

## **Prisons Strategy White Paper consultation response**

**February 2022**

### **Introduction**

The Criminal Justice Alliance (CJA) is a network of 170 organisations working towards a fair and effective criminal justice system. Many of our member organisations work in prisons across England and Wales supporting people during and after their sentences.

We welcome the opportunity to respond to the Ministry of Justice's (MoJ) Prisons Strategy White Paper.<sup>1</sup> Our response draws on the proposals in our recent briefing, [Purpose and Connection](#), which set out the commitments that should be included in the Prisons White Paper to make sure everyone in or leaving prison has access to meaningful education and employment, as well as support to maintain positive family ties and positive social relationships. It was based on a CJA Members Meeting with Dame Sally Coates and Lord Farmer about their respective reviews, as well as follow-up roundtables and discussions with over 40 CJA members during October 2021.<sup>2</sup>

Some of the members we consulted with included: Access2Advice, Children Heard and Seen, Enterprise Exchange, Family Action, Family Links the Centre for Emotional Health, The Howard League for Penal Reform, LandWorks, Making it Out, Nacro, New Leaf Initiative, Open Book, Partners of Prisoners (POPS), Prison Advice and Care Trust (PACT), Prisoners' Education Trust, Responsible Business Initiative for Justice, Revolving Doors Agency, RIFT Social Enterprise, StandOut, Shannon Trust, St. Giles Trust, Storybook Dads, Sussex Pathways, Switchback, Unlock, Working Chance and the Zahid Mubarek Trust.

### **Consultation response**

#### **A roadmap to building the future prison estate**

##### **1. Do you agree that these are the right long-term ambitions for the prison estate?**

#### **Prison building programme and future prison expansion**

We do not agree that the current prison building programme and the government's commitment to set up a 'longer term pipeline' for future prison expansion is the right long-term ambition for the prison estate. The prison population is projected to increase steadily to 98,500 people by March 2026, which means over an additional 19,000 people may be imprisoned over the next four years.<sup>3</sup> However, this increase is not as a result of more crime, but is largely due to the recruitment of an additional 20,000 police officers by 2023 and 'tougher sentencing rules' that are currently being introduced in the Policing, Crime, Sentencing and Courts Bill (the PCSC Bill).

Instead, **we recommend that the government have long-term ambitions to reduce the prison population and close prisons that have unsafe and inhumane conditions; invest in robust effective alternatives to custody; and divert the earmarked resources for prison building into improving standards and providing opportunities for rehabilitation in the existing prison estate at a more urgent rate than proposed.**

**1. Reducing the prison population.** The government can begin to safely reduce the prison population in the following ways:

- **Introducing a presumption against short custodial sentences.** The White Paper commits to introducing a Short Sentence Function in all probation regions to support people serving 10 months or less; and 'smaller, trauma responsive custodial environments' for women serving short sentences. The evidence is clear that short sentences are not effective at reducing crime.<sup>4</sup> The government should instead introduce a presumption against short custodial sentences of six months.<sup>5</sup>
- **Introducing a presumption against sending pregnant women and new mothers to prison.** The White Paper commits to expanding the use of Mother and Baby Units (MBUs) and providing specific support for pregnant people in prison. The government should introduce a presumption against sending pregnant people and new mothers to prison and instead use community alternatives.<sup>6</sup>
- **No longer using prison for mental health needs, or as 'a place of safety' for welfare or protection reasons.** The White Paper states the government want to 'avoid prison being used inappropriately' when someone's severe mental health needs warrants detention under the Mental Health Act (MHA). As such, the government has committed to introducing a statutory time limit of 28 days for transfers from prison to mental health hospitals. **We recommend the government go further and commit to eliminating the need for and use of prison for those who need to be detained under the MHA by investing in emergency mental health care.** The MoJ should bring forward legislation to amend the Bail Act 1976 so that it is unlawful to remand anyone to custody simply for their own protection or welfare.<sup>7</sup>
- **Convert Imprisonment for Public Protection (IPP) sentences.** The Ministry of Justice should consider a legislative intervention to convert post-tariff IPP sentences to determinate sentences which would provide firm release dates.<sup>8</sup>
- **Reducing remand and recalls.** The government should conduct a review into the use of remand and commit to reducing the use of remand, and the proportion of the population who are held on remand, for all cohorts.

We welcome the commitment to enable more women in prison who are held on remand to access bail support. **We recommend the urgent scaling up of court-based Bail Information Services.**

Recalls can interrupt the resettlement of people who have been released from prison. **We recommend the MoJ review the standard and extra licence conditions that can be imposed by the Probation Service.**<sup>9</sup>

- **Amend the sentencing provisions in the PCSC Bill.** The PCSC Bill includes provisions which will extend both the length of prison sentences for some crimes and the proportion of those sentences which must be spent in prison. The government should withdraw these clauses.<sup>10</sup>

**2. Investing in effective alternatives to custody.** Greater use should be made of community sentences and unpaid work partnerships that are both rehabilitative for individuals as well as reparative to communities. Sustainable core government funding for community facilities such as Women's Centres should be provided and increased use of Mental Health Treatment Requirements.

**3. Improving standards in the existing prison estate.** Investment should be used to urgently improve facilities and infrastructure in current prisons — rather than building new 'state of the art' prisons — to reduce inconsistencies across the estate instead of adding to them. Building new prisons will further entrench these inconsistencies as their increased technology and 'state of the art' resources will differ from existing prisons.

The White Paper sets out that new prisons are needed to achieve a 'step-change' in conditions across the prison estate outlines and that some of the older, Victorian prisons present many challenges for people in prison with disability or mobility issues and with the installation of modern technology. If new prisons are built because some current prisons are not fit-for-purpose, **we recommend the government commits to decommissioning these prisons at the same rate as it is building new ones, to really achieve a 'step-change' in conditions across the estate while not increasing the size of the total prison estate.**

#### **Maintenance, renewal and refurbishment of the existing prison estate**

The White Paper's focus on improving the existing prison estate and developing a new strategy for the maintenance and renewal of the prison estate is welcome, but the proposed timescales are too long. More urgency is needed, especially for maintenance that is a serious health and safety risk, such as the 35,000 cells which do not have adequate fire safety standards, and the hundreds of cells with ligature points.

The MoJ should focus on improving cleanliness, decency and safety standards across the estate as a priority. Members we have consulted with tell us that the inconsistencies in both the infrastructure and provision that is available across the estate impacts on people's ability to access education and employment support, maintain their family ties and prepare for release. These inconsistencies can be particularly disruptive when people transfer between prisons with different provisions.

- Too few people have adequate access to showers, and at a small number of prisons, people are still 'slopping out'.

- Levels of overcrowding throughout the estate mean living conditions are often well below acceptable.<sup>11</sup>
- Differences in infrastructure across the estate also impedes on access to technology, rooms for external providers to use and available purposeful activity places.
- There should be a strategy to reflect how new technology infrastructure installed in any new prison builds will be effectively implemented and used across the whole of the prison estate to make smoother transitions between establishments.

### **Prisons are digitally enabled**

We agree that the prison estate should be digitally enabled for both people in prison and staff. There is currently a lack of consistency in technology across prisons, which members tell us has a detrimental effect on delivering services effectively and efficiently.

As there are currently no consistent systems or minimum standards to implement technology in each prison, **we recommend that the MoJ and HMPPS introduce a national minimum standard for technology in each prison, which is outcome-focused, replicates established good practice and addresses inconsistency across the estate.** The standard should be clear that technology should not be used as a replacement for face-to-face contact in prisons (particularly with social visits and education provision), but as a supplement and complement. Prison governors should establish a local technology strategy which meets the national minimum standard. Prison governors should also be given the resources and encouragement from HMPPS to use their discretion, be creative and innovate to best meet the needs of their local population using digital approaches. The strategy should include all uses of digital and technology, such as in-cell telephony, video calls and emails. All local strategies should be published.<sup>12</sup>

### **Tackling violence and reducing harm**

#### **2. Do you agree these are the guiding principles around which the future regime should be designed?**

The consultation document sets out that prison governors will be advised to design regimes around the following guiding principles: a tailored approach to meet diverse needs; a regime that supports safety; and embedding technology.

#### **A tailored approach to meet diverse needs**

We welcome the White Paper's recognition that different cohorts of people in prison need support tailored to meet their individual needs, and some of the specialist support that will be provided both because of people's protected characteristics (such as women, young adults and racialised groups) and those who may need tailored support due to their sentences (such as those on short sentences). However, the current commissioning model is not conducive to supporting specialist organisations.

Prisons need co-ordinators to support specialist services working in the prison. **We recommend that the model of a Voluntary Sector Coordinator should be established in each prison to help specialist organisations communicate and collaborate with prison staff and each other.**<sup>13</sup>

As well as introducing proactive measures and support to advance equality and equity, prison governors should be conducting Equality Impact Assessments (EIA) under prison service policies and ensuring that their local policies and processes do not present any barriers or disadvantage to those with protected characteristics.<sup>14</sup> The EIA should also address how any equality issues identified will be effectively mitigated against.

**We recommend there is at least one dedicated Band 6 non-operational member of staff for Equality, Diversity, and Inclusion (EDI) work in each prison** with a clear job description and objectives, as well as sufficient time, resources and training to meet those objectives.

### **A regime that supports safety**

A prison that is conducive to supporting purpose and connection will have a positive impact on the overall safety and security of the prison. Prison inspectors have found that a lack of purposeful activity contributed to high levels of violence and self-harm; and joint criminal justice inspectorates have previously stated that the families of people in prison are the most effective resettlement agency.

The government intends to bring forward secondary legislation to introduce 'fast track adjudications' to prioritise sanctions, and regimes will be used to ensure consequences are swift. This legislation would also provide for new sanctions, such as repairing a cell as a punishment for damaging that cell.

According to research recently commissioned by the MoJ, the likelihood of continuing to commit further misconduct (leading to adjudications) was greater for young adults and people who had a learning difficulty or experienced mental health difficulties.<sup>15</sup> Having a more punishment-focused adjudications process contradicts the government's focus on providing tailored approaches to young adults and supporting those with mental health conditions. In addition, there is an acknowledgement in the White Paper that some people in prison can have a poorer tolerance for stress and frustration and poor emotional regulation. This needs to be considered when deciding on appropriate recourse for adjudications. Researchers have recommended the government should create an effective adjudications policy by considering less punitive punishments where possible and proportionate; offer chances for people to change their behaviour; and take a more rehabilitative approach to addressing misconduct.<sup>16</sup> In addition, the MoJ's own research shows that procedural justice and not 'swift' sanctions leads to improved compliance with the rules and positive outcomes for people in prison.<sup>17</sup>

**We recommend the government focuses more on procedural justice and uses and offers more restorative practices to deal with adjudications.** This approach has previously been committed to by Dr Jo Farrar, Second Permanent Secretary of the MoJ and CEO of HMPPS:

*'We are committed to building back prison communities that are safe and where the culture is characterised by respect, cooperation and hope.'*

*This ongoing commitment is demonstrated by our continued focus on rehabilitative culture and procedural justice as well as developing the application of restorative practice.<sup>18</sup>*

### **Embedding technology**

We welcome the commitment to invest in developing and embedding technology and digital to support people in prison with education and learning, healthcare and employment; however, this is often too slow. For example, the White Paper states that only 16 prisons will have access to in-cell technology by summer 2022. This proposed roll-out is far too slow. From the CJA's working-out, it would take approximately six-and-a-half years to roll out in-cell technology to all prisons and Youth Offending Institutions in England and Wales on this time-frame.

- **In-cell education:** The White Paper commitment to developing new digital content and expanding the use of secure laptops is welcome. However, there are currently several providers and platforms for in-cell education. Digital content which is produced for one system cannot be used on another system. Due to cost, many organisations can't produce content that works on all the different platforms which currently exist. This is a huge barrier for external providers to offer consistent services across establishments and hampers efforts to scale up good practice.
- **Controlled internet access:** People in closed prisons should have controlled access to the internet, assistive technologies and in-cell technology as it is the only efficient way people can access 'real-time' interactive materials, especially for job searches.<sup>19</sup> People in open prisons should have full internet access, not just when on Release on Temporary License (ROTL), to prepare for their release.
- **Digital literacy:** People in prison also need to regularly use technology to improve their digital literacy, develop digital skills and build confidence in using the internet for daily tasks and future employment.
- **Blended approaches:** Technology should not be used as a replacement in prisons, but as a supplement and complement to face-to-face education. In-cell technology should not result in people spending longer periods of time in their cells, instead there should be greater access to blended approaches.
- **Access to services:** Video conferencing should enable people in prison to access services that are based further away, such as resettlement services or legal advice.

### **3. How should we develop outcomes frameworks to ensure our Future Regime Design ambition is realised?**

#### **Employment targets**

The White Paper states that effective accountability tables will be introduced to support governors' performance. These tables will include data on the number of prison leavers in employment at 6 weeks and 6 months after release.

Although we welcome the focus on outcomes, we are concerned that simple employment targets could create perverse and unintended outcomes, such as placing people into any available job rather than a role that is best suited to a person's skills and interests. It could also mean governors focus resources on those who are deemed to be more 'employable' and exclude those who are further away from the job market, including people on long sentences. Therefore, targets for employment should not be the sole measure of accountability to effectively hold governors to account.

In addition, a suite of targets — including the number of prison leavers accessing education, training, volunteering and becoming self-employed after release — would provide a more nuanced approach to holding governors to account on progression towards employment. Measures of rehabilitative culture could also be used to hold prison governors to account, such as the Measuring the Quality of Prison Life (MQPL) metrics.

As well as governors being held to account for employment opportunities, **we recommend that the New Futures Network (NFN) collect and publish data, including the number of jobs that have been secured for prison leavers and the length of time that they are employed for.** It should also expand its priority sectors to include the creative and digital industries, as well as the charity sector, to support people into these roles.

### **Rehabilitation as the main purpose of prison**

The role of prisons should be to support people to desist from crime and address the root causes of offending. The process of someone being able to move away from crime is often connected to the material, social and psychological aspects of a person's life, such as: family, relationships, employment, health and education, as well as hope, motivation, having agency and responsibility, having a place in a social group and being believed in.

Adopting rehabilitation as the main purpose of prison would support prison governors in developing regimes, policies and processes that enable an aspirational, rehabilitative culture which prioritises purposeful activity and meaningful connections. It would help make clear the premise that deprivation of liberty is the punishment and that prison should have rehabilitation as its key purpose. **We recommend that the MoJ integrate the evidence-based principles of a rehabilitative culture, especially in training staff** (see question 17).

## **The role of prisons and probation in cutting crime and protecting the public**

### **6. Where can we go further to give prisoners the skills to secure stable employment on release?**

- **Apprenticeships:** The White Paper states that the Prisoner Education Service should equip people with the skills and qualifications they need to get apprenticeships after they leave prison.

**We recommend that the MoJ seek legislative change to allow people to take up full apprenticeships in prison**, so that they can move closer to securing meaningful employment on their release.<sup>20</sup>

- **Self-employment:** Members we have consulted tell us many people in prison want to start their own business and become self-employed. There should be increased support and advice to enable this. The evaluation of the Enterprise Pilots showed that not enabling controlled access to internet was a barrier to people being able to access the support and resources they needed.<sup>21</sup>
- **Practical skills for employment:** We welcome the White Paper's commitment to enable people in prison to secure 'licenses to practice' such as the Construction Skills Certification Scheme cards. People should also be enabled to develop other practical skills for work, such as completing a driving theory test.
- **More options for learning:** Adult learners in prison should have same options as adult learners in the community including different styles of learning, such as informal learning, peer-to-peer, non-classroom based, online tutorials, classrooms and workshop-based learning. Online access to approved further or higher-level distance learning courses should be available to support Level 3 qualifications up to degree-level study.
- **Increased use of ROTL for education and work training:** The White Paper sets out a 'step change' in the use of ROTL for employment purposes, which we welcome. The use of ROTL should also be increased to facilitate access to further and higher education in the community, especially if those opportunities are not available to people while they are in prison. People should be able to access supported work experience, volunteering opportunities, internships and real work-based training through ROTL, particularly for those who may need additional support to be ready to enter employment and those furthest away from the job market.
- **Providing the basics and meeting essential needs:** The White Paper acknowledges the need for proof of identity, a bank account and stable accommodation for people leaving prison to begin looking for and sustaining work. They also need access to technology (an email address, an internet-enabled mobile phone and data) and basic possessions (clothes and shoes, including suitable interview clothes, and toiletries). While we welcome the recent increase of the Subsistence Grant to £76, this is still not sufficient to support people in those crucial first days and weeks. **We recommend that people leaving prison are also provided with access to technology, basic possessions, travelcards to get to interviews and shopping vouchers for food.**<sup>22</sup> Getting this right will set up people leaving prison to thrive, rather than fail at the first hurdle and end up being recalled, putting further strain and cost on the prison system.
- **Criminal records disclosure:** Criminal records are a barrier to employment for hundreds of thousands of people.

The White Paper recognises the need to provide support to people leaving prison in relation to criminal records disclosure, but fundamental changes are needed to sufficiently address this. **We recommend the government introduce a more proportionate and flexible disclosure system**, so that minor and very old crimes do not appear on standard and enhanced criminal records checks. It could also take a distinct approach to childhood criminal records and introduce regular review mechanisms.<sup>23</sup>

- **Employment Boards:** The White Paper commits to establishing local Employment Boards in all resettlement prisons. Although close partnerships between prisons, business networks and industry are positive, there needs to be a careful balance between the need to fill local skills gaps and finding people good quality work opportunities that they are interested in, find purposeful, offer stability and which have prospects for progression. People are also not always released to or live in the area local to the prison, so the emphasis should be on the development of transferable skills for wherever they are released and whatever work they do in future. People in prison should be able to access careers advice as part of their sentence planning.
- **Development of transferable ‘soft’ skills:** Research has found that ‘soft’ skills such as having a positive attitude, communication, teamwork and reliability were highlighted by employers as the attributes that people leaving prison most needed to demonstrate to prospective employers. Having a positive attitude was deemed as important as having the technical skills to do the job by employers.<sup>24</sup> Development of these transferable skills should be prioritised and recorded. These skills can often be gained through creative arts and sports-based programmes.<sup>25</sup>
- **Incentives and support for employers: We recommend the government introduce more incentives for employers to take on people with previous convictions**, including financial incentives, such as the previous manifesto commitment of a one-year holiday on Employer National Insurance Contributions (NIC).<sup>26</sup> The NFN should make sure organisations which have been successfully employing people leaving prison can provide guidance and support to organisations which are still navigating the process.

## **7. What are the main issues and barriers that prison leavers face when they are making a claim for Universal Credit? What impact do they have on prison leavers?**

People making a new claim for Universal Credit (UC) must wait five weeks to receive the first payment. But people leaving prison are unable to make a claim for UC before release. Many people are facing financial hardship when they leave prison. As such, they can apply for an advance loan while waiting to receive their first UC payment. Advance loans must be repaid through deductions of up to 25 percent from future benefit payments, for up to a maximum of 16 months. CJA member Working Chance has found that women released from prison can fall into debt because of this.

When loans are not repaid in full while women are still claiming UC, the outstanding debt can lead them into financial difficulty.<sup>27</sup> **We recommend that the Department of Work and Pensions introduces a one-off UC advance payment grant specifically for people who have just been released from prison**, rather than a loan, to avoid this. People in prison should be supported by prison staff to provide the documentation needed to make a claim, such as an ID, a bank account and an address.

**8. Should we take a legislative approach, as described above, for those at risk of reoffending who would otherwise be released on a Friday? If so, how should we structure this approach?**

**We recommend that the government brings forward legislation to prevent people being released from prison on a Friday.** CJA member Nacro has been highlighting the difficulties associated with Friday release (or the day before a bank holiday) since 2018.<sup>28</sup>

Legislation could provide for prison governors to allow a person to be discharged from prison up to two working days before their release date if it would support their successful re-integration back into society, and where the discharge date falls on a Friday or the day before a bank holiday. This approach, supported by a policy framework and operational guidance, would make a significant difference to the problems raised by Friday releases.

**9. Do you agree with the ‘guiding principles’ and priority outcomes and areas of focus we have identified for developing the Resettlement Passports?**

We welcome the government’s recognition that there needs to be a co-ordinated plan for release. The Resettlement Passport must not prioritise the number of qualifications that a person has over their relevance. Amassing many low-level qualifications may not be as useful as a smaller number of higher-level qualifications which show progression and are relevant to someone’s future ambitions. The passport should also include transferable soft skills, as well as technical skills and qualifications. The passport should also include who is accountable and responsible for each priority outcome and area of focus.

**10. How can we implement the Resettlement Passport approach in a way which is most effective for prison leavers and practitioners?**

Any Resettlement Passport should be in a digital format that can be accessed and updated by different agencies and by the individual before and after release. The Resettlement Passport should be co-produced with people that have recently left prison and the government should commit to evaluating and regularly reviewing the passport to make sure it effectively meets the needs of prison leavers. The passport should have clear accountability mechanisms for responsible agencies.

### 13. Where can we go further in turning prisoners away from crime?

#### Strengthening family ties

We welcome the government's acknowledgement of the importance of maintaining strong family ties and positive social relationships and its commitments so far. However, the government could go much further both nationally and locally to strengthen this, such as:

- **Cross-government commitment and multi-agency provision:** The White Paper commits to working with other government departments to commission research relating to the number of children affected by parental imprisonment and the impact this may have on their life. The MoJ should also consider which other government departments and key stakeholders should have responsibility for ensuring there is a holistic response to supporting the children and families of people in prison (such as the Department for Education, Department of Health and Social Care as well as chief social workers, local authorities and social services). This cross-governmental working should be co-ordinated by the Cabinet Office. In addition, the government should consider whether the Children's Commissioners for both England and Wales should have a statutory duty for promoting and protecting the rights of children who are impacted by parental imprisonment.
- **Supporting families in the community:** We welcome the recognition of the importance of supporting families in the community separately from those in prison, as was highlighted in the Farmer Review. The White Paper sets out one proof-of-concept programme to support men and their families in one area of Cardiff. This approach is too small-scale. **We recommend the government provide more support services that take a holistic approach and address the needs of the person in prison, their family and their differing experiences.**<sup>29</sup> Supporting the family in a more holistic way will support the person's rehabilitation and resettlement after release.
- **Increased technology for family contact:** People in prison should have access to technology that can be used to maintain important relationships, which is particularly important for people in prison whose families or friends cannot attend in-person social visits due to distance or other factors (for example, if they are foreign nationals with family overseas, have elderly family members or have young children).
- The government should continue to provide secure video calls and commit to ensuring free or affordable access to them. As it changes providers of video call technology, it should evaluate the provision to identify and address any barriers to its effectiveness.
- **Enabling more in-person family contact:** We welcome the White Paper commitment to transforming ROTL for employment, but it can also be used to support relationships. A wide and creative range of support should be provided for people in prison and their significant others.

For example, the use of ROTL for family contact and supportive relationships should be increased, there should be more on-site provision across the estate to enable weekend visits to take place, more child-friendly environments, relationship and parenting courses and restorative family mediation work. All prisons should have mechanisms for consulting with families through forums, councils or surveys, where any issues families are experiencing can be identified and addressed.

- Some people in prison may not have contact with their family, so other positive support networks need to be cultivated to aid their resettlement. This could be through college, university, employment or being linked to clubs in the local community, such as sports clubs. Care leavers in prison should have access to specific support services.

The best way for people in prison to strengthen their relationships and build pro-social networks and positive connections with others is by spending less time in prison and returning to their families and communities on licence under probation supervision. This is more reason for the government to withdraw clauses in the PCSC Bill which will extend the proportion of a custodial sentence which must be spent in prison.<sup>30</sup>

### **Young adults**

We are also concerned about the lack of focus on the distinct needs of young adults in custody, despite a wealth of evidence showing that this is needed.<sup>31</sup> We welcome the pilot for young adults at HMP/YOI Deerbolt. However, we would like to see wider consideration of how young adults are held in the adult estate, as it renders distinct institutions — which have a distinct approach and distinct staffing — redundant. We welcome the commitment to develop a Young Women's Strategy and the need for age-appropriate care for women. However, it is disappointing that there is not a similar strategy for young men, particularly those who are serving long sentences and held in the long-term and high security estate.

### **People in prison who are victims**

The CJA is concerned about how people in prison who have also been victims of crime can effectively access their entitlements under the Victims' Code, including having their crime recorded without delay, information about compensation and access to services including restorative justice. Some CJA members we consulted reported that people they support who have been victims of crime but are also perpetrators can only access victim support services after they have served their sentence. CJA member Prison Reform Trust has found that some people in prison who contact their advice and information service describe their difficulties in both reporting crime to Police Liaison Officers (PLOs) and accessing victims' services.<sup>32</sup> **We recommend that Her Majesty's Inspectorate of Prisons (HMI Prisons) join the Criminal Justice Joint Inspectorate's (CJJI) thematic inspection planned for 2022/23 on whether victims' needs are being met, to assess whether those in prison who are also victims can access support and interventions (including restorative justice).**

## **Lack of mitigation against the harmful impacts of the COVID-19 regime restrictions**

The White Paper does not recognise that most people in prison have spent prolonged periods in their cells during the COVID-19 pandemic, which has harmed both their physical and mental welfare. Many people in prison have a lack of rehabilitative opportunities and have not progressed in their sentence by accessing programmes or progressive transfers.<sup>33</sup> **We recommend the government set out clear plans to show how it will mitigate against the negative impacts of the pandemic on people's health and wellbeing, relationships, and rehabilitation and sentence progression.**

## **Our people**

**16. Are there specific areas of training you think we should be offering prison officers which we do not already?**

**17. Do you agree that more bespoke recruitment training will enable prison officers to better support the needs of prisoners? What other cohorts should we be focusing on and how can we do this in a manner that advances equality of opportunity for offenders with protected characteristics?**

We welcome the new training opportunities that the government has set out and its focus on improving outcomes for certain groups of people through training, such as those with neurodiverse conditions and social care needs. The government could go further by providing training to improve outcomes for people from Black and minority ethnic backgrounds and foster good relationships.

- **Restorative approaches and practices:** A restorative approach provides an underpinning ethos for preserving and restoring relationships, as well as for encouraging a sense of collective responsibility and accountability. Our 2020 report shows that staff who have adopted restorative approaches have increased confidence in tackling conflict and have developed conflict resolution skills. Ultimately this would lead to the workforce being more confident in using informal resolutions (rather than formally adjudicating low-level misbehaviour) and restoration of relationships between staff and people in prison.<sup>34</sup> Restorative practices can also be used to prevent conflict using co-production and problem-solving approaches with people in prison and staff. To help embed a restorative culture and ethos in prisons, restorative practices could also be used as part of HMPPS human resources policies and processes.
- **Cultural sensitivity and competency training:** Cultural sensitivity, also referred to as cross-cultural sensitivity or cultural awareness, is the knowledge, awareness and acceptance of other cultures and cultural identities. This would foster better relationships between staff and people in prison from different ethnic minority backgrounds and reduce ostracization, misunderstandings of humour, microaggressions and tokenism. This could improve outcomes for people from Black and minority ethnic backgrounds.

This training should be carried out in-person, be delivered by experts and involve interactive elements, along with opportunities for ongoing reflective practice.

- **Establishing a rehabilitative culture:** We welcome the government's recognition of how the prison workforce can establish a culture which supports people in prison to turn their lives around. However, the focus is only on key workers. We suggest all staff who regularly interact with people in prison daily should receive training and support around how to develop constructive relationships, build hope and highlight potential. A rehabilitation focus should guide all levels of decision making. Staff should enable people in prison to address their offending behaviour and progress through their sentence plan without reminding them of or viewing them through their past. Rehabilitative cultures and positive relationships are especially important now, as most people in prison have spent prolonged periods in their cells during the COVID-19 pandemic.<sup>35</sup>

In addition to providing the right training to the current workforce to develop a more inclusive culture, the government should work to improve the representation, retention and progression of Black, Asian and minority ethnic people and individuals with lived experience in the prison workforce. Black, Asian and minority ethnic people make up only 10.9 percent of the prison workforce, whereas 28 percent of all people in prison self-identify as Black, Asian or minority ethnic. The CJA is due to publish a report regarding workforce diversity and leadership across the CJS, including within prisons. Our initial findings show that criminal justice staff from Black, Asian and minority ethnic backgrounds believe there are several systemic issues that halt their progression, growth and training, making it more challenging to continue working in the sector and achieve their full potential. We look forward to sharing the report and recommendations with the Ministry of Justice shortly and working together to address the barriers we have identified.

The White Paper states that the government will create a presumption in favour of enabling people who are serving prison sentences or on license to work in the prison estate. We welcome this presumption as individuals with lived experience bring with them a unique perspective and insights from their experiences of the criminal justice system. However, there are many challenges to the vetting process that need to be addressed, which were set out in our 2019 report, *Change from Within*.<sup>36</sup> We would be happy to arrange for officials to meet with some of our member organisations which have staff with convictions, who have experienced difficulties working in the prison estate and processes as the Ministry of Justice works to implement this new presumption. **We recommend that the civil service, in particular the Ministry of Justice and Her Majesty's Prison and Probation Service (HMPPS), should also employ more people with criminal convictions through the Going Forward into Employment (GFIE) scheme and support their progression into more senior decision-making roles.**

To support their progression into more senior decision-making roles, **we recommend that the MoJ should consider developing and implementing a fast-tracked leadership scheme for those with lived experience of the CJS.**

The MoJ should create a Director level position with responsibility for the leadership scheme, GFIE and making sure the MoJ and its agencies provide an inclusive workplace for those with lived experience.

## **Delivering better outcomes in prisons**

### **19. How can we further strengthen independent scrutiny of prisons in future?**

#### **Ministerial boards**

The White Paper outlines that a ministerial performance board will be introduced for Ministers to directly hold senior HMPPS leaders to account for the safety of their prisons. While we welcome these boards, there is a need for independent scrutiny to avoid the Ministry of Justice 'marking their own homework'. **We recommend that the ministerial performance board report to Parliament annually through correspondence to the Justice Select Committee and to report more regularly if issues of significant concern arise.**<sup>37</sup>

#### **Arms-length scrutiny bodies**

We have previously set out our recommendations to strengthen the powers of the arms-length scrutiny bodies.<sup>38</sup> **We recommend that the scrutiny bodies' powers to report and make recommendations are strengthened:**

- **Recommendations:** Scrutiny body recommendations should be addressed more quickly and sufficiently to improve outcomes for those detained. Some scrutiny bodies already have this process set out in memorandum of understandings, but this should be formalised and strengthened.
- **Reporting directly to Parliament:** All prison scrutiny bodies – HMI Prisons, the Prisons and Probation Ombudsman and the Independent Monitoring Boards should have powers to publish and report directly to Parliament rather than the departments they scrutinise. Only Parliament should be able to amend the roles, powers and functions of the three scrutiny bodies.

The White Paper states that the intended legislation to strengthen scrutiny bodies' functions is the first step in a comprehensive review of prison scrutiny, and the MoJ is considering how this system can be further refined. No refining should decrease the current funding or resource for scrutiny bodies nor weaken the current inspection, investigation and monitoring framework. These three distinct but complementary methods provide separate functions, and all should remain for a robust scrutiny system. **We recommend the MoJ has a public consultation on any changes it intends to make following its comprehensive review of prison scrutiny.**

#### **Equality statement**

The White Paper does not acknowledge that the negative experiences of Black, Asian and minority ethnic people in prison (including Gypsy, Roma and Traveller) has a tangible impact on their experiences in prison nor commit to improving outcomes for these groups.

We are very disappointed that the White Paper does not contain proposals for how existing racial disparity in the prison estate will be addressed or future inequalities prevented. The CJA recently signed a letter along with 60 other organisations to share its concern that the White Paper lacked proposals to tackle race inequality.<sup>39</sup>

Improving outcomes for racially minoritised people at local and national levels needs to be a clear priority. There should be a strong commitment to tackling racial disparities in prisons with concrete actions, including that prison governors should take this forward as a priority in all areas of prison life and have due regard to it when designing their future regimes. The Public Sector Equality Duty (PSED) means prison governors should not just be tackling direct and indirect discrimination, but proactively advancing equality by taking steps to meet the needs of people from protected groups where these are different from the needs of others, and by fostering good relations.

In relation to indirect discrimination, the equality statement states that those who share certain protected characteristics and are over-represented in prison are more likely to be affected by the White Paper proposals. This includes people who are Black, from a minority ethnic background and those who are Muslim. However, the equality statement does not address in sufficient detail how any indirect discrimination will be effectively mitigated against at both a national and local level. In addition, the White Paper does not adequately set out how proactive measures to advance equality and foster good relations will be implemented. **We recommend the MoJ publish its Race Action Programme and all associated EIAs.**

We are also not satisfied that the issues facing those in prison with one or more protected characteristic, such as Black women, have been sufficiently acknowledged and addressed.<sup>40</sup> The data included in the equality statement may not accurately people's experiences of prison as it is not intersectional data. **We recommend the MoJ co-produce a more comprehensive equality impact assessment for any White Paper proposals it implements with specialist organisations, which give due regard to how people with more than one protected characteristic can experience multiple forms of discrimination.**

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

For more information about this consultation response, please contact Hannah Pittaway, Senior Policy Officer, on: [hannah.pittaway@criminaljusticealliance.org.uk](mailto:hannah.pittaway@criminaljusticealliance.org.uk).

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