

Towards Race Equality

REPORT 3

Exploring the effectiveness of Independent Monitoring Boards at monitoring outcomes for Black, Asian and minority ethnic women in prison.

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April 2022



**Criminal
Justice
Alliance**

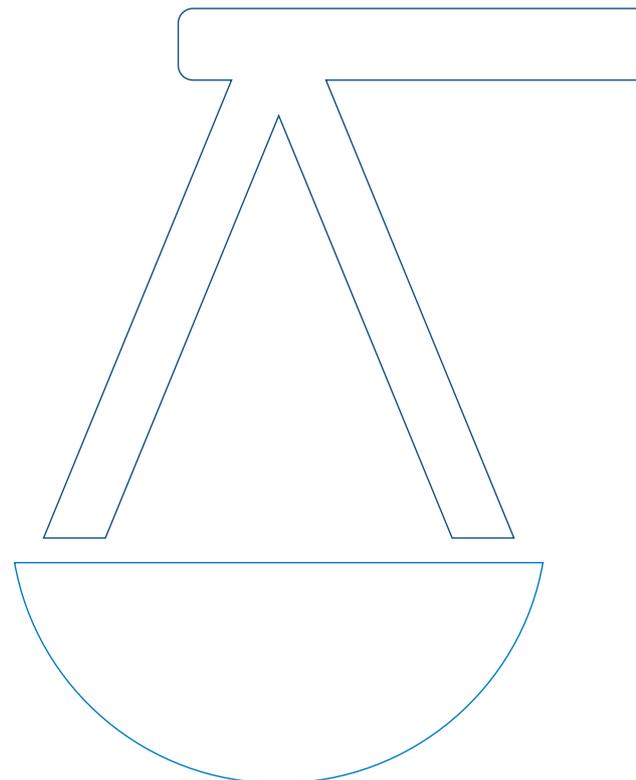
The Criminal Justice Alliance (CJA) is a network of over 180 organisations working towards a fair and effective criminal justice system. Our members include charities, social enterprises, think tanks, research institutions and staff associations. They work across the criminal justice system, from policing to prisons, probation to victims' services.

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

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About this project

The Criminal Justice Alliance (CJA) and Independent Monitoring Boards (IMBs) have collaborated on a three-part project – named *Towards Race Equality* – to improve outcomes for Black, Asian and minority ethnic people held across the women’s prison estate in England.

The *Towards Race Equality* project aimed to:

- Gain a better understanding of the experiences of Black, Asian and minority ethnic individuals, foreign nationals, and Gypsy, Roma and Traveller people held in women’s prisons.
- Improve the IMBs’ understanding and monitoring of race equality issues.
- Make recommendations for the Ministry of Justice (MoJ), Her Majesty’s Prison and Probation Service (HMPPS) and other agencies to address areas for improvement, as well as recommendations for IMBs, the IMB National Chair and the IMB Management Board to improve the monitoring of race equality issues across the women’s estate.
- Highlight good practice.

In order to achieve the above aims, this project surveyed prisoners within scope (Report 1), HMPPS equalities leads (Report 2) and IMB members across the women’s estate (Report 3). Key findings were analysed and outlined in three separate reports.

The findings from the three surveys have led us to make 26 recommendations, which are directed at the MoJ, HMPPS, governors and directors of women’s prisons, as well as the IMB Management Board and Board chairs and members. The full list of recommendations is available in the Executive Summary for the project.

DISCLAIMER

The umbrella term ‘BAME/BME’, which amalgamates many different ethnicities and identities, has been avoided and instead written out in full. This project acknowledges that even when written out in full, this still involves grouping together different minority communities that does not fully reflect their distinct characteristics and needs or the impact of intersectionality. Foreign national prisoners, including white foreign national prisoners, are considered minoritised individuals in prison, so have been included in the project’s scope.

As some respondents of the prisoner survey self-identified as transgender, this project has sought to be inclusive and accurate in its use of language by referring to ‘individuals’ and ‘respondents’ in the women’s prison estate.

Acknowledgements

This project brought together the CJA and several IMB members in the women's prison estate with an interest in equality and diversity, with support from staff at the IMB Secretariat.

The project took place between July 2020 and April 2022. During this time, the project steering group has comprised:

Criminal Justice Alliance

- Nina Champion - Director
- Hannah Pittaway - Senior Policy Officer
- Amal Ali - former Policy Officer
- Victoria Eburn - former Policy and Research Intern
- Jessica Rennie - Unlocked Graduate formerly on a work placement

Independent Monitoring Boards

- Hilary Campbell - HMP/YOI Foston Hall IMB, Chair of IMB women's estate group
- Di Askwith - HMP Eastwood Park IMB
- Camille Cooke - HMP/YOI Bronzefield IMB
- Carolyn Harrison - HMP/YOI New Hall IMB

IMB Secretariat

- Jo Easton - Head of Policy and Impact
- Sarah Clifford - former Head of Policy, Training and Engagement
- Kate George - Policy and Impact Lead
- Jackie Otto - National Training Coordinator

We would like to thank Anne Owers (National Chair of IMBs) and Beverley Thompson (External Diversity and Equality Member of the IMB Management Board) for their support with this project.

We are especially grateful to the people in prison, the IMB members and HMPPS staff who completed our surveys.

We extend our gratitude to the University of Roehampton London academics who oversaw the prisoner survey data entry and undertook data analysis:

- Dr Alison Lamont - former Sociology Lecturer
- Dr Robert Busfield - Senior Sociology Lecturer

We would also like to thank the following University of Roehampton London student volunteers for digitising the prisoner survey responses:

- Izzah Tasawar
- Benedicta Kang
- Eleanor Lodge
- Amani Siddiqi
- Lu Campos
- Emily Gadd

We would also like to express our deepest thanks to the women with lived experience who contributed to developing the survey for people in prison. In addition, we thank the organisations who supported the CJA in the early scoping stage of the project, including: Hibiscus Initiatives, the Muslim Women in Prison project, the Traveller Movement, the Zahid Mubarek Trust and Unchained Poetry.

Foreword

Anne Owers, National Chair of Independent Monitoring Boards (IMBs):

This project, drawing attention to the continuing issues facing women from Black, Asian and minority ethnic communities in prison, comes at a time when a strategy white paper for prisons has just been published. In spite of a long line of reports drawing attention to race and ethnic disadvantage and disproportionality in criminal justice, and the specific intersection of race and gender in women's prisons, this is surprisingly not one of the key points in the '10-year vision for women's prisons'.

This project shows how important a priority this should be. It points to the need to reinvigorate equalities work within prisons; train and support all staff to understand the specific issues for different cohorts of women; ensure that data is collected, analysed and acted on; and respond effectively to allegations of discrimination, with the assistance of specialist organisations.

IMBs can play a key role in monitoring and reporting on outcomes for women from diverse backgrounds. Here too the report points to the need for training and information on how to monitor equalities, interpret data to detect disproportionality, and examine the way that allegations of discrimination are dealt with. Our hoped-for new national statutory framework will strengthen our independence and support us in doing this.

Boards, like prisons, can also benefit from links with and advice from specialist NGOs, both at local and national level.



I very much hope that these reports and recommendations will stimulate action, at every level, to improve the lived experience of the wide range of women from minority communities who responded to the survey, in terms not just of cultural understanding but procedural justice and fairness.



Nina Champion, Director of the Criminal Justice Alliance (CJA):

This ground-breaking project centres on the lived experiences of Black, Asian and minority ethnic women in prison, and comes at a time when there is increased attention on race and gender inequality in the criminal justice system, but the combination of these issues rarely receives any government attention.

We received over 300 survey responses from women in prison, prison staff and IMBs, improving our understanding of the double disadvantage that women from minority ethnic backgrounds face. We are very grateful to the women with lived experience who co-designed the survey and all those in custody for their honesty and openness when completing it. Their accounts of direct and indirect racism and poor treatment are shocking and distressing. Even more upsetting is their sense of fatalism - they see it as part of their everyday lives. The women lack confidence in the complaints system, do not trust that they will be treated fairly and are often unaware of how the IMB can help. The impact of the pandemic has made this worse. There is an urgent need to address these issues nationally and locally.

IMBs play an important role given their day-to-day presence in prisons. Community scrutiny is a vital tool to hold criminal justice agencies to account. The CJA has focused on improving community scrutiny for several years looking at police powers, police custody and now prison custody. We consistently see the same themes: the need for better and more consistent data collection and analysis, more effective equalities training and support, and for community volunteers to be more representative of the populations in the criminal justice system. The recommendations in these reports map out sensible steps Her Majesty's Prison and Probation Service (HMPPS), the Ministry of Justice (MoJ) and IMBs can take to make positive change and I hope to see them being implemented with haste.

Key findings

- 1. Over recent years, Independent Monitoring Board members have assisted in improving some conditions for and treatment of Black, Asian and minority ethnic women in prison.**
 - The most noted examples include improving the availability of suitable hair products for Black women, and interpretation and translation services for women without English as their first language.
- 2. There are still key challenges and barriers preventing board members from effectively monitoring outcomes for Black, Asian and minority ethnic women in prison.**
 - Respondents consistently raised that cultural and language barriers between Black, Asian and minority ethnic women and board members was an issue.
 - The limited resources and capacity of board members, as well as their lack of expertise and confidence regarding tackling race issues was also identified as a barrier.
 - Equality data from the prison was limited as it was often inconsistently collected and not disaggregated by protected characteristic.
 - The lack of prison resources given to equality, diversity and inclusion work often had a detrimental impact.
- 3. Board members need more specific support and training to build their expertise in monitoring outcomes for minority ethnic women and to build their skills and confidence in interpreting equalities data, identifying trends and challenging any potential discrimination based on this data.**

4. Independent Monitoring Boards (IMBs) responded quickly in order to continue monitoring the treatment and conditions of those in prisons during the COVID-19 pandemic. However, many board members were clear that the pandemic had negative implications for their monitoring of outcomes for Black, Asian and minority ethnic women.

- Boards' access to women in prison was limited during the pandemic. Data and information came largely from prison staff and board members' ability to triangulate this information through direct contact with those held in women's establishments was limited.
- Boards members were less visible and accessible to those held in women's establishments as many Board members monitored remotely at the beginning of the pandemic.
- Some members worried this impacted on women's trust, confidence, and satisfaction in the IMB applications process.

5. Despite the Lammy Review recommendation for IMBs to be more diverse and local boards taking initiative to recruit more diversely, there has been limited success and IMBs remain overwhelmingly white (87% of those who recorded their ethnicity).

- Boards need more support from specialist organisations, as well as the IMB Secretariat and the Management Board, to recruit more members from Black, Asian and minority ethnic communities.

6. Addressing these barriers will support more effective monitoring and accountability, and will contribute to improve outcomes for Black, Asian and minority ethnic women in prison who suffer from the 'double disadvantage' and discrimination caused by their intersecting identities.

Introduction

It is essential that criminal justice agencies are effectively scrutinised to ensure they are treating all people fairly and humanely in line with international human rights standards. There are many scrutiny bodies working across different parts of the criminal justice system in England and Wales.

The CJA has been working to improve the effectiveness of scrutiny bodies over recent years.¹ Our work has so far focused on community-led scrutiny mechanisms, whereby members of the public volunteer their time to contribute to a fairer and more effective CJS. We have found that community scrutiny bodies can face a range of barriers which prevent them from improving outcomes for people in the CJS and holding criminal justice agencies to account.

COMMUNITY SCRUTINY OF PRISONS

There are several bodies who scrutinise prisons and hold the Ministry of Justice to account through monitoring, inspection and investigations. This report will focus on the Independent Monitoring Boards (IMBs). Board members are community volunteers who visit their local prisons to monitor and report on the conditions for and the treatment of people in prison, with the aim of improving outcomes for them. As of March 2021, there were approximately 1,168 board members monitoring in the 117 prisons in England and Wales.

WHAT EFFECTIVE COMMUNITY SCRUTINY LOOKS LIKE

Through our previous work on scrutiny and accountability in the CJS, we have identified four key principles necessary for community scrutiny mechanisms to be effective:

1. Informed

It has effective and transparent access to a wide range of data and information. It has the necessary expertise to understand and analyse that data.

2. Independent and empowered

It is led by the community, provides constructive challenge and influences positive change.

3. Representative

Its members reflect the demographics of those most impacted by the criminal justice system.

4. Open and visible

It promotes its work widely in the community, including publishing summaries of its work. It is easily contactable by members of the public.

¹ One of the CJA's strategic workstreams for 2019-2022 is [effective scrutiny and accountability](#). Our previous work in this area is available on [our website](#).

These four principles were developed for community scrutiny of stop and search.² In this report, we have used these four principles as a framework to assess the effectiveness of IMBs when monitoring outcomes for minority ethnic women in prison. We also used these four principles as a framework in our report on independent custody visitors, who monitor the treatment of and conditions for detainees in police custody.³

IMB SCRUTINY OF EQUALITY OUTCOMES IN PRISONS

The IMBs' National Monitoring Framework (NMF) sets out the role of boards and how effective monitoring can positively impact on outcomes for those detained.⁴ Board members assess outcomes for people in prison across four key areas, which are set out in the NMF as follows: safety; humane treatment; health and wellbeing; and progression and release. The assessment of humane treatment includes the monitoring of equality outcomes.

The NMF does not contain any criteria as to what board members should consider when monitoring equality outcomes for people in prison. However, IMBs have produced and provided a specific toolkit to guide boards in how to monitor equality, diversity and inclusion in 2019.

Although IMBs do monitor whether robust processes are in place in prisons and that they are effectively implemented, board members are more focused on the outcomes for people in prison and identifying best practice, rather than auditing prison staff compliance with policy requirements or the minimum standards required by law.⁵

THE EQUALITY ACT 2010 AND PROTECTED CHARACTERISTICS

The Equality Act 2010 legally protects people from discrimination and unfair treatment. It is against the law to discriminate against someone because of a protected characteristic.⁶ This discrimination can be direct (when you are treated worse than someone else because you have a protected characteristic) or indirect (when there is a policy that applies to everyone in the same way, but disadvantages people who share a protected characteristic).⁷

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and Wales.**

2 The CJA published the *Stop and Scrutinise* report in 2019, which examined how community scrutiny can be effectively used to hold the police to account and create transparency around stop and search for those affected by it.

3 Criminal Justice Alliance, [Just visiting? Exploring the effectiveness of independent custody visitors at monitoring race and gender equality in police custody](#) (2021).

4 Independent Monitoring Boards, [National Monitoring Framework](#) (2021).

5 See pg. 7 and pg. 12, Independent Monitoring Boards, [National Monitoring Framework](#) (2021).

6 The nine protected characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. This report will focus on the protected characteristics of race and sex.

7 Equality and Human Rights Commission (EHRC), Advice and guidance: [What is direct and indirect discrimination?](#)

The Equality Act also provides for the Public Sector Equality Duty (PSED).⁸ The PSED requires public bodies, including the Ministry of Justice, to have 'due regard' to the following matters when exercising their functions:

- Eliminating unlawful discrimination (direct or indirect discrimination);
- Advancing equality of opportunity; and
- Fostering good relationships.

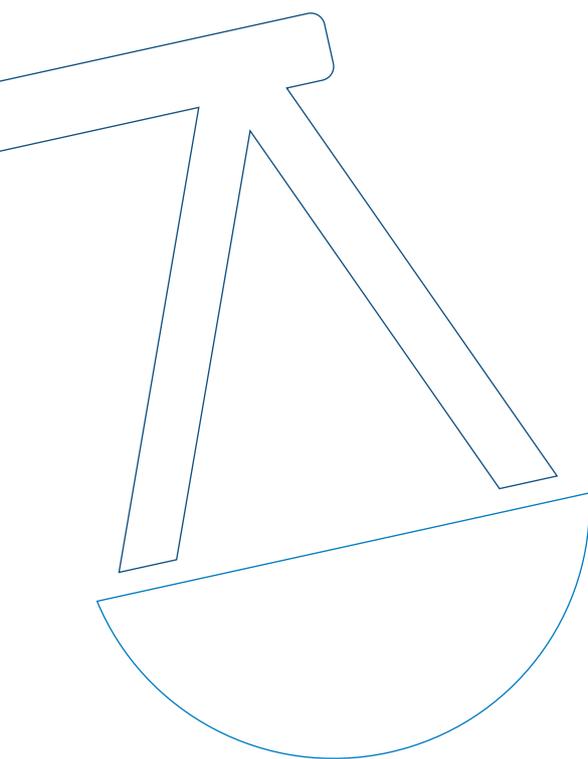
The PSED requires public bodies to consider equality in the development of any policy or process and whether it will lead to direct or indirect discrimination against those with protected characteristics. It also requires public bodies to publish equality outcomes and report on progress.⁹

RACE AND GENDER DISCRIMINATION

We all have multiple identities that combine to make us who we are. However, having multiple protected characteristics can mean that people face multiple forms of discrimination.¹⁰ This is referred to as 'intersectionality'.¹¹

AIM OF THIS REPORT

This report examines how board members monitor conditions and treatment for Black, Asian and minority ethnic women in prison, including how they identify and challenge any direct and indirect discrimination and the barriers they face in doing this.



⁸ See s.149, Equality Act 2010.

⁹ [HMPPS Offender Equalities Annual Reports](#) contain annual statistics on people in prison with protected characteristics and information on progress pertaining to equalities objectives, as stated in the Equality Act 2010.

¹⁰ Agenda and Women in Prison, [Double Disadvantage. The experiences of Black, Asian and Minority Ethnic women in the criminal justice system](#) (2017). Prison Reform Trust, [Counted Out: Black, Asian and minority ethnic women in the criminal justice system](#) (2017).

¹¹ The concept of 'intersectionality' was formalised by Kimberlé Crenshaw. [Demarginalizing the Intersection of Race and Sex](#), University of Chicago Legal Forum (1989).

Race and gender inequality in prisons holding women

Black, Asian and minority ethnic women are disproportionately represented in prisons in England and Wales. According to quarterly data from the Ministry of Justice (MoJ), 15 percent of women in prison were from a Black, Asian or Mixed background and 9 percent of women in prison were foreign nationals as of September 2021.¹² Gypsy, Roma and Traveller women are also overrepresented in prison, making up approximately 6 percent of the prison population.¹³

GOVERNMENT REVIEWS AND STRATEGIES

In recent years, the government has published several reviews and strategies with the aim of improving outcomes for women, and reducing racial disproportionality, in the criminal justice system. However, there has still been insufficient focus on Black, Asian and minority ethnic women.

The Lammy Review 2017 highlighted the challenges experienced by Black, Asian and minority ethnic women in the CJS, including the discrimination they face because of their race and gender.¹⁴ Since its publication, Rt Hon David Lammy MP has called for a separate inquiry into the experiences of Black, Asian and minority ethnic women in the CJS, which includes Muslim and foreign national women, as their experiences require more focused exploration.¹⁵

The Farmer Review 2019 focused on the importance of relationships for women in prison and the positive impact of relationships on preventing reoffending.¹⁶ The review did not consider the different experiences that minority ethnic women might have due to their race, gender and/or faith. As such, it did not make specific recommendations to improve outcomes for women from minority ethnic communities or foreign national women but acknowledged that they may face 'distinct and discrete difficulties.'

The Farmer Review

'The Review does not make specific recommendations for women from different Black, Asian and Minority Ethnic (BAME) communities, or Foreign National Women (FNW), but I do want to acknowledge the distinct and discrete difficulties these women and their families face in the criminal justice system.'

'However, whilst I do not segment the female offender population, it is important that all the recommendations I make are implemented with an eye to equalities and with 'cultural competence' so that women from different minorities are not treated as a homogeneous group.'

12 Ministry of Justice, Prison population data, [Offender Management Statistics quarterly: April to June 2021](#) (2021).

13 The Traveller Movement, [Gypsy, Roma and Traveller women in prison](#) (2021).

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

15 See Q26 and Q28, Justice Committee [Oral evidence: Progress in the implementation of the Lammy review's recommendations](#), Tuesday 26 March 2019.

16 Ministry of Justice, [The Importance of Strengthening Female Offenders' Family and other Relationships to Prevent Reoffending and Reduce Intergenerational Crime by Lord Farmer](#) (2019).

The Female Offender Strategy 2018 outlined the government's vision for fewer women coming into the CJS and being held in custody, as well as better conditions for women in prison.¹⁷ The strategy recognised the need to adopt tailored approaches for women in prison who have another protected characteristic, such as minority ethnic women. As such, the government made several commitments aimed at addressing the needs of minority ethnic women, such as providing culturally-informed training for staff and funding specialist services.

The Female Offender Strategy

'[T]here are unique challenges for Black, Asian, and minority ethnic (BAME) and foreign national female offenders in the CJS, both in custody and the community...we will be looking closely at what further action can be taken to identify and address needs specific to these groups.'

'The necessity for tailored approaches is even more acute for those with protected characteristics, such as Black, Asian and minority ethnic (BAME) women, or women with experience of trauma. Given the overrepresentation of BAME women in the criminal justice system (CJS)... our workforce, environment and interventions must become more alive to their experiences and responsive to their individual needs.'

A recent review of the MoJ's progress against the strategy by the National Audit Office (NAO) showed that implementation had been inadequate, due to limited funding and resources and the lack of robust governance and performance measures.¹⁸ Although the women's prison population has decreased since the strategy was published, the NAO found no evidence that the strategy had caused this.

In addition, a recent analysis by CJA member Prison Reform Trust indicates that less than half (31 out of 65) of the government's strategy commitments have been fully implemented in the three years since the strategy was published.¹⁹ Overall, limited progress had been made on several commitments related to improving equality. No progress had been made on the provision of liaison and diversion services for foreign national women or increasing staff awareness of cultural diversity and diverse needs.

The government established the Female Offender Minority Ethnic (FOME) Working Group in 2021, which aims to reduce racial disparities and improve outcomes for minority ethnic and foreign national women in the CJS. Although the MoJ's Prisons Strategy White Paper 2021 did acknowledge that women from ethnic minority backgrounds have different experiences of custody, it did not sufficiently address how racial disproportionality will be tackled.²⁰

17 Ministry of Justice, [Female Offender Strategy](#) (2018).

18 National Audit Office, [Improving outcomes for women in the criminal justice system](#) (2022).

19 Prison Reform Trust, [Female Offender Strategy Matrix](#) (2021).

20 Ministry of Justice, [Prisons Strategy White Paper](#) (2021). Criminal Justice Alliance, [Prisons Strategy White Paper consultation response](#) (2022). Clinks, [The Prisons Strategy White Paper – a lost opportunity to address racial disparity](#) (2022).

JOURNEYS TO PRISON

By the time Black, Asian and minority ethnic women arrive in prison, they are likely to have already experienced discrimination at each previous stage of the CJS.²¹ Recent research shows that:

- **Arrests:** Arrest rates are twice as high for Black women and for women from a mixed ethnicity background when compared to white women.²² In the year ending March 2020, Black women were twice as likely to be arrested as white women.
- **Lack of trust in the police and legal support:** Government data shows that Black women are less likely to have confidence in their local police force than Asian and white women.²³ Due to their lack of trust, Black women are less likely to co-operate with the police and minority ethnic women are less likely to trust the advice of legal aid solicitors.²⁴
- **Plea decisions:** Black, Asian, Chinese, mixed and other ethnic minority women are more likely than white women to enter 'not guilty' pleas at Crown Court; Asian women are one-and-a-half times more likely to do so. Minority ethnic women are therefore less likely to benefit from Out of Court Disposals (OOCs), as many interventions require an admission of guilt. If minority ethnic women are found guilty, they are more likely to receive longer sentences than if they had pleaded guilty.²⁵
- **Remand:** Foreign national women are more likely to be remanded in custody while awaiting trial or sentencing than their British counterparts, often for less serious offences.²⁶
- **Sentencing:** Black, Asian and minority ethnic women were more likely to receive immediate custodial sentences than white defendants for the same offences.²⁷ In 2019, Black women had the highest custody rate and Asian women were more likely to receive the longest custodial sentence on average.²⁸

By the time Black, Asian and minority ethnic women arrive in prison, they are likely to have already experienced discrimination at each previous stage of the CJS.

21 [The Lammy Review \(2017\)](#).

22 Ministry of Justice, [Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales \(2016\)](#).

23 Home Office, [Confidence in the local police by ethnicity and gender \(2021\)](#).

24 [The Lammy Review \(2017\)](#).

25 [The Lammy Review \(2017\)](#).

26 May Robson, [A suspect population: An examination of bail decision making for foreign national women in criminal courts in England and Wales \(2022\)](#).

27 The Sentencing Council, [Investigating the association between an offender's sex and ethnicity and the sentence imposed at the Crown Court for drug offences \(2020\)](#).

28 Ministry of Justice, [Women in the Criminal Justice System 2019 \(2020\)](#).

BLACK, ASIAN AND MINORITY ETHNIC WOMEN'S EXPERIENCE OF PRISON

- **Victimisation and discrimination:** On average, women from ethnic minority backgrounds in prison report higher rates of victimisation.²⁹ Women identifying as Gypsy, Roma or Traveller (GRT) are also more likely than other groups in prison to report feeling unsafe and to say they have experienced victimisation from other prisoners.³⁰ Muslim women often face a 'triple disadvantage' due to multiple forms of discrimination based on their gender, race and faith.³¹ Migrant and foreign national women are more likely than British women to be from a minority ethnic background and to therefore have experienced multiple forms of discrimination.
- **A lack of specialist support:** Interpretation and translation services for migrant and foreign national women remain underused in prisons. In addition, legal immigration advice for foreign national women in prison varies considerably between prisons and a lack of confidence and trust in government agencies may deter them from seeking help through official channels.
- **Family ties and other relationships:** Women from minority ethnic backgrounds reported to prison inspectors that they faced specific challenges in maintaining relationships with family and friends.³² This was a particular issue for GRT women in prison: 92 percent of GRT women due to leave prison reported needing help with contacting family or friends on release, compared with only 43 percent of non-GRT women. Only half of the women who reported needing such help said they were receiving it.
- **Resettlement:** Foreign national women in prison receive poor resettlement planning and support, and little or no access to rehabilitative opportunities. For example, they are rarely considered for transfers to open prisons or for Release on Temporary Licence (ROTL).³³ Minority ethnic women under probation supervision in the community told inspectors they had experienced racial stereotypes and assumptions from probation officers, such as Black women being more aggressive.³⁴

29 [The Lammy Review](#) (2017).

30 HM Inspectorate of Prisons, [Minority ethnic prisoners' experiences of rehabilitation and release planning: A thematic review](#) (2020).

31 Khidmat Centres, [Sisters in Desistance: Community-based solutions for Muslim women post-prison](#) (2019).

32 HM Inspectorate of Prisons, [Minority ethnic prisoners' experiences of rehabilitation and release planning: A thematic review](#) (2020).

33 Hibiscus Initiatives and Prison Reform Trust, [Still No Way Out: Foreign national women and trafficked women in the criminal justice system](#) (2018).

34 HM Inspectorate of Probation, [Race equality in probation: the experiences of Black, Asian and minority ethnic probation service users and staff](#) (2021).

The role of Independent Monitoring Boards

WHAT DO INDEPENDENT MONITORING BOARDS DO?

IMBs operate in every prison across England and Wales to monitor whether people in prison are being treated in a fair, humane and decent manner. Board members have unfettered access to prisons. They can talk to prisoners held anywhere in an establishment, including those in segregation or separation units, and they can see almost all information held in the establishment. They also attend meetings and scrutinise prison data.

Board members receive ‘applications’ (complaints and requests) from people in prison, which are often referred to as ‘apps’. A person in prison can also submit a confidential request to see a board member, without involving or informing prison staff.

Each board is required to publish its findings in an annual report. Board members can report matters of particular concern to ministers and HMPPS.

GOVERNING LEGISLATION

Under the Prison Act 1952, ‘Boards of Visitors’ (now known as Independent Monitoring Boards) were appointed. The purpose and duties of boards are provided for in Section 6 of the Prison Act 1952 and Part V of the Prison Rules 1999.³⁵

In addition, IMBs are members of the UK’s National Preventive Mechanism (NPM), set up under the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) which was ratified by the UK in December 2003. OPCAT is an international human rights treaty designed to strengthen protection for people deprived of their liberty.

STRENGTHENING INDEPENDENCE THROUGH LEGISLATION

To effectively fulfil their statutory functions, IMBs need to operate fully independently from HMPPS and the MoJ. Currently, there is no statutory underpinning for the IMB nationally. The IMB Secretariat is made up of civil servants employed by the MoJ. Funding for boards also comes from the MoJ. The independence of IMBs would be strengthened by introducing a statutory basis for their national governance structure, that would have direct responsibility for its own budget and the ability to employ staff.

In recent years, the need to strengthen the independence of IMBs has been highlighted by both the UN Subcommittee on Prevention of Torture (SPT) and the Justice Select Committee (JSC). The SPT recommended that the government review the statutes of the IMBs to ensure their full independence and to resolve any potential conflict of interest due to their lack of separation from the MoJ.³⁶ Similarly, the JSC recommended that the government consider legislation to underpin the national governance structure.³⁷

³⁵ [Section 6, Prison Act 1952. Part V, Prison Rules 1999.](#)

³⁶ See paragraph 40-41, UN Subcommittee on Prevention of Torture, [Visit to the United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the State party. Report of the Subcommittee \(2021\).](#)

³⁷ See paragraph 177-181, [Justice Select Committee, Prison Governance inquiry report \(2019\).](#)

In August 2020, the MoJ consulted on potential legislation to strengthen the independence of scrutiny bodies, including IMBs.³⁸ In their consultation response, the IMB National Chair and Management Board recommended that the government legislate for a national arms-length body that can employ its own staff.³⁹ The CJA also recommended that the IMB National Chair and Management Board be placed in statute and that this structure be classified as a non-departmental public body in order to directly employ staff.⁴⁰

ORGANISATIONAL STRUCTURE

Each board has a complement of between 10 and 20 members depending upon the size and nature of the establishment, although many boards operate with vacancies. Though each Board member is appointed by ministers, they are independent of government. Boards also have a chair and a vice chair.

The IMB Secretariat provides support for boards, such as organising training. In addition, it supports boards with recruiting new members and acts as an interface with their MoJ and Home Office sponsors and other relevant agencies.

The current National Chair, Dame Anne Owers, was appointed in November 2017. The National Chair of the IMBs submits a national Annual Report to the Secretary of State. This report draws on the Boards' Annual Reports published throughout that year. The National Chair has direct contact, and meets regularly, with Ministers, the Director General of HMPPS, and senior officials to discuss Boards' findings.

In 2018, a Management Board was set up, chaired by the National Chair and responsible for developing strategies, policies, processes and guidance for IMBs, to assist them to discharge their statutory and other functions effectively, efficiently and independently. The Management Board also includes an external diversity and equality member.⁴¹ Regional Representatives act as an interface between the national structure (the National Chair and the Management Board) and individual boards.

MONITORING EQUALITY OUTCOMES

Equality issues identified by IMBs

Boards should include issues related to race equality in their Annual Reports. Some Boards continually raise these concerns. For example, in 2018-19, the IMB at HMP Foston Hall highlighted difficulties experienced by non-English-speaking women and reported that there were gaps in the use of professional interpretation services. In its Annual Report for 2019-20, the IMB again raised similar concerns and recommended that the prison governor update key documents to be accessible for and inclusive of women with a first language other than English.

Similarly, the IMB at HMP Send reported in its Annual Report for 2018-19 that equality focus groups were regularly cancelled or proved to be ineffective. The following year, the Board reported that focus groups were still running sporadically and being cancelled at short notice.

³⁸ Ministry of Justice, [Strengthening the Independent Scrutiny Bodies through Legislation consultation document](#) (2020).

³⁹ Independent Monitoring Boards, [Strengthening the Independent Scrutiny Bodies Through Legislation. Submission to Ministry of Justice consultation from the National Chair and Management Board of the Independent Monitoring Boards](#) (2020).

⁴⁰ Criminal Justice Alliance, [Strengthening the Independent Scrutiny Bodies through Legislation consultation response](#) (2020).

⁴¹ Independent Monitoring Boards, [National Governance](#).

Most recently, IMBs in the women's estate reported that there continue to be issues with the provision of appropriate personal care items for Black women at Send and Foston Hall. At HMP Peterborough, more than half of the 76 Discrimination Incident Report Forms (DIRFs) submitted by women in 2019 related to racial discrimination.

In the 2019-20 National Annual Report, Dame Anne Owers discussed prison structures for progressing equality work and highlighted that:

'More boards reported that structures were in place, but in other prisons it was underdeveloped. Even where there were structures and data showing disproportionality, this rarely appeared to drive change.'⁴²

In the latest National Annual Report 2020-21, she again highlighted the ongoing need to address disproportionality in prisons:

'Many of the issues identified in the pre-Covid period of this report did not go away: they simply went into cold storage for the duration. This included [...] the need to strengthen equalities work and address disproportionality.'⁴³

BARRIERS TO IMPROVING EQUALITY OUTCOMES

In evidence to the Justice Select Committee, Dame Anne Owers stated that a lack of resources was a 'significant inhibiting factor to the IMBs carrying out their role effectively, particularly in relation to acting as an early warning system to highlight significant issues to the Ministry.'⁴⁴

CJA member the Zahid Mubarek Trust (ZMT) recently carried out an analysis of the equality and fairness sections of 115 IMB reports which were published during 2018-2019. This included nine reports from IMBs in prisons holding women. ZMT uncovered some inconsistencies and significant gaps in how the IMBs report on equality outcomes for people in prison, such as inconsistency in the number of equalities areas reported on and the depth of reporting in these areas.⁴⁵

Even where there were structures and data showing disproportionality, this rarely appeared to drive change.

⁴² Independent Monitoring Board, [National Annual Report 2019-20](#) (2020).

⁴³ Independent Monitoring Board, [National Annual Report 2020-21](#) (2021).

⁴⁴ See paragraph 180, Justice Select Committee, [Prison Governance inquiry report](#) (2019).

⁴⁵ Zahid Mubarek Trust, [How do Independent Monitoring Boards report on equalities in prisons?](#) (2021). This report contains analysis of IMB reports from 2018-19. Since its publication, new guidance and resources, as well as an equality and diversity toolkit and specific training have been rolled out.

Methodology

The CJA worked with IMB members with a particular interest in equality and diversity and the IMB Secretariat to co-produce a survey about the experiences of individual Board members in monitoring outcomes for minority ethnic women, including key issues they faced and any examples of good practice.

The survey was sent to the chairs of each IMB operating in a prison holding women, as well as the board member with specialist interest or responsibility for monitoring equality outcomes. The survey was disseminated via an online survey tool.

We received 29 survey responses from 11 out of 12 Boards across the women's prison estate. Not all respondents answered every survey question.

All survey responses were thematically coded and analysed according to the CJA's four principles of effective community scrutiny, outlined earlier in this report.

The average tenure of a Board member who answered the survey was two years and six months. The average tenure of a Chair was five years.

Findings

This section sets out the survey results against our four key principles for effective community scrutiny: informed; independent and empowered; representative; and open and visible. Each section also refers to relevant clauses in the IMBs' National Monitoring Framework and the Code of Conduct for board members.⁴⁶

The impact of COVID-19

The COVID-19 pandemic meant that all women's prisons were subject to a highly restricted regime from March 2020.

EQUALITY OUTCOMES DURING THE COVID-19 PANDEMIC

Research and inspections show that the restrictions that were introduced in prisons in response to the pandemic had negatively impacted on outcomes for Black, Asian and minority ethnic people in prison.

Her Majesty's Inspectorate of Prisons (HMI Prisons) carried out short inspections in prisons between August 2020 and May 2021. Inspectors found that many prisons had paused equality management meetings when restrictions began and that they had often taken too long to resume. In almost half the prisons that inspectors visited, equality data was not being adequately analysed by prison staff to identify any potential disproportionate outcomes for people held in prison with protected characteristics.⁴⁷

During the pandemic, some people in prison from minority ethnic backgrounds reported having experienced or witnessed incidents of racism and prejudicial treatment to the ZMT. For example, they reported that prison officers were not applying restrictions or using their discretionary powers, such as implementing social distancing rules or allowing access to mobile phones, in a consistent and equitable way.⁴⁸

HOW BOARDS MONITORED DURING THE PANDEMIC

Boards continued to provide independent oversight of prisons and communicate with those held in women's prisons during the pandemic through remote monitoring, basic on-site monitoring, a national freephone telephone line and other methods, such as carrying out remote surveys or speaking to people in prison directly via their in-cell phones.

The national freephone telephone service was implemented so that people in prison could contact the IMB directly: 9,300 calls were received during the year ending March 2021. Over 150 IMB volunteers were trained in answering calls.⁴⁹

Where boards monitored remotely, they were provided with training on how to carry this out and regularly received updated guidance on returning to

Research and inspections show that the restrictions that were introduced in prisons in response to the pandemic had negatively impacted on outcomes for Black, Asian and minority ethnic people in prison.

46 Independent Monitoring Board, [National Monitoring Framework](#) (2021). [IMB Code of Conduct for Members](#) (2020).

47 HM Chief Inspector of Prisons for England and Wales, [Annual Report 2020-21](#) (2021).

48 Zahid Mubarek Trust, [A Record of Our Own. Lockdown Experiences of Ethnic Minority Prisoners](#) (2021).

49 See chapter 3, Independent Monitoring Boards, [National Annual Report 2020-21](#) (2021).

in-person monitoring.⁵⁰ By March 2021, in-person monitoring had returned to nearly all prisons.

THE IMPACT OF THE PANDEMIC ON BOARDS' MONITORING OF RACE DISPARITIES

Overall, respondents indicated that the COVID-19 pandemic had a direct and 'major' impact on their ability to monitor for racial inequalities.

Despite some swift innovation with the establishment of a freephone service and remote monitoring training, respondents felt that this did not compensate for not monitoring on-site. As 92 percent of Board members monitored and collected equality information from women in prison through rota visits and observations, the reduction in visits and observations had hindered their ability to identify disparities at the start of the pandemic.

Similarly, 92 percent of Board members used 'apps' as a source of information and to ascertain whether those raising issues with them were from minority ethnic backgrounds when they were approached with apps. As ethnicity is not recorded on apps, and due to the limited face-to-face communication with women, respondents felt that this had a negative impact on their ability to monitor race equality issues effectively:

'Given that our monitoring of race issues is largely based on observing whether women raising issues with us are from ethnic minorities...then the reduction in visits [and] direct contact with prisoners must have had a negative impact.'

INFORMED AND INDEPENDENT

Boards' ability to access information through meetings and reviewing data has been limited during lockdown.

Respondents indicated that the restrictions had exacerbated language barriers between Board members and women from minority ethnic backgrounds. Board members reported the difficulty with speaking over the phone to women whose first language was not English. When Board members were able to monitor on-site, wearing face coverings made lip-reading more difficult.

IMB members often had to rely on prison staff to access information and data related to the establishment. However, prison staff were often slow to respond to access requests, as this was additional work at a time of emergency.

As Board members were interacting less with people held in women's prisons, it was harder for prison data to be triangulated with women's experiences.

'A reduction in face-to-face contact with residents has resulted in greater reliance on provision of information from the prison management...the surveying of direct experience [of] residents has been less.'

'Although we receive the data we can't directly challenge it or source an explanation.'

Accessing equality information by attending meetings was also difficult. Due to restrictions, many respondents highlighted that diversity and equality meetings had either been suspended or reduced in frequency. Similarly, many focus groups and forums for women with other protected characteristics had been suspended. Where groups and forums were operating, women who were prisoner representatives had not been able to attend to present any issues.

Board members usually observe meetings where prison staff review and discuss the appropriateness of adjudications, use of force and incentives, as well as any discriminatory outcomes. Respondents said that these oversight meetings were suspended during the pandemic.

As Board members were interacting less with women in prison, it was harder for prison data to be triangulated with their experiences

⁵⁰ See chapter 3, *Independent Monitoring Boards, National Annual Report 2020-21* (2021).

OPEN AND VISIBLE

As people in prison had to spend prolonged periods of time in their cell during the pandemic, women's face-to-face access to board members was limited unless they submitted a specific request.

Some board members raised concerns that as they had been less accessible to women, this has led to a decrease in trust.

'Numbers of applications have decreased significantly since March 2020. This may be a consequence of the decreased visibility of the IMB or it may be because the prisoners do not trust the process currently.'

'The Board fears that the lack of physical presence on site has resulted in a misperception that the IMB is not accessible to prisoners. We suspect this because several women seemed to be unaware of how to submit an application under the new regime.'

'The Board fears that the lack of physical presence on site has resulted in a misperception that the IMB is not accessible to prisoners.'

Conclusions

- IMBs responded quickly to continue to fulfil their monitoring obligations in prisons during the pandemic. While this was positive, many Board members who responded to us were clear that the pandemic had negative implications for their monitoring of outcomes for Black, Asian and minority ethnic women, especially as Board members were increasingly reliant on 'apps' to monitor trends, but these did not record women's ethnicity.
- Boards' access to women in prison and ability to attend prison meetings was limited during the pandemic. Data and information were largely provided by prison staff. Board members' ability to triangulate this information, through direct contact with those held in women's establishments, was also limited.
- Boards members were less visible and accessible to those held in women's establishments during the pandemic due to remote monitoring and women spending prolonged periods in their cells. This may have hindered women's trust, confidence, and satisfaction in the IMB applications process.

Some board members raised concerns that as they had been less accessible to women in prison during the pandemic, this had led to a decrease in trust

Section one: informed

To effectively perform their scrutiny role, board members need to be well-informed on equality issues and have access to a wide range of information related to outcomes for minority ethnic women in prison. Training should equip board members with the knowledge and skills to spot any potential discrimination and the confidence to effectively challenge this.

The National Monitoring Framework states that:

- 'Board members have unfettered access to all parts of the establishment and those held there, as well as to documentation held in the establishment.'
- 'Boards have the right to obtain information from the establishment, either directly or through documentation, reports and meetings.'
- 'Boards should always test that information against the actual experience of prisoners and detainees, and what they themselves observe.'

TRAINING FOR BOARD CHAIRS AND MEMBERS

Board members are expected to attend the New Members Course during their probationary year. New board chairs and vice chairs also have to attend a Board Leaders course. Both the New Members and Board Leaders courses include modules on how board members should monitor equality, diversity and inclusion (EDI).

This training includes technical information (such as the prisons' duties under the Equality Act), as well as what specific areas to focus on when monitoring EDI and how to question and challenge any disparities in outcomes.

One respondent highlighted the limitations of the course and noted that while it references protected characteristics, 'it was neither detailed nor expansive on this topic.'

Respondents were asked whether they had received any additional training and information on how to effectively monitor race and equality outcomes. A few respondents said this information was circulated during board meetings. Others noted that, aside from the New Members course, no additional training was offered or planned.⁵¹

Five in-depth sessions have been provided to board chairs on leading an inclusive and diverse board. This aims to up-skill board chairs to make sure the board is led and operates in an inclusive way and in line with the Equality Act 2010. The training also looks at the leadership of the board, and board members' own awareness of and approach to equality issues.

ATTENDING MEETINGS

Prisons hold various meetings with staff and people held in prison where equality issues are discussed. Board members can attend these meetings as part of their monitoring, which can provide useful information or evidence.

Respondents were asked to indicate which equality meetings they had attended or reviewed the meeting minutes of. Many respondents (92 percent) attended use of force meetings, where issues relating to technique, necessity and legitimate aim are discussed.

⁵¹ Since the survey was conducted, the IMB Secretariat and Management Board have provided specific remote training sessions for all Board members on monitoring race and equality outcomes.

However, only 23 percent indicated that they attended DIRF review meetings. The meetings involve investigators discussing recent DIRF reports and coming to a decision on whether to uphold complaints. The low attendance of monitors at such meetings highlights a missed opportunity to monitor establishment processes for dealing with complaints about discrimination.

Some respondents also attended other meetings which covered issues of race equality, such as:

- Safer custody meetings
- Residents' council meetings
- Clinical governance meetings
- Complex needs meetings
- Incentives and Earned Privileges (IEP) meetings
- 'Offender voice' meetings

Regular equality meetings are important for keeping issues such as race on the agenda and reporting on progress made against equality action plans. Respondents indicated that equality meetings were generally held bi-monthly and were usually chaired by either a governor or deputy governor.

PRISONER REPRESENTATIVES

The involvement of prisoner representatives in meetings where equality issues were discussed was mixed and varied across the women's estate. Some Board members reported that women were involved in meetings and would share their experiences and present issues. However, other Board members reported that many of the meetings they attended did not include a representative, and the involvement of minority ethnic prisoners in equality meetings was described as 'historically patchy and inconsistent.'

ACCESS TO PRISON DATA

Boards are tasked with accessing and reviewing detailed data and identifying if there are any differences in outcomes between different groups of women or any disproportionate treatment.

Many board members who responded to our survey were concerned about the lack of data and information provided by the prison. When board members did receive data from the prison, respondents highlighted that often it was not disaggregated by protected characteristic. As such, board members were unable to assess outcomes for Black, Asian and minority ethnic women and whether there were any disparities between different ethnic groups.

Respondents were asked what data and information the board typically requests from prison staff in relation to ethnicity and race equality. Many respondents indicated they receive information relating to DIRFs and IEPs - an internal scheme for incentivising behaviour. IMBs received the least equality information on ROTL, family visits and contact, and education outcomes (38 percent). Similarly, only 38 percent of Board members who responded reviewed Equality Impact Assessments (EIAs).

Other equality information collected by boards included prison complaints, reports from senior leaders who had responsibility for equality issues related to a protected characteristic, reports on experiences of foreign national women and, in one case, information from a forum that had been established in the prison to take responsibility for implementing the Lammy recommendations.

**Only 38
percent
of Board
members who
responded
reviewed
Equality
Impact
Assessments.**

ACCESS TO INFORMATION FROM MINORITY ETHNIC WOMEN

As well as reviewing data, members also speak with women and observe how the prison's processes are implemented during their monitoring visits. Respondents were asked how their board monitors and collects information from Black, Asian and minority ethnic women in prison relating to race and ethnicity issues.

All respondents said they received applications ('apps'), which do not contain any ethnicity data. While some board members noted that they would find this useful, they raised concerns that prisoners might be reluctant to disclose their ethnicity because of concerns about discrimination.

'It would be helpful to gather data on ethnic breakdown for apps but not sure this could be done as we don't feel that it is appropriate to ask a prisoner their ethnicity...they may then feel it has an influence on their treatment.'

Conclusions

- Prisons often provided data that was not disaggregated by protected characteristic and ethnic group, which meant board members were not able to draw out any differential outcomes between Black, Asian and minority ethnic women using data.
- Board members' feedback about the New Members and Board Leaders course varied. It will be important for the IMB Management Board to understand whether these courses, and other resources which cover the monitoring of equality and diversity issues, are effective.

Only a few board members noted the specialist support work that was ongoing in their prison, particularly for foreign national women, and nearly two-thirds of respondents (64 percent) were not aware of any such organisations. None of the respondents had directly liaised with or sought advice from a specialist equalities organisation.

Section Two: Independent and empowered

The extent to which a board is independent of the prison is critical to maintaining the trust and confidence of women held there and to demonstrating their ability to improve treatment and conditions. To provide effective scrutiny, board members should constructively challenge prison leaders and staff to explain and address any disparities that could lead to poorer outcomes for minority ethnic women.

The National Monitoring Framework states that:

- 'Independence is fundamental to the role, name and values of IMBs. [Independence] needs to be visible to prisoners and detainees, the monitored bodies, government departments and the public, and reflected in the way that Boards work.'
- 'Boards also need to guard against anything that can be perceived as undermining or questioning their independence, whether this is language or behaviour that suggests they are part of the establishment, or if they appear to act as advocates for either staff or individual prisoners.'
- Board members must maintain a 'critical distance' from prison staff.

IDENTIFYING DISPARITIES AND IMPROVING OUTCOMES

Board members who responded to our survey reported instances where they had identified and challenged potential disparities in conditions and treatment for minority ethnic women, and outcomes had improved as a result. Some examples are provided below:

Availability of suitable hair products: Many boards had raised concerns regarding the limited availability of suitable cosmetics and haircare products for Black women. Following on from boards raising this issue with prison staff, board members noted that overall, stock levels had increased and in one prison, canteen brochures had been expanded to include a wider range of products.

Interpretation and translation services: Several board members challenged the lack of translation services for women from minority ethnic backgrounds and women without English as their first language. As a result, staff across a number of prisons increased their use of interpreting and translation services. Written materials – such as induction packs, notices in the prison and complaint forms – were also made available in a wider range of languages.

Resettlement support: A pregnant foreign national woman was being released from prison with no accommodation and no recourse to public funds. The Home Office, HMPPS and several charities did not provide any support. After intervention from the prison governor, the board chair and the IMB National Chair, the woman was eventually released to temporary accommodation. Board members used this case to challenge inadequate resettlement processes in the prison.

'The case of the pregnant [foreign national] prisoner who faced release with no accommodation exposed a weakness in the system. There was agreement between [the] Board and prison that the process was unsatisfactory.'

Practising religion: During Ramadan, the catering team made arrangements to meet the needs of women who were fasting. Women observing Ramadan told board members they were happy with the plans.

CHALLENGES IN MONITORING RACIAL INEQUALITY

Board members were asked about the challenges they faced when monitoring the treatment of Black, Asian and minority ethnic women. The most frequently identified challenges were cultural and language barriers, the limited resources and capacity of Board members, and a lack of expertise and confidence regarding tackling race issues.

Respondents were also asked what the top three barriers were to promoting race equality in the prison where they monitored. Various issues were raised, including:

Capacity and resource: Many respondents raised that the lack of prison resources given to EDI work was a concern, as equality and diversity staff are often diverted to operational duty or required to take on other work. Conflicting priorities can reduce the time spent on equalities work. Members noted there had been a detrimental impact on the development of local equalities strategies and the frequency of equality meetings.

‘The Equality and Diversity Officer is often required to undertake other duties meaning less time to deal with equality and diversity issues.’

‘An overarching concern [was] about the Equalities Officer being diverted to operational duties, with a negative impact on many aspects of work in relation to equalities.’

Data related to equality outcomes: Board members also noted that there was inconsistent reporting of equality data and monitoring for any potential disproportionality. One respondent commented that some prison staff were ‘complacent’ at reporting and monitoring data, as they assumed there were adequate processes in place for identifying any racial disparities for women.

‘[A top issue is] ensuring there is no complacency by operational staff in assuming that all is well with the prison process of monitoring race equality.’

Training and awareness: Respondents felt that prison staff would benefit from additional and regular training on equality and diversity issues. Board members noted staff would particularly benefit from more training on how to effectively challenge racist incidents. Respondents also raised how prison staff needed a greater understanding of how women from minority ethnic backgrounds can experience multiple forms of discrimination.

‘There is a lack of recognition/awareness within the prison of the multiple effect of a person experiencing more than one characteristic in relation to potential discrimination.’

Workforce diversity: The lack of minority ethnic prison officers and staff was repeatedly indicated as an issue.

WORKING WITH SPECIALIST EXTERNAL ORGANISATIONS

There are several organisations working within prisons across England and Wales to support women from minority ethnic backgrounds and/or prison staff with equalities work. For example, Hibiscus Initiatives provide a wide range of services to Black, minority ethnic, refugee and foreign national women in prisons and the Zahid Mubarek Trust provide independent scrutiny of local equalities policies and procedures, including the discrimination complaints system.⁵²

Respondents were asked whether they were aware of any specialist external organisations working in the prisons they monitor. Only a few board members noted the specialist support work that was ongoing in their prison, particularly for foreign national women, and nearly two-thirds of respondents (64 percent) were not aware of any such organisations. None of the respondents had directly liaised with or sought advice from a specialist equalities organisation.

Some prison staff were ‘complacent’ at monitoring data for any racial disparities for women, as they assumed there was already adequate processes in place

⁵² Hibiscus initiatives, [Who we are and what we do](#). Zahid Mubarek Trust, [Our Work](#).

ESTABLISHING AND EMBEDDING AN INCLUSIVE PRISON CULTURE

Respondents stated that a clear commitment to equality from the prison governor or director, and an effective equality strategy, were essential for establishing and embedding an inclusive culture that promoted equal outcomes.

‘The approach to Equality and Fairness is embedded in all aspects of prison life...There is buy-in from senior management, particularly the Governor.’

‘There is a comprehensive overarching and strategic approach to Equalities and Inclusion [with a] high status lead from [the] Governor.’

‘A clear and well-resourced framework exists across the prison for ensuring that the nine protected characteristics (as defined by the Equality Act) are fully understood, and respected.’

A commitment to equality from senior leaders often meant that staff were also prioritising equality issues. For example, respondents noted that they had observed monthly staff meetings at one prison, which now included a standing agenda item that focused on any recent race-related issues. Another board highlighted that staff groups had been set up to improve working practices within the prison.

However, some respondents noted that in the prisons where they monitored, there was insufficient commitment or no buy-in from senior leaders and therefore race equality was not prioritised. In these instances, race equality work was often delegated. At one prison, frequent staffing changes and temporary governing arrangements was highlighted as a barrier to establishing an inclusive culture.

When asked for examples of how an inclusive prison culture was created, respondents noted that prison staff reacted constructively to race-related current affairs, celebrated religious and cultural events, and fostered good relationships between women from different ethnic backgrounds.

For example:

- Following the police killing of George Floyd and the subsequent global Black Lives Matter protests, Black and minority ethnic women in one prison were given additional support and prisons reinforced their commitment to equality.

‘The prison was particularly proactive in support for prisoners who could possibly be affected by the Black Lives Matter (BLM) movement. Prisoners from BAME communities were each visited by the [Equalities Officer] and encouraged to talk with staff if they have concerns.’
- Prison staff in almost all women’s prisons promoted religious and diverse cultural holidays, as well as hosting special events to acknowledge Black History Month (BHM). Most prisons provided different menus and hosted events which showcased Black literature, films, art and dance, and celebrated Black leaders during BHM.

In addition, a couple of respondents noted that they have observed staff fostering good relationships between women from different ethnic backgrounds. For example, some women in prison lacked understanding and awareness of the issues affecting women from the Traveller community and staff challenged these perceptions.

MAINTAINING INDEPENDENCE FROM PRISON PROCESSES

As part of their monitoring role, board members can attend meetings where the use of prison policies are discussed, such as Use of Force incidents and DIRF processes. However, Board members should also be, and be perceived to be, operationally independent from prison staff and processes.

Board members who responded to our survey were aware of the importance of maintaining independence from prison processes. Respondents reported that there were concerns among board members that participating in meetings was beyond the remit of their monitoring role and the National Monitoring Framework states that members should attend as observers.

‘Whilst the IMB is invited to all meetings it is an observational role and we do not attend all meetings as we do not wish to be perceived as part of the prison team.’

Use of Force

Recommendation 25 of The Lammy Review

‘Prison governors should ensure Use of Force Committees are not ethnically homogeneous and involve at least one individual, such as a lay prison observer, with an explicit remit to consider the interests of prisoners.’⁵³

Following this recommendation, board members do attend Use of Force (UoF) meetings, but to observe, not to be part of the decision-making process on whether use of force incidents are lawful.

The majority of respondents (92 percent) attended UoF meetings and described how they now monitor relevant documents, such as the incident debrief, to assess the outcome for women who have been involved in use of force incidents. Board members reported speaking to women involved following an incident and raising any concerns about racial bias with governors.

‘We have recently revised our position in these [Use of Force] meetings and are no longer recorded on the minutes as part of the Use of Force Committee that states whether the force is proportionate and necessary and so lawful. We do not feel that we are qualified to make such a judgement.’

‘IMB’s role is NOT to approve whether the force was lawful & member’s presence is not recorded in the minutes as being part of the UoF Committee. Concern is raised (during the meeting) if we consider that the force used was inhumane and unjust, [and this is] noted in the minutes. ‘Inhumane and unjust’ do not constitute lawful, they are part of our monitoring role.’

Discrimination Incident Report Forms (DIRFs)

In contrast to IMBs’ consistent position on their involvement in Use of Force governance, board members involvement with DIRF processes was inconsistent and varied across the women’s estate. For example, not all board members observed DIRF reviews; only 23 percent of survey respondents attended these review meetings. Some board members were not currently invited to observe internal reviews of DIRFs by prison staff.

While most respondents reported reviewing a sample of DIRFs to satisfy themselves with the prison’s response, some board members were clear that they do not have sight of all ongoing DIRFs:

‘There have been discrepancies between number of DIRFs seen by members, and (higher) numbers reported by staff. Our ability to properly scrutinise is thus limited.’

⁵³ At the time of publication in September 2017, the Lammy Review recommended that IMBs be involved in UoF committee meetings with an explicit remit to consider the interests of prisoners. This recommendation was updated in 2020 and now refers to a ‘lay prison observer’, rather than a board member. Ministry of Justice, [Tackling Racial Disparity in the Criminal Justice System: 2020 Update](#) (2020).

Board members also reported that some prisons did not have a robust, independent external scrutiny process in place, which had been raised as a concern by IMBs.

‘The board raised concerns about the lack of development of independent scrutiny of DIRFs.’

‘These are reviewed by an independent scrutiny panel and overall, the feedback is positive with some constructive comments for improvement.’

Conclusions

- Over recent years, board members have assisted in improving some conditions for and treatment of Black, Asian and minority ethnic women in prison. Many of these issues have been identified from observations and conversations with women, rather than identifying more systemic patterns and trends in the equalities data.
- Board members do not have a consistent role in the DIRF process. Respondents noted that DIRFs have been upheld that are race-related and board members should be aware of this. At one women’s prison, almost half the DIRFs submitted were race-related and half of those were upheld.
- Specialist organisations could help advise board members to monitor outcomes and raise issues with the prison more effectively. This would also improve boards’ lack of confidence/expertise and capacity in promoting race equality.

At one women’s prison, almost half the DIRFs submitted were race-related and half of those were upheld.

Section Three: Representative

Boards need to be representative of society and the diverse prison population, where many groups are overrepresented.

DIVERSITY OF BOARD MEMBERS

The IMB Secretariat regularly collects data on the ethnicity of all board members. As of December 2021, 87 percent of board members who reported their ethnicity were white, 3 percent were Asian and just 1 percent were Black.

Ethnicity	Percent (%)
White	87.1%
Asian	3.3%
Black	1.3%
Mixed	0.8%
Other ethnic group	0.2%
Prefer not to say	8.2%

INCREASING DIVERSITY AND REPRESENTATION

The Lammy Review recommended that IMBs should recruit so its members are representative of the country.

Recommendation 28 of The Lammy Review

'IMBs are described in the Prison Safety and Reform white paper as the Secretary of State's 'eyes and ears' in prisons, but just 5% of IMB chairs are BAME. IMBs should improve their recruitment in the same vein as the prisons they monitor.'

Recommendation 28: The prison system should be expected to recruit in similar proportions to the country as a whole. Leaders of prisons with diverse prisoner populations should be held particularly responsible for achieving this when their performance is evaluated. IMBs should also match this target in their recruitment.

Respondents were asked whether they were aware of any initiatives their board had taken to increase members from Black, Asian and minority ethnic backgrounds. Boards indicated that they had promoted advertisements in various institutions, groups and communities. For example, most boards had promoted vacancies among community and religious groups and in higher education institutions, including student unions or relevant academic departments.

'In the past our board has tried to attract interest from ethnic minorities by advertising in a local mosque. We received no interest at all.'

Other respondents indicated that they had advertised in local newspapers or magazines and another had placed adverts in libraries and on community notice boards. One board member noted that they had sought support from a specialist organisation.

However, despite concerted efforts by several boards to recruit more diversely, many respondents said it had not been as successful as they had hoped. One respondent stated that boards needed more support.

‘The drive to publicise the IMB within ethnic community groups across the country should be national, and local IMBs should receive greater support in terms of networking with local community groups.’

DISCUSSING RACE AT BOARD MEETINGS

IMBs were asked how often race equality and diversity were discussed at board meetings. Most of the respondents indicated that this was spoken about at some meetings. Only one in 29 respondents said that race equality and diversity was rarely discussed at meetings. Three respondents indicated that it was discussed at every board meeting.

Conclusions

- Despite the Lammy Review recommendation for IMBs to be more diverse, and local boards taking initiative to recruit more diversely, there has been limited success and IMBs remain overwhelmingly white (87% of those whose ethnicity is recorded).
- Boards need more support from the IMB Secretariat and the national structure to recruit more diverse members.
- It is welcome that the IMB Secretariat monitors members’ ethnicity data, but this is only published internally. Ethnicity information, broken down by chairs and board members, should be collected and published in the National Annual Report.

Despite the Lammy Review recommendation for IMBs to be more diverse, and local boards taking initiative to recruit more diversely, there has been limited success and IMBs remain overwhelmingly white (87% of those whose ethnicity is recorded).

Section Four: Open and visible

IMBs are members of their local community and can strengthen trust and legitimacy in the CJS by informing the public of their monitoring role in prisons.

National Monitoring Framework states:

'Boards' regular presence in an establishment gives them a unique insight into the day to day experience of prisoners and detainees. This is an important preventive role, with the ability to spot trends and concerns before they become crises, and to confirm where there has been positive progress.'

Code of Conduct for Members states:

'IMB members must always act in an open and transparent manner.'

It is a statutory requirement that all the IMBs publish annual reports of their activities.⁵⁴ Regular reports of IMB visits are submitted to the governor, who is usually invited to monthly board meetings to respond to any concerns or recommendations.

Although boards do not have a statutory requirement to make recommendations, they can raise concerns. As such, IMBs do often make recommendations in their reports depending on the seriousness, impact and period of time over which any concerns have been raised.

From an analysis of reports from the women's estate, only a handful of concerns translate into recommendations. Although the overall approach is set out in the National Monitoring Framework, there is a lack of transparency around how decisions are made on which concerns become recommendations. There is also a lack of transparency around how any concerns are escalated if they do not receive a sufficient response from ministers or are not sufficiently addressed by HMPPS.⁵⁵

The National Chair for IMBs also produces an annual report summarising the findings of IMBs across England and Wales. The Management Board, which is responsible for overall strategy and planning, and for developing the processes of IMBs, also publishes summary notes from their meetings. These can include standing items such as updates on staffing and training.⁵⁶ Regional Representatives also organise regional meetings to make sure that the needs and views of local Boards are integral to the development of national strategies, policies and plans.

Conclusions

- The public has no easy way to identify what equality concerns have been raised by a board over time and what progress has been made by a prison in response to this.

The recommendations from the Towards Race Equality project are available in the Executive Summary.

There is a lack of transparency around how any concerns are escalated if they do not receive a sufficient response from ministers or are not sufficiently addressed by HMPPS.

⁵⁴ Section 6, Prison Act 1952.

⁵⁵ All ministerial responses to Board reports are published on the [IMB website](#).

⁵⁶ Independent Monitoring Boards, [National Governance](#).

Glossary

Applications ('Apps') – The IMB can receive applications and requests from people in prison. These range from practical and day-to-day issues (e.g. property, letters, visits, clothing and bedding) to issues such as healthcare, sentence management and bullying. Applications and requests can also reveal patterns and themes that can expose more serious concerns and require more systemic action.⁵⁷

Direct discrimination – The act of treating someone less favourably or worse for certain reasons. For example, because they identify as having one or more protected characteristics such as religion, age or race.⁵⁸

Discrimination Incident Report Forms (DIRFs) – Forms for people in prison to report all incidents of discrimination, harassment and victimisation.

Disproportionate – When something is too large or too small when compared with something else.

Diversity – In the workplace, diversity focuses on the composition of staff – demographics such as gender, race/ethnicity, age etc.⁵⁹

Equality – Each individual or group of people is given the same resources or opportunities.⁶⁰

Equality Impact Assessment (EIA) – Equality impact assessments set out how public authorities have considered whether the design and development of any policy or process fulfils their obligations under equality legislation.

Equity – Recognises that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.⁶¹

Incentives or Incentives and Earned Privileges (IEP) – an internal prison scheme for incentivising behaviour.⁶²

Inclusion – A measure of culture that enables diversity to thrive.⁶³

Indirect discrimination – When a policy that is applicable to everybody, disadvantages a group of people who share a protected characteristic.⁶⁴

Intersectionality – A framework for conceptualising a person, group of people, or social problem as affected by several discriminations and disadvantages. It considers people's overlapping identities and experiences in order to understand the complexity of prejudices they face.

National Preventative Mechanism (NPM) – NPMs are a body or a group of bodies that regularly examine conditions of detention and the treatment of detainees. The UK NPM has 21 members, including IMBs. NPMs are a requirement for states that ratify the Optional Protocol to the Convention

⁵⁷ See page 15, Independent Monitoring Boards, [National Monitoring Framework](#) (2021).

⁵⁸ Citizens Advice, [Direct discrimination](#).

⁵⁹ ADP, [Diversity And Inclusion: What's The Difference, And How Can We Ensure Both?](#)

⁶⁰ Social Change UK, [Equality and Equity](#) (2019).

⁶¹ Social Change UK, [Equality and Equity](#) (2019).

⁶² [The Lammy Review](#) (2017).

⁶³ ADP, [Diversity And Inclusion: What's The Difference, And How Can We Ensure Both?](#)

⁶⁴ Citizens Advice, [Indirect discrimination](#).

against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT is an international human rights treaty designed to strengthen the protection of people deprived of their liberty. OPCAT was ratified by the United Kingdom in December 2003.⁶⁵

Protected Characteristics - It is against the law to discriminate against someone because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These are referred to as protected characteristics in the Equality Act 2010.⁶⁶

Public Sector Equality Duty (PSED) - The public sector equality duty was created by the Equality Act 2010 and replaces the race, disability and gender equality duties.⁶⁷ Those subject to the general equality duty must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation.
- Advance equality of opportunity between different groups.
- Foster good relations between different groups.

The specific equality duties require listed public authorities to publish equality outcomes and report on progress.

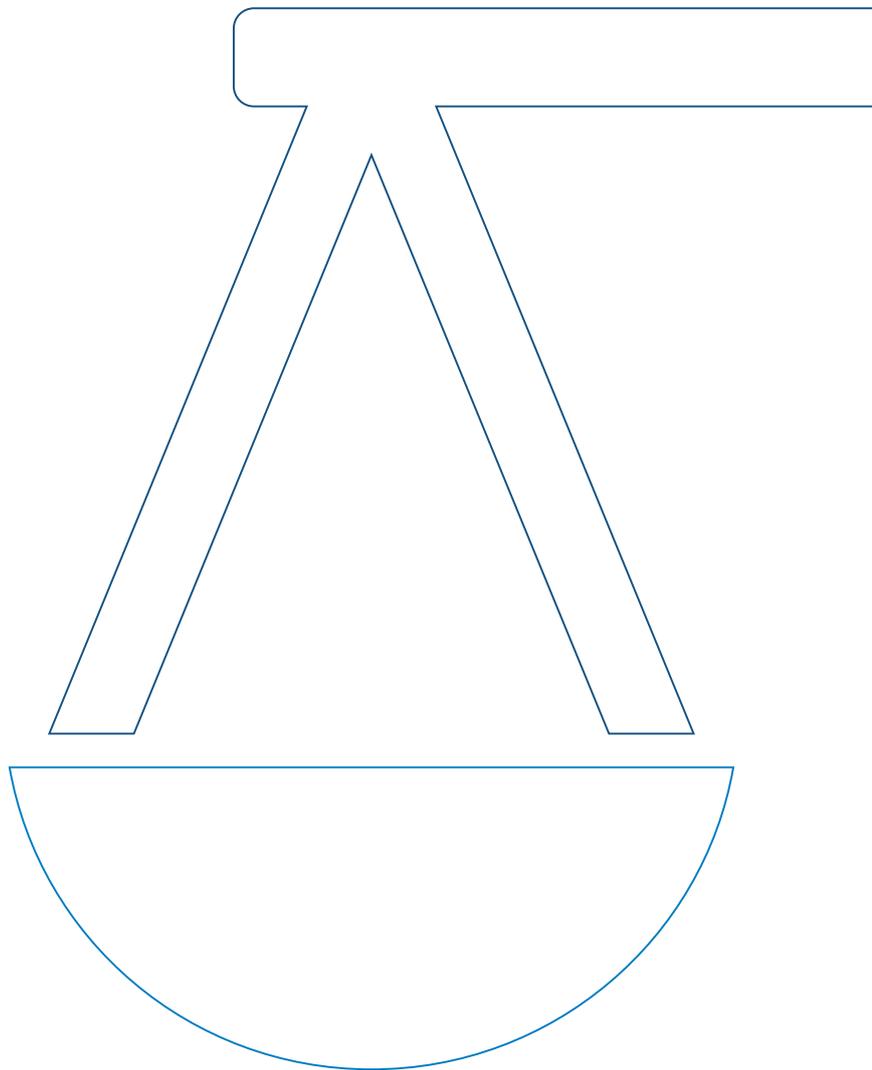
Racism - Consists of conduct or words or practices which disadvantage or advantage people because of their colour, culture, or ethnic origin.⁶⁸

⁶⁵ National Preventative Mechanism, [Optional Protocol](#) (OPCAT).

⁶⁶ Citizens Advice, [What's the public sector equality duty?](#)

⁶⁷ Citizens Advice, [What's the public sector equality duty?](#)

⁶⁸ See section 6.34, [The MacPherson report: The Stephen Lawrence inquiry](#) (1999).



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