We were anxious that the RWCs would be imprisonment by another name, and that they would soak up both resources and the attention of the department in a way that obstructed more important – and better evidenced – reform. The NAO report strongly implies that those risks have been realised.

It remains unclear how a RWC will be different from a prison, or how it will avoid replicating the harms associated with the use of short-term imprisonment, including separation from children and families and the loss of housing and employment. We are unsure why the government has chosen to invest more than on any other single part of the strategy in an unproven and untested RWC model when an effective alternative to imprisonment for women already exists in the network of women's community support services, which currently lack long term sustainable funding.

There has been painfully little progress on the RWC. We would urge the committee to consider that perhaps now is the time to readjust the strategy and instead of a focus on expanding residential provision at existing women's centres, invest that money in non-residential provision at those same centres.

Better Custody

The Covid-19 pandemic (the pandemic)

The pandemic continues to have far-reaching consequences for the women's estate. We would draw the committee's attention to PRT's CAPPTIVE briefing¹⁰, which revealed the devastating impact of severely restricted regimes introduced by the prison service. Women continue to be spending extreme amounts of time in their cells, with purposeful activity and access to face-to-face visits curtailed. Release on Temporary Licence (ROTL) has been stopped or severely curtailed during the pandemic, so the advantages of being in an open prison have been largely removed.

Self-harm in women's prisons is at the highest level since available records began, increasing by 16% in the year to June 2021. This is not just an unwelcome symptom of the pandemic, given that there has been a 13% decrease in rates of self-harm in the male estate during the same period. Measures put in place to address the problem, including the introduction of a new self-harm taskforce, have not yet succeeded in reversing the trend.

⁷ See <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/956>

⁸ Ministry of Justice (2020) Court Outcomes by Police Force Area Data Tool, Criminal Justice System statistics quarterly: December 2019, London: MoJ. Please note, data for 2020 was severely affected by court closures during the Covid-19 pandemic so we have been unable to repeat the analysis.

⁹ National Audit Office (2022) [Improving outcomes for women in the criminal justice system: Ministry of Justice](#)

¹⁰ PRT (2021) [CAPPTIVE: Women's experiences of prison during the Covid-19 lockdown regime](#), London: PRT

We do not disagree that conditions in much of the custodial estate for women need radical improvement. But the prior question must be who those conditions are for. The absence of any detailed projection based on the strategy having an impact on the use of custody means that planning for the women's estate is proceeding in a fog. What makes sense for a population comprised of women serving longer sentences for more serious offences is wholly different from the needs of a short-term population serving sentences for non-violent and non-sexual offences.

Framework for Implementation

The Concordat on Women in or at risk of contact with the Criminal Justice System (the concordat)

The concordat was a key step forward when it was published and represented the outcome of many months of negotiation across government departments. But it will count for nothing if it does not produce the action that has been promised as a result. The document was published in January 2021, more than two years after it was originally promised. No funding, other resources or targets were attached to the implementation of cross departmental working to establish more whole system approaches, and the document commits only to a 'one-year on' review. We await the review, which is due for publication imminently, and hope it will clearly update on barriers to progress as well as success. PRT's own analysis¹¹ has revealed that many of the commitments with a six-month deadline have already been missed, and those with a one-year deadline are at serious risk of being missed. We would urge the committee to press the ministry on progress on implementation.

We have provided examples below:

- The Female Offender Delivery Board is identified as the main forum for delivery of shared commitments and report of progress against agreed outcomes. The board committed to meet regularly, however 'the board has been temporarily stood down since the publication of the concordat'.
- The concordat sets out 'metrics of success for concordat outcomes' and commits to monitoring all these metrics, including those not available at a local level, and then report results to other co-signatories and the ABFO. Ministry of Justice colleagues confirmed in October 2021 that they were yet to confirm a full list of metrics for success. PRT questions how it is possible to fully measure 'metrics for success' in a one-year on report if those metrics have not been finalised for more than half of that reporting period.
- Under the action for better national data collecting, the delivery board committed to (within six months of publication) surveying all current data collection relevant to the cohort of women. Almost seven months on from publication, the ministry was just planning to circulate the survey to relevant parties 'in the coming weeks'
- Under the action for better local data-sharing, the ministry committed to publishing a best practice guide within six months of concordat publication, which would then be shared widely. This has been delayed and we are now unaware of the new deadline.

¹¹ Analysis taken from email exchanges with the Criminal Justice Women's Policy Team at the Ministry of Justice

Actions for black and ethnic minority women

We agree with analysis from the NAO that progress on actions to ‘tackle the overrepresentation of, and unique challenges facing, black and other ethnic minority women in the criminal justice system’ has been slow, particularly during the Covid-19 pandemic.¹² Black and minority ethnic women continue to be overrepresented in the criminal justice system: 17% of the women’s prison population are from a minority ethnic group, compared to 11.9% of the women’s population in England and Wales.¹³ The lack of attention given to this issue in relation to women is symptomatic of the Ministry of Justice’s wider approach on race in the criminal justice system. We urge the committee to press the government on its commitment to implementation of the recommendations of the Lammy Review¹⁴, and to transparency about the content and implementation of the ‘Race Action Plan’ to which HMPPS says it is committed.

¹² National Audit Office (2022) [Improving outcomes for women in the criminal justice system: Ministry of Justice](#), p.41

¹³Table DC2101EW, Office for National Statistics (2012) 2011 Census. London: ONS; Table 1.4, Ministry of Justice (2021) Prison Population: 30 September 2021, Offender Management Statistics quarterly: April to June 2021

¹⁴ Lammy (2017) [The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System](#)

Annex A



Peter Dawson

Victoria Atkins MP
Minister of State for Justice and
Minister for Afghan resettlement

MoJ ref: SUB93839

19 January 2022

Dear Peter,

Advisory Board on Female Offenders

I am writing to set out new governance arrangements following the recent review of the membership and work of the Advisory Board on Female Offenders. I would like to begin by expressing my thanks for your contribution to advising and supporting the Government in our delivery of the Female Offender Strategy. The group has played a vital role in holding us to account, and I want to make sure that we retain this through these new arrangements.

Since my appointment as Minister responsible for women in contact with the justice system, I have been keen to refresh the governance and accountability structures around the Female Offender Strategy to ensure we are still focussed on delivering on our shared objectives. I know that improving outcomes for women in the CJS is a responsibility that is shared across government and that is why I will be meeting with my ministerial counterparts in February to agree how we galvanise to deliver the aims of the Female Offender Strategy and Concordat. I am also aware that many of you have expressed concerns about the limited role that you have had in shaping the agenda and driving forward the work of ABFO. It is to this end that I am communicating the below changes to you.

Going forward, ABFO will be replaced by two groups. Firstly, I will chair a smaller, focussed Women in the Criminal Justice System (WCJS) Board that will be made up of myself, Ministers, and senior officials from the MoJ and partner departments/agencies. This group will meet four times a year and will generally also include a representative from Clinks whilst they are fulfilling their infrastructure coordinator role, plus two or three rotating members from a wider expert group. This smaller group will enable the WCJS to be more outcome focused which in turn will allow us to collaboratively improve outcomes for women.

Whilst I want the WCJS to be outcome driven, I want to continue to hear a wide range of voices. Therefore, the wider expert group will continue to meet regularly with officials, chaired by Claire Fielder, Director of Youth Justice and Offender Policy. It will be tasked with driving the agenda of the WCJS board and bringing the vast array of expertise held by this group to bear on challenges and issues facing women in the CJS. This group will also have the role of agreeing which members from the wider group should attend the WCJS Board to provide relevant insight. It may also wish to form working groups to consider particular issues and report back to the WCJS Board.

This new format will complement the refresh of the WCJS Delivery Board, which will continue to focus on ensuring the MoJ and our partners across government work in a coordinated way to improve outcomes for women. I will, of course, also continue to meet and work with you and your organisations throughout the year to drive improvements.

I remain fully committed to the objectives of the Female Offender Strategy and look forward to working with you to improve outcomes for women in or at risk on contact with the CJS. I hope that these changes will enable us to address the challenges we face and drive forwards improvements for women we look to support.

Yours ever,

A handwritten signature in blue ink that reads "Victoria Atkins". The signature is written in a cursive style with a large initial 'V' and a long, sweeping tail on the 's'.

VICTORIA ATKINS MP