

## **Response to the Children's Commissioner Family Review – Call for evidence**

**May 2022**

### **Introduction**

1. The Criminal Justice Alliance (CJA) is a network of over 180 organisations working towards a fair and effective criminal justice system. Many of our member organisations are charities who support people in prison to build, maintain and strengthen their relationships with their children and families, as well as providing support to children and families in the community who are impacted by parental and family imprisonment. CJA is also a partner of the Positive Pathways from Prison (PPfP) Project, which calls for more support for people in and leaving prison to build family ties.<sup>1</sup>
2. We welcome the opportunity to respond to the Children's Commissioner's call for evidence to inform the Family Review. Our response specifically focuses on children who are impacted by parental and family imprisonment. It draws on roundtables that took place in May 2022 with CJA members who provide support to these children, as well as a CJA Members Meeting with Lord Farmer in October 2021 about the implementation of his reviews to strengthen the family ties of adults in prison.<sup>2</sup>
3. Some members we consulted with during this process included: Children Heard and Seen, Family Action, Family Links the Centre for Emotional Health, The Howard League for Penal Reform, Partners of Prisoners (POPS), Prison Advice and Care Trust (Pact), St. Giles Trust and Storybook Dads.

### **Children impacted by parental and family imprisonment**

4. Research shows that despite the vulnerability of children who experience parental or family imprisonment, they often remain 'hidden' or 'invisible'. These children often suffer with separation, secrecy, loss and trauma during the sentencing and imprisonment of their parent or family member, as well as experiencing stigma, discrimination and isolation from their local communities as a result.<sup>3</sup> Parental imprisonment is acknowledged as an adverse childhood experience (ACE) and children affected by parental imprisonment also tend to be disproportionately exposed to other stressful or traumatic experiences.<sup>4</sup>
5. We recognise that children impacted by parental and family imprisonment are not a homogeneous group. They will often have different circumstances and will therefore require tailored support in response to their needs. For example:
  - Children may or may not be in contact with parents or family members in prison.

- Children who are in prison and also have parents or family members in prison.
  - Children in prison who have experienced the care system and may or may not have family relationships.
  - Children and young adults in prison who are also parents.
6. We welcome the Children's Commissioner's previous comments which recognised the importance of children with a parent in prison being 'fully supported' and 'not overlooked'.<sup>5</sup> As part of the Family Review, we recommend the Children's Commissioner focuses on the following four areas to improve outcomes for children impacted by imprisonment:

- 1. There should be a statutory process or mechanism in place to identify children impacted by parental imprisonment.** Both parents and children should be supported to disclose this information.
- 2. A minimum standard of family support services should be developed, so people in prison, and children and family in the community, can consistently access support. These services should be funded adequately and sustainably.** The government has committed to a £3.8 billion investment for 20,000 additional prison places. This investment could be better used to sufficiently fund family support services and enable the government to implement the recommendations of the Farmer Reviews.
- 3. No government department is leading on improving outcomes for children who experience parental and family imprisonment.** As part of her remit, the Children's Commissioner should explicitly promote and protect the rights of these children. Cross-government working should be established in order to develop a national action plan with accountability structures to support children impacted by parental or family imprisonment.
- 4. In recent years, both the policy context and provision for children and families impacted by imprisonment has primarily focused on the needs of the person in prison and the positive outcomes strong relationships can have on reducing reoffending.** Policy and provision should also focus on the needs of the child, which can be distinct and separate from the family member in prison.

## Consultation response

5. Our response will cover how public services' (such as the criminal justice system, schools, and children and family services) understand the needs of children impacted by imprisonment; and the effectiveness of the current provision (such as support networks, services and programmes) available to children impacted by imprisonment, as well as their families.

## **How public services understand the needs of children and families who are impacted by imprisonment**

6. Members have told us that the fragmentation and lack of communication between criminal justice agencies and bodies with responsibilities for children and families often leads to worse outcomes for children.
7. The government have no co-ordinated approach to improving outcomes for children who experience parental and family imprisonment, and no government department leads on this matter. The Ministry of Justice should consider which other government departments and agencies have 'touchpoints' with these children so that work can be co-ordinated (for example, the Department for Education, the Department of Health and Social Care, and the Department of Work and Pensions, as well as chief social workers, local authorities and children's services). **We recommend the Cabinet Office establish and co-ordinate cross-departmental working between government departments to develop a national framework to support the children and families of those in prison.**
8. The Children's Commissioner's primary function is to promote and protect the rights of children in England, with particular regard to children who are at risk of having their rights infringed, as set out in the United Nations Convention on the Rights of the Child. There are well-documented concerns that children's rights are not being properly considered throughout the criminal justice process, particularly during the court sentencing of primary carers, as set out by the Joint Committee on Human Rights' recent inquiry on the right to family life of children whose mothers are in prison.<sup>6</sup> **We have previously recommended that the government should consider explicitly including children who are impacted by parental and family imprisonment in the remit of the Children's Commissioners for England and Wales, who have statutory responsibility for promoting and protecting the rights of children.**

### ***Criminal justice agencies***

9. Recent research shows that those who witness the arrest of a family member are often left traumatised. Families often find the court sentencing process alienating, and many will be upset at being separated from their relative. In the criminal courts, judges often do not consider primary caring responsibilities and the impact of a sentence on any dependent children when sentencing adults.<sup>7</sup> CJA member Pact, who offer family support services, have also found that when primary carers are remanded, they are often not given sufficient time to plan to make sure their responsibilities to children or other relatives can be addressed. In prison, families are often not communicated with, have to go through bureaucratic systems and can be treated with suspicion.

### ***Schools***

10. Members tell us that children will often disclose to school staff if they have a parent or family member in prison, even if this has not yet been previously

shared by a parent or guardian. Schools need a consistent offer of support to children who disclose they have a parent or family member in prison.

11. We welcome the government's recognition that a parent going to prison can lead to poor outcomes for the child, and the impact this can have on a child's learning, behaviour, mental health and wellbeing.<sup>8</sup> We also agree with the government's position that support should be based on the needs of the child, not solely the characteristic of having a parent in prison.<sup>9</sup>
12. We agree with the Joint Committee on Human Rights (JCHR) that the reference to children of prisoners in the Department for Education's 2018 guidance, *Keeping Children Safe in Education*, is welcome. The guidance signposts staff to the specialist advice and guidance for professionals on the National Information Centre on Children of Offenders (NICCO) website.<sup>10</sup>
13. However, we are concerned that beyond this, additional support for these children is being conflated with mental health and behavioural guidance, where school staff identify pupils whose behaviour may be a result of an underlying mental health difficulty. Children with parents in prison have distinct and complex needs which may differ from mental health or behavioural needs (such as being bullied, communication needs, etc). This focus risks these needs not being met and the core reason for any adverse behaviour, and the specific impact of stigma and discrimination being overlooked.<sup>11</sup> As such, **we recommend the Department for Education consider issuing more extensive, tailored guidance on how to support children whose parents are in prison and also have additional needs, and provide relevant training for teachers and school staff.** School staff also need to create non-judgmental and supportive spaces for children to talk about parental or family imprisonment, where disclosing is encouraged. For example, schools could more actively collaborate with specialist organisations to help provide suitable resources (such as books, posters, assembly presentations and PHSE resources), gain advice and access specific peer activities for children with a parent or family member in prison, which can reduce stigma. However, these specialist services are often under-funded (see below).

### ***Children and family services***

14. Members tell us that the focus of social services which support children and families' is primarily and understandably on 'risk' to the child. In some instances, there may not be a risk to a child who is experiencing parental or family imprisonment, but there may be a support 'need'. For there to be more consideration given to the specific needs of these children, **we recommend the 2018 Working Together to Safeguard Children guidance is strengthened to explicitly reference the potential vulnerabilities of children experiencing parental imprisonment.**
15. Women who give birth or experience early motherhood in prison can often experience separation from their child, as their imprisonment is often a trigger for social services' involvement. CJA member Birth Companions have called for greater support for women in prison who face challenges in pregnancy

and early motherhood, their babies and their wider families, as part of the new multidisciplinary 'Family Help' offer.<sup>12</sup>

## **Effectiveness of the current provision available to children impacted by imprisonment**

16. Family services commissioned by the MoJ primarily focus on the relationship needs of the person in prison in order to reduce reoffending, rather than the needs of the children or other family members in the community. Both the person in prison, and their children and family on the outside, will often have distinct and separate needs.

## **Current provision in the community**

17. Members tell us that specific support for children and families of people in prison is very limited and many families struggle to access support and information in the community. Organisations who solely provide support to children and families in the community who are impacted by imprisonment cannot access government funding from the Ministry of Justice or HM Prison and Probation Service (HMPPS), as they are not providing support to the person in the criminal justice system. If support services for children in the community are only provided via, or linked to, the person in prison, many children will be missed and overlooked. **We recommend that organisations and services that provide support solely to children impacted by imprisonment are provided with a specific route to apply for government funding, either by the Department for Education, the Ministry of Justice or a cross-departmental fund.**
18. Identifying these children is crucial to being able to provide effective support. Currently, there is no statutory process or mechanism in place to identify children impacted by parental imprisonment and parents may be reluctant to disclose this information due to stigma, and a widespread fear or assumption that children will be taken into care. The JCHR have previously recommended it be mandatory that information about dependent children disclosed by mothers in prison be verified by the National Probation Service, who can cross-reference whether a defendant is in receipt of Child Benefit with HM Revenue and Customs (HMRC) when compiling pre-sentence reports. In response, the government have committed to investigate the most accurate way to collect data about the number of dependent children with mothers in prison.
19. **We recommend the government introduce a statutory reporting mechanism for collecting and publishing data on the number of dependent children who have a parent in prison.** In doing this, the government should consider the 'spirit' of the JCHR recommendation regarding partnership data and information-sharing across government departments, and practices being developed by charities, such as Operation Paramount. Operation Paramount is an information-sharing pilot between Children Heard and Seen (CHaS), Thames Valley Police, Thames Valley Violence Reduction Unit (VRU), and Oxfordshire County Council; the VRU access MoJ data to track a person's entry into prison, any transfers around the

prison estate and eventual release, which allows them to identify any vulnerable children or family members.<sup>13</sup> When a child is identified, the family is contacted and offered support from CHaS.<sup>14</sup>

## **Improving current family provision for people in prison**

20. Building, strengthening and maintaining family relationships is central to rehabilitation for people in prison and can improve outcomes for family members in the community, in particular if they are planning to live together after release. Prior to the pandemic, prison inspectors found that work to support prisoners to maintain their family relationships was usually good, and excellent in some cases.<sup>15</sup> Lord Farmer's 2017 review on strengthening family ties for men in prison, and the subsequent review for women in 2019, outlined some pockets of good practice.

21. For children who are in contact with their parent or family member in prison, family provision could be increased and be more consistent across the estate. For example:
- As set out by Lord Farmer, a 'whole prison approach' to families is needed. CJA member Pact's Routes 2 Change project is piloting a family support service in two prisons, which promotes a 'family-first' culture in all aspects of the prison's regime and supports family members in the community.<sup>16</sup>
  - People in prison should have increased and more consistent digital access for family contact and support through in-cell telephony and video calls, as well as contact with other agencies involved with their children (for example, attending virtual parents evening which was previously possible as part of the Invisible Walls Wales project in HMP Parc), in addition to in person visits.<sup>17</sup>
  - More on-site provision to enable weekend family visits (as the CJA recently witnessed on an Erasmus knowledge-exchange trip to the Netherlands) and more child-friendly, informal, comfortable visiting facilities to enable family days across the estate.
  - Increasing the use of Release on Temporary License (ROTL) for people in prison to spend time with family and significant others.
  - More restorative family interventions and mediation work, as well as relationship and parenting courses should be provided. Research from the Restorative Engagement Forum shows how restorative conversations between people in prison and their families can help to build, heal and strengthen supportive relationships before they are released from prison.<sup>18</sup>
  - All prisons should have mechanisms for consulting with families through forums, councils or surveys, where any issues that families are experiencing can be identified and addressed. CJA member New Leaf Initiative CIC recently carried out a survey in partnership with families and visitors at HMP Birmingham to improve communication between visitors during and after the COVID-19 pandemic.<sup>19</sup>
  - Joint inspectorates have previously stated that the families of people in prison can be the most effective resettlement agency.<sup>20</sup> Families and significant others should be included in sentence and resettlement planning.
  - After release, families should be given support to reunite if they wish to. Primary carers being released from prison who have no housing should be

prioritised for accommodation that is also suitable for their children, to avoid the well reported ‘catch 22’: primary carers cannot reunite with their children without accommodation but cannot get accommodation without already living with their children.<sup>21</sup>

22. During the COVID-19 pandemic, most people in prison spent prolonged periods in their cells and had limited contact with their families. The lack of family engagement was a key source of anxiety, upset and frustration for people in prison and for their families in the community.<sup>22</sup> CJA member The Howard League for Penal Reform surveyed people in prison in early 2022 about their experiences during the pandemic and found that some imprisoned parents did not get to meet their new born babies, nor could they bond with young children.<sup>23</sup> The restrictions on social visits meant that some people in prison told inspectors that they were unlikely to ask for another visit because the ban on physical contact had confused and upset their children.<sup>24</sup>
23. The joint criminal justice inspectorates remain concerned that despite some signs of progress, the restrictions imposed in prisons have been too slow to ease and when they do, staffing shortfalls in the prison service will mean that many people continue to spend long periods of time in their cell.<sup>25</sup> A recovery plan is needed which mitigates and repairs harm that has been done in all areas, including relationships with families, friends and support networks.
24. Although HMPPS’ commitments to provide further family support across all prisons in response to the Farmer review is welcomed, the investment and funding related to the family services contracts does not match HMPPS’ increased expectations.<sup>26</sup> Analysis carried out by CJA member Clinks shows that real term spending on commissioned family work in prisons has decreased by around 24 percent over the last decade.<sup>27</sup> As such, members report that HMPPS often rely on and expect them to develop innovative and creative programmes, which enable people in prison to engage with their children and families, outside of their agreed family service contracts. To do this, charities rely on philanthropic and trust funding to supplement government contracts. As these programmes often rely on short-term funding arrangements, they are often temporary and delivered inconsistently across the prison estate. **We recommend the government provide adequate, sustainable funding that enables consistent, effective delivery of family work in prisons.**

***The views expressed in this consultation response are not necessarily those of any individual CJA member, PPfP partner or funder.***

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## References

<sup>1</sup> The PPfP project is supported by [Porticus](#).

<sup>2</sup> Ministry of Justice, [The importance of strengthening prisoners’ family ties to prevent reoffending and reduce intergenerational crime](#) (2017). Ministry of Justice, [The importance of strengthening](#)



[female offenders' family ties to prevent reoffending and reduce intergenerational crime](#) (2019). Criminal Justice Alliance, Video: [What should the government include in the Prisons White Paper to improve education and family ties?](#) (2021). Criminal Justice Alliance, [Purpose and Connection: a briefing in advance of the Prisons White Paper](#) (2021).

<sup>3</sup> Centre for Social Justice, [The Golden Thread – putting family at the heart of the criminal justice system](#) (2022). Crest Advisory, [Children of Prisoners: Fixing a broken system](#) (2019).

<sup>4</sup> Crest Advisory, [Children of Prisoners: Fixing a broken system](#) (2019).

<sup>5</sup> [Tweet from Dame Rachel de Souza](#), 17 January 2022.

<sup>6</sup> Joint Committee on Human Rights, [The right to family life: children whose mothers are in prison. Twenty-Second Report of Session 2017-19](#) (2019).

<sup>7</sup> Joint Committee on Human Rights inquiry, The right to family life: children whose mothers are in prison, [Written evidence from Dr Shona Minson](#), Centre for Criminology, University of Oxford.

<sup>8</sup> Ministry of Justice, [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](#) (2019).

<sup>9</sup> Ministry of Justice, [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](#) (2019).

<sup>10</sup> Ministry of Justice, [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](#) (2019). National Information Centre on Children of Offenders, [directory of resources](#).

<sup>11</sup> Crest Advisory, [Counting the cost of maternal imprisonment](#) (2021).

<sup>12</sup> Birth Companions, [Birth Companions' response to the final report of the Independent Review of Children's Social Care](#) (2022).

<sup>13</sup> Thames Valley Violence Reduction Unit, [Operation Paramount: Oxfordshire pilot scheme offers rapid access to support for children and families with a parent in prison](#) (2021).

<sup>14</sup> See page 14 in [Children Heard and Seen, Impact Report 2021-22](#).

<sup>15</sup> HM Inspectorate of Prisons, [Annual Report 2019-20](#).

<sup>16</sup> Prison Advice and Care Trust (Pact) [Rehabilitation with a Human Face: Pact Announces New Partnership](#).

<sup>17</sup> National Information Centre on Children of Offenders, [Invisible Walls Wales](#).

<sup>18</sup> See page 15 in Charlotte Caulkin, [An Exploratory Study of Understandings and Experiences of Implementing Restorative Practice in Three UK Prisons](#) (2021).

<sup>19</sup> The New Leaf Initiative CIC, [Improving Prison Communication with Families and Visitors During COVID-19 and Beyond](#) (2020).

<sup>20</sup> Criminal Justice Joint Inspectorates, [Resettlement provision for adult offenders: Accommodation and education, training and employment](#) (2014).

<sup>21</sup> Housing for Women, [ReUnite](#).

<sup>22</sup> Criminal Justice Alliance, [Routes to Recovery: Rebuilding the criminal justice system in England and Wales after the pandemic](#) (2020).

<sup>23</sup> The Howard League for Penal Reform, [The impact of restrictions on visits during the pandemic](#) blog (2022).

<sup>24</sup> HM Inspectorate of Prisons, [What happens to prisoners in a pandemic? A thematic review](#) (2021).

<sup>25</sup> Criminal Justice Joint Inspectorates, [The impact of the Covid-19 pandemic on the criminal justice system - a progress report](#) (2022).

<sup>26</sup> Clinks, [Time to invest in families](#) (2021).

<sup>27</sup> Clinks, [Time to invest in families](#) (2021).