

## **Prison Reform Trust submission to the Justice Committee's pre-legislative scrutiny of the draft victims bill – June 2022**

The Prison Reform Trust (PRT) welcomes the opportunity to provide evidence to assist the Justice Committee in pre-legislative scrutiny of the draft victims bill. 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
- promote equality and human rights in the criminal justice system.

### **The Bill's definition of victim**

We welcome the fact that the definition of victim would include those with convictions and held in prison, which is important given evidence of the high rates of victimisation in the prison population. This evidence is presented below. We hope that by placing victim's entitlements on a statutory basis the bill will lead to a strengthening of the ability of victims in prison to access the support and services to which they are entitled.

Under the existing Victim's Code, in theory prisoners are as entitled to access victims services under the code as any other member of the public. However, in practice they are not always given the opportunity to report crimes committed against them whilst in prison or prior to their incarceration and are often unable to access victims' services. The Prison Reform Trust provides an advice and information service for prisoners which receives around 6,000 contacts a year. We regularly hear from prisoners about the difficulties they experience in reporting crime and accessing victims services.

### **Evidence of victimisation in the prison population**

The latest Ministry of Justice Safety in Custody statistics<sup>1</sup> reveal that:

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<sup>1</sup> Ministry of Justice. (2022). *Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to March 2022, Assaults and Self-harm to December 2021*  
<https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-december->

- In the 12 months to December 2021, there were 2,137 serious assault incidents
- There were 20,883 assault incidents in the 12 months to December 2021

The Ministry of Justice 2012 study Prisoners' childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners<sup>2</sup> reveals that:

- Twenty-nine per cent of SPCR prisoners stated that they had experienced emotional, physical or sexual abuse as a child. Women (53%) were more likely to report having experienced some sort of abuse than men (27%), as were prisoners from a non-BAME background (31%), compared with prisoners from a BAME background (20%).
- Those serving short-term sentences were more likely to state that they had experienced abuse as a child than those on longer-term sentences (29% compared with 24%).
- Female prisoners who had experienced abuse as a child were more likely to report suffering sexual abuse (67%) than male prisoners who had experienced abuse (24%).
- Forty-one per cent of SPCR prisoners said that they had observed violence at home as a child. Women were more likely (50%) to report having observed violence at home than men (40%).

A number of contacts from prisoners to PRT's advice and information service suggest that people who have reported physical or sexual assault have struggled to get support afterwards, either from prison-based healthcare service or from external specialist sources.

### *Women – domestic violence and sexual abuse*

There are just under 4,000 women in prison in England and Wales making up around 5% of the total prison population, a large proportion of whom have been victims of domestic violence and sexual abuse:

- 57% of women report having been victims of domestic violence as adults.<sup>3</sup> Because many women fear disclosing abuse, this figure is likely to be an underestimate.<sup>4</sup>

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[2021/safety-in-custody-statistics-england-and-wales-deaths-in-prison-custody-to-march-2022-assaults-and-self-harm-to-december-2021](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/278837/prisoners-childhood-family-backgrounds.pdf)

<sup>2</sup> Williams, K., Papadopoulou, V., & Booth, N. (2012). *Prisoners' childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*. Ministry of Justice.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278837/prisoners-childhood-family-backgrounds.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/278837/prisoners-childhood-family-backgrounds.pdf)

<sup>3</sup> Data Extracted from OASYS, published in Ministry of Justice (2014) Thinking differently about female offenders. Transforming Rehabilitation, Guidance Document, London: MoJ/NOMS

<sup>4</sup> Gelsthorpe, L., Sharpe, G., & Roberts, J. (2007). *Provision for women offenders in the community*. Fawcett Society. <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=5e997239-63bf-4017-a81b-c877aaff22b>

- Women's offences are more likely than men's to be prompted by their relationships with 48% of women, compared to only 22% of men, saying that they had committed offences to support someone else's drug use.<sup>5</sup>
- Research by The Disabilities Trust found that of 173 women screened at HMP Drake Hall, 64% reported a history indicative of brain injury and for most this was caused by domestic violence.<sup>6</sup>
- In research by Muslim Hands with Muslim women in prison, 71% of interview participants reported experience of domestic abuse.<sup>7</sup>
- Women with learning disabilities are particularly vulnerable to domestic abuse.<sup>8</sup>
- Women with children can be reluctant to disclose their exposure to domestic violence, but the impact of prosecution and imprisonment may be particularly disruptive and traumatic for both mothers and children.<sup>9</sup>

In recent research we found there is limited support for women in prison affected by domestic abuse, particularly those serving short sentences, and that the patchy availability of support on release from prison, including suitable housing, health and social care services and welfare benefits, leaves women even more vulnerable to abuse and offending.<sup>10</sup>

### *Trafficking*

We do not know how many people in prison have been trafficked. People who have been the victims of abuse may be reluctant to talk about their experiences to police, courts or prison staff. People who have acted under pressure, with threats made against their family are unlikely to provide information from a prison cell. At the moment, the legal system is not good at recognising when people have been coerced into committing crimes. Too often it is the victims of human trafficking, instead of the person responsible for the trafficking, who end up being prosecuted and imprisoned. We need to recognise that people commit offences because they have been intimidated or threatened with violence. Not only is protection a human right for victims but enforcement processes against traffickers are less effective

<sup>5</sup> Light, M., Grant, E., & Hopkins, K. (2013). *Gender differences in substance misuse and mental health amongst prisoners Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*. Ministry of Justice.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf)

<sup>6</sup> The Disabilities Trust. (2019). *Making the link: Female offending and brain injury*.  
<https://www.thedtgroup.org/media/163444/making-the-link-female-offending-and-brain-injury.pdf>

<sup>7</sup> Muslim Hands. (2018). *(In)visibility: Female. Muslim. Imprisoned*.  
[https://muslimhands.org.uk/ui/uploads/lk2ki4/\(In\)Visibility\\_Web.pdf](https://muslimhands.org.uk/ui/uploads/lk2ki4/(In)Visibility_Web.pdf)

<sup>8</sup> Hammond, T., Talbot, J., Earle, J., & Murray, A. (2019). *Out of the Shadows: Women with learning disabilities in contact with or on the edges of the criminal justice system*. Prison Reform Trust.  
<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Out%20of%20the%20shadows.pdf>

<sup>9</sup> Beresford, S. (2018). *What What about me? The impact on children when mothers are involved in the criminal justice system*. Prison Reform Trust.  
<http://www.prisonreformtrust.org.uk/portals/0/documents/what%20about%20me.pdf>

<sup>10</sup> Prison Reform Trust. (2017). *"There's a reason we're in trouble" Domestic abuse as a driver to women's offending*.  
[http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic\\_abuse\\_report\\_final\\_lo.pdf](http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf)

without the evidence and participation of victims. This will only happen in a system that victims trust and that offers adequate support.

There is no comprehensive data on the number of people in prison who have been trafficked. However, available information suggests that children and young people are disproportionately at risk of being victims of criminal exploitation. For instance, the latest data on National Referral Mechanism referrals shows that child potential victims were most often referred for criminal exploitation (47%; 635).<sup>11</sup> For those exploited as children, an increase in the identification of 'county lines' cases has partially driven the increase in referrals within the criminal exploitation category.

Foreign nationals in prison are another group who may be disproportionately likely to be victims of trafficking. Two reports, one published in 2018 by the Prison Reform Trust and Hibiscus Initiatives,<sup>12</sup> and the other in 2012 by the University of Cambridge, supported by the Economic and Social Research Council,<sup>13</sup> have underlined the lack of support available to foreign national women in custody in England and Wales who have been trafficked into offending. The latter by Professor Loraine Gelsthorpe and Dr Liz Hales examines the case management of migrant women in the criminal justice and immigration systems, including the identification of trafficked women. It found violence, intimidation and rape were common experiences of the women, but evidence of their suffering was often overlooked and they did not receive the protection guaranteed to them as victims of human trafficking under international law. In only one of the 43 cases of human trafficking identified by the researchers did victim disclosures result in a full police investigation in relation to the actions of the perpetrators.

Evidence from Hibiscus Initiatives contained in the 2018 PRT report and confirmed in recent inspection reports suggests that despite police and prosecution guidance there is a disturbing failure to identify, protect and support victims of trafficking at an early stage and avoid prosecuting them for offences committed as a consequence of their exploitation by traffickers. Of the 585 foreign national women prisoners Hibiscus assisted between February 2013 to March 2017, 45 women were identified as victims or potential victims of trafficking, all of whom had disclosed information about their exploitation.

- **The Government's proposal to put the overarching principles of the Victims' Code in primary legislation and set out key entitlements in**

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<sup>11</sup> Home Office. (2022). *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 3 2021 – July to September second edition*. GOV.UK.

<https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2021-july-to-september/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2021-july-to-september#national-referral-mechanism-referrals>

<sup>12</sup> Prison Reform Trust & Hibiscus Initiatives. (2017). *Still No Way Out: Foreign national women and trafficked women in the criminal justice system*. Prison Reform Trust.

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Still%20No%20Way%20Out%20full%20report.pdf>

<sup>13</sup> Hales, L. (2017). *The Criminalisation and Imprisonment of Migrant Victims of Trafficking*.

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3082873](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3082873)

**secondary legislation, consulting on changes to the Code once the Bill is in force.**

Given the high levels of victimisation in the prison population highlighted above, and the resulting high levels of need, urgent attention needs to be given to improving the access of people in prison to victims services and support. We are concerned that the government's approach gives it too much leeway to potentially water down the entitlements under the code of people in prison or those with convictions. Under the existing draft bill, the Secretary of State would have the power to exempt whole categories of individuals, including those with convictions, from entitlements under the code. We note that prisoners are already directly discriminated against by some of the provisions of the code. For instance, people with convictions are denied the opportunity to apply for compensation when they are victims of serious violence. This policy is currently the subject of a Ministry of Justice consultation required as a result of a court judgment against the department.

- **The Government proposals to place a duty on the relevant criminal justice agencies (the police, the Crown Prosecution Service, HM Courts & Tribunals Service, Youth Offending Teams and HM Prison and Probation Service) to collect data and keep under review their delivery of the Code.**

We would welcome greater oversight, including the collection of better data, to ensure that the entitlements under the code of people in prison are met. Despite evidence of the high level of victimisation among the offender population, data on rates of victimisation among this group are not routinely collected by the Ministry of Justice. As far as we are aware, the needs of this population are given limited if any consideration by commissioners in the provision of victims' services.

The prison service, the police and CPS have duties to comply with their responsibilities as set out in the Code of Practice for Victims of Crime. The implementation and operation of these duties in prison need greater oversight. The process should be monitored and data around the numbers of victims receiving services in prison should be publicly available. Prisoners' rights under the code and their entitlements as set out in prison service instructions need to be more closely aligned, and backed by appropriate information and guidance to prisoners, prison staff, statutory bodies and service providers.

The '*Crime in Prison Referral Agreement*' sets out the agreement between HMPPS, National Police Chiefs' Council (NPCC) and the Crown Prosecution Service (CPS) in relation to the reporting of crime in prison. It describes the roles and responsibilities of each agency when it comes to the referral, investigation and prosecution of crimes committed in prison. Despite this, PRT regularly hears from prisoners regarding difficulties they have experienced in reporting a crime, and confusion about how to go about it.

Prison staff need greater awareness of the rights prisoners can access under the Victims' Code. This would ensure they assist prisoners to report incidents to the police when the victim has requested to do this. The paucity of provision of information and communication technology in prisons and restrictions of prisoners'

access to the internet require that print copies of the code will need to be made available. At the very least, we would recommend that a print copy is sent to each prison library in all establishments in England and Wales.

- **The Government's proposals on the role of the inspectorates, including an improved focus on victims, and a new power for the Government to direct aspects of their work.**

We would welcome greater oversight by the HM Inspectorate of Prisons on whether the entitlements under the victims code of people in prison are being met. We are not aware of any systematic efforts by HM Inspectorate of Prisons and Probation to understand:

1. Levels of victimisation among the population in prison and under probation supervision in the community other than through the routine collection of data relating to safety
2. The access of people in prison and under supervision to victims services and support and the quality of service they receive.

We recommend:

1. The development of more detailed metrics and the routine collection of data to understand levels of victimisation in the offender population
2. The access of prisoners and individuals under probation supervisions to the police and victims' services, and the quality of service they receive, is made the subject of prison and probation inspectorate expectations.
3. The experience of people who are victims in prison and under probation supervision in the community is made the subject of a criminal justice joint inspectorate thematic.