

The Howard

PRESSURE IN A PANDEMIC



WORKING to free children from prison and urging ministers to ease lockdown measures safely, the Howard League for Penal Reform has been doing all it can to help keep people safe during the coronavirus pandemic.

The Howard League has been inundated with calls from worried children and young adults who have been held in conditions of solitary confinement with limited access to education, activities and contact with their families.

The charity has produced a guide to help lawyers keep young people out of prison, encouraged courts and prosecutors to subject decisions to anxious scrutiny, and even threatened the government with legal action over its response to the crisis.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: "Our pressure has been constant and unrelenting. We have had meetings with officials and are constantly pressing them to engage children in activities and a positive regime.

"Some changes are happening, but it is slow and children are still being held for far too many hours with absolutely nothing to do."

Worrying impact of lockdown in prisons

THIS is a worrying time for everyone, but particularly for people living and working in prison and their families.

Extraordinary measures to control the spread of coronavirus behind bars have forced tens of thousands of people to spend many months either in overcrowded cells or conditions of solitary confinement.

In this edition of *The Howard*, you can find out more about the work that the Howard League is doing to mitigate the impact, from helping to secure the release of children and young adults (page 3) to putting pressure on the government to ease the restrictions (page 2).

You can also read about how we are working to keep people out of prison in the first place, through our programmes to end criminalisation of children in residential care (page 4) and reduce arrests and remands of women (pages 5 and 7), as well as the independent Commission on Crime and Problem Gambling (page 6).

And you can learn about an important victory for our legal team, which established that working prisoners in open conditions can have full employment status (page 8).

Turn to page 6 for details of our forthcoming events, which will be held online.

Many Howard League members stay up to date by visiting our website – howardleague.org – and *The Howard* is also available electronically.

If you would prefer to receive *The Howard* by email rather than in hard-copy format, please send an email to: info@howardleague.org

With your support, the Howard League will keep working for less crime, safer communities and fewer people in prison.

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Custody time limits extension will make matters worse for victims, government warned

THE Howard League has urged the government to withdraw regulations extending custody time limits in the crown court, warning that the changes will make matters worse for victims of crime and pile more pressure on the prison system.

Together with Just for Kids Law and Liberty, the charity has sent a joint letter to the Secretary of State for Justice and Lord Chancellor, Robert Buckland, setting out “serious concerns as to the lawfulness” of the regulations, which will extend by two months the maximum length of time that a person can be held in prison on remand.

Cases are already taking years to get to court, but the changes “attempt to deal with delays by permitting, even facilitating, further delay”, the letter stated, “which is not good for victims, witnesses, people remanded to prison or prisons that have to hold people on remand during the ongoing pandemic”.

The three organisations said that it was “difficult to see” why the amendment was being introduced without a full impact assessment, given that it will mean people spending up to eight months in prison on remand and victims waiting longer to know the outcome of cases. The changes will have a disproportionate effect on the Black and minority ethnic population, the letter adds, and particularly children. Many people spend time



Andy Atchison

The changes will mean people spend up to eight months in prison on remand

in prison on remand only to be either acquitted or given a non-custodial sentence. In 2019, some 3,000 people were acquitted in the crown court having spent time in prison on remand. Under the new regulations, innocent people will be held in prison for even longer.

If the regulations are not withdrawn and changes made,

the three organisations have asked the government to first conduct the relevant impact assessments and consult with relevant stakeholders, including the Children’s Commissioner and victims’ organisations.

Dr Laura Janes, Legal Director at the Howard League for Penal Reform, said: “Extending custody time limits is bad for

everyone – for defendants, for the courts and for the prisons, but particularly for victims of crime who, after experiencing terrible trauma, will have to wait even longer to see their cases come to trial.

“Dealing with a pandemic is no excuse for government to make hasty policy decisions, particularly without due regard to the consequences.”

Prisoners held in overcrowded cells or solitary confinement

MINISTERS have been urged to ease lockdown restrictions in prisons safely to provide a decent and purposeful regime and enable people to have contact with their families.

While prisons were able to contain the virus during the summer, tens of thousands of prisoners, including children, were forced to endure many months in grim conditions, spending more than 22 hours a day in their cells.

The Howard League has been in urgent correspondence with ministers throughout the period and, together with another charity, the Prison Reform Trust, threatened the government with legal action over its response to the crisis.

Official prison inspections have found women going months without seeing their children. In at least one prison, men with coronavirus symptoms were found to be

isolated in their cells without any opportunity to come out for a shower or exercise for up to 14 days.

Frances Crook, Chief Executive of the Howard League for Penal Reform, said: “This is a worrying and difficult time for everyone, but particularly for the tens of thousands of people in prison, most of whom have spent months on end languishing in overcrowded

cells or solitary confinement.

“It is also an anxious time for families, who have been unable to meet their loved ones face-to-face and, too often, have found the video-call technology to be either unreliable or non-existent.

“Controlling the spread of the virus is essential, but prison governors must have the tools they need to give people purpose and help keep families together.”

Legal team helps secure release of children and young adults from prison

THE Howard League legal team has helped to secure the release of children and young adults who were being held in prison unnecessarily during the coronavirus pandemic.

And hundreds more children in custody have been sent a Howard League leaflet to reassure them that their rights have not disappeared.

Dr Laura Janes, Legal Director at the Howard League for Penal Reform, listed some of the legal team’s important achievements in a blogpost on the charity’s website.

She wrote: “It is ironic that it is a charity that is succeeding in getting young people out when the government is failing.

“We have helped to achieve the release of six children and two young adults, all of whom were in prison during the coronavirus pandemic when they clearly did not need to be there for public safety.

“We worked to get two children released by the parole board. Both were due to have hearings later in the year, but the board’s response to the pandemic allowed them to reconsider the case on the papers. One of the children had been recalled to prison in a case of mistaken identity.

“We worked to get another child released who had been recalled to prison. Our lawyers made successful representations to the Ministry of Justice after further criminal allegations were dropped.

He would otherwise still be waiting for a review by the parole board.

“We helped secure the release of a young mother and her baby, by taking her case to the Court of Appeal and getting her sentence reduced and then supporting her application for temporary release.

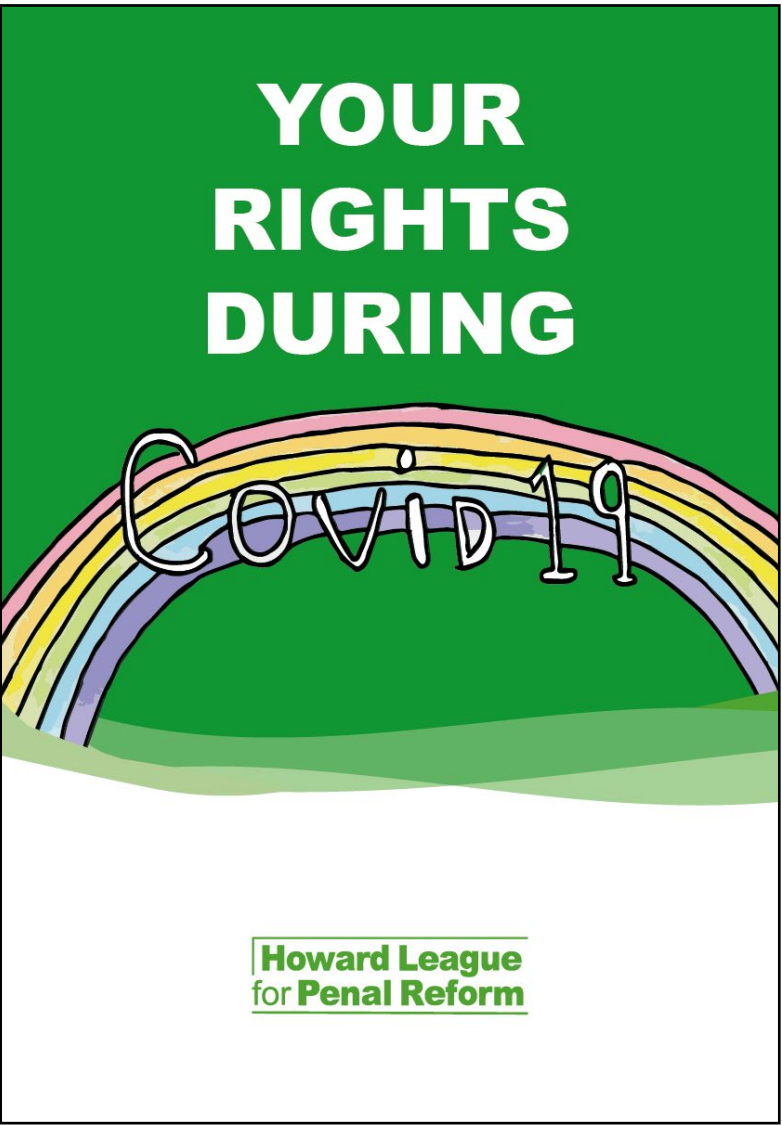
“We helped to secure the release of a young adult who had been directed for release by the parole board but who had waited for months due to the lack of a bed in an approved premises. Within 48 hours of us threatening legal action, a bed was found.

“We represented an autistic child prisoner who was eligible and suitable for home detention curfew but was told he could not be released as he was only being offered limited support from social services. We challenged that, enabling him to be released safely.

“Our lawyers represented a child before the parole board at a telephone hearing. The parole board directed that the child be released.

“Our lawyers made successful representation to the parole board on behalf of another child, resulting in a direction for his release after a paper review.”

The legal team has also produced a leaflet to help children understand their rights during the pandemic. The Howard League sent 1,000 copies of the leaflet to be distributed in prisons, and



Copies of the leaflet have been distributed in prisons

copies have been printed and provided to children in secure training centres and secure children’s homes.

Illustrated by a child in prison, the leaflet reminds children that they still have

a right to education, contact with their family, and physical and mental healthcare.

The leaflet informs children that they can still get support and make complaints to the prison if they feel their rights

are being ignored or they are being treated differently to others.

The charity made the move after publishing two briefings based on its legal work during the pandemic. The briefings showed how most children and young adults in prison were experiencing a severely restricted regime.

Most children were not receiving face-to-face education; they were receiving education sheets or worksheets under the door to be completed in their cells.

One child told the Howard League that this amounted to some sheets on maths and English that took him about 25 minutes a day to complete. Another child said that his anger-management courses and art therapy had been cancelled.

The briefing showed that children were worried about their parents and elderly relatives and their inability to help them while stuck in prison.

While children had been given additional phone credit, this was typically their only contact with the outside world.

Difficulties in contacting families and professionals made planning for release especially problematic.

Dr Laura Janes, said: “Every child needs fresh air, education and activities to grow and thrive, but children in prison were languishing in conditions of solitary confinement.”

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Howard League produces practical guide for lawyers to help keep unsentenced children out of prison during pandemic

THE Howard League has called for action to stop sending unsentenced children to prison – and produced a new guide to help lawyers representing them.

Severe restrictions imposed in prisons in response to the coronavirus pandemic have left children living in conditions of

solitary confinement, with no face-to-face visits and virtually no education or therapy.

One in three children in prison are there on remand – and government figures indicate that most will not go on to receive a custodial sentence. The Howard League has urged the courts to

keep them out of prison in the first place.

Working with Garden Court Chambers, the Howard League has produced a new guide to help lawyers representing unsentenced children.

Ending the detention of unsentenced children during the

Covid-19 pandemic provides legal and practical guidance for defence lawyers to resist applications to remand children to custody and assist them in making effective bail applications.

Dr Laura Janes, Legal Director at the Howard League for Penal

Reform, said: “Our guide offers practical advice to help lawyers resist decisions to remand children to prison and to make applications to get them out on bail, but ultimate responsibility rests with the courts, which are required by law to put children’s welfare first.”

Call to protect children in care from exploitation

CHILDREN living in children's homes are being criminally exploited and abused because of failings in oversight by children's social care and central government, the Howard League has discovered.

The latest briefing from the Howard League's programme to end the criminalisation of children in residential care explores how boys and girls are being targeted by gangs and criminal networks, including 'county lines'.

The briefing, *Victims not criminals: protecting children living in residential care from criminal exploitation*, warns that more focus is needed to safeguard children, who, at present, are more likely to be criminalised than recognised as victims and helped.

Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, said: "Every child wants and deserves the chance to grow and fulfil their potential. We must do all we can to ensure that they are not held back by a criminal record.

"Since our programme began four years ago, large strides have been taken to reduce the number of children in residential care being criminalised. But our work has also uncovered systemic failings that lead to children being abused.

"Solving the problem starts with the recognition that boys and girls who are exploited and lured into crime are victims, not suspects. Children's homes, social workers, police and the government must work together to put the needs of children first."

The new briefing is the sixth to be published as part of the Howard League's programme to end the criminalisation of children in residential care. It is based on extensive research with several hundred people with knowledge of the children's residential care sector and child



The research found that boys and girls were more likely to be criminalised than recognised as victims

criminal exploitation.

As well as speaking to children, the Howard League has heard from police, including senior officers at the National County Lines Coordination Centre; the owners of children's homes and their staff; directors of children's services; third-sector organisations working with gangs and exploited children, social workers; youth offending teams; lawyers; magistrates; and many others.

The briefing explains how looked-after children are an obvious target for people running county lines, who

want to escape detection and find them easier to control and manipulate than adults. In some cases, people involved in crime will hang around children's homes; in other cases, they will target children in other locations, such as parks, bus stops and near places with free wi-fi.

Robust data on child criminal exploitation is not yet available, largely because professionals have not been identifying and recording it. The Howard League spoke to one local authority that knew there was a problem in its area but had so far only identified three or four looked-

after children as being at risk.

The briefing examines the way that residential care is structured, and how that plays into the hands of people who seek to exploit and abuse children. Three-quarters of children's homes in England are owned by private companies, who ultimately decide where the homes are located.

As companies seek to turn a profit, homes are usually situated in less expensive parts of the country and frequently disadvantaged areas. Pressure on places – caused by the growing numbers of children coming into care and the unequal distribution

of homes across the country – has led to a situation where more than 40 per cent of looked-after children are living outside their home area.

Too often children are placed wherever a bed can be found, and sometimes this means being put in environments where they are susceptible to abuse. While moving away from their home area may be the right option for some children, it has become more widely recognised that long distances from home can put children at more risk and enable exploitation to spread.

Guide to help lawyers change practice and tackle discrimination

THE Howard League is to produce a practical guide to support lawyers to change their practice and tackle discrimination against Black people in the criminal justice system.

The document will be aimed at helping practitioners to

educate themselves, ask the right questions, gather the right information, and make representations to change outcomes for Black people.

Produced in association with Black Protest Legal Support and an expert advisory board, it will come at a time when the

proportion of children in prison from Black and ethnic minority backgrounds is at the highest level ever recorded.

In March 2020 two-thirds of children remanded to custody were from Black and ethnic minority backgrounds.

The project began with a

Howard League lawyers' network event, chaired by Garry Green, barrister at Doughty Street Chambers, with presentations by Howard League legal director Dr Laura Janes, writer Patrice Lawrence, solicitor Aika Stephenson, and Black Protest Legal Support

founder Ife Thompson.

Ife Thompson said: "Unchecked discrimination that runs through criminal justice needs to be challenged. We need creative legal arguments and lawyers to rise to the challenge, to call out racial bias and counter institutionalised racism."

Valuable police resources wasted on tens of thousands of unnecessary arrests, cross-party inquiry reveals

THOUSANDS of women in distress are being arrested unnecessarily each year instead of being given the help they need, an influential cross-party panel of MPs and peers has found with support from the Howard League.

A briefing by the All Party Parliamentary Group on Women in the Penal System (APPG) reveals how police resources are being wasted on arresting women inappropriately, holding them in custody and releasing them without charge.

The APPG reached its conclusions after receiving original and detailed evidence from five police forces in England and Wales, who provided anonymised data on more than 600 arrests of women. This valuable resource revealed that 40 per cent of arrests resulted in no further action.

Nationwide, police forces made almost 100,000 arrests of women during the year ending March 2019.

The findings are outlined in the second briefing from the APPG's inquiry into arrests of women. Since May 2019, the APPG has been investigating what can be done to reduce arrests in England and Wales. The APPG's inquiry is complemented by a three-year Howard League programme to arrest the entry of women into the criminal justice system.

The APPG found numerous examples of women being arrested for alleged non-violent offences. They included a woman who was arrested for begging outside a supermarket. Another woman



Police in England and Wales made almost 100,000 arrests of women during the year ending March 2019

was arrested after she walked into a main road repeatedly. A third, who was believed to be drunk and known to have mental health problems, was arrested for trespassing on railway property.

The briefing states that women who are drunk, behaving badly or putting themselves at risk do not need to be arrested. Often, police are being asked to deal with problems that other public services have failed to resolve, such as drug and alcohol addiction, mental ill-health and homelessness.

"If women do need support," the briefing states, "arresting them for begging or shop theft will not tackle underlying issues causing poverty and may even drive women further into the criminal justice system if they end up with fines which they have no means to pay."

Some of the evidence submitted to the APPG related to arrests of women for alleged violent offences, including arrests in connection to suspected domestic abuse incidents.

The briefing reveals that, for too many women, contact with the police results in their criminalisation rather than a recognition that they might be victims of domestic abuse. The evidence provided by the five forces included details of cases where women had contacted the police to report a domestic incident but ended up being arrested themselves, and then released with no further action.

The briefing states: "Forces should investigate whether the duty to take positive action

in alleged domestic violence incidents is unnecessarily driving up arrests of women. Officers do not have to arrest and can take alternative positive action, such as finding somewhere safe for the woman to go, where she is not in the same house as the other party."

The APPG found examples of good practice where forces were diverting women who needed support, without arresting them first. But there were too many police force areas where this was not happening.

MPs, peers and bishops urge Secretary of State to act decisively to release more women from prison

AN INFLUENTIAL panel of MPs, peers and bishops, with support from the Howard League, called on the government to release more women from prison during the coronavirus pandemic.

More than 40 parliamentarians signed a letter to the Secretary of State for Justice, Robert Buckland, from the All Party

Parliamentary Group on Women in the Penal System (APPG).

The APPG receives administrative and research support from the Howard League.

The letter welcomed the release of some pregnant women and mothers with babies, but urged the Ministry of Justice to "act swiftly" to release more.

It called for women who were eligible for end of custody release, and who met the criteria for compassionate release on licence, to be enabled to return to the community.

"The release of all these women will help to save lives and is the right thing to do," the letter stated. "It will help to keep women, babies and

prison staff safe.

"The announcement of the release of women prisoners was the right decision and we know you would want to see this followed by bold action to ensure that it has real impact and saves lives."

Baroness Corston, Co-Chair of the APPG, said: "The government moved in the

right direction by announcing an early release scheme for pregnant women and mothers with babies, but a lack of urgency since is putting lives at risk.

"As the coronavirus spreads behind bars, ministers must rise to the challenge and act decisively to help protect women, prison staff and the wider public."

Crime and gambling research projects begin

A COMMISSION set up by the Howard League to investigate the links between crime and problem gambling is to embark on a new research programme.

The Commission on Crime and Problem Gambling, chaired by Lord Goldsmith QC, will ask researchers to explore sentencers' awareness of the issue and consider the lived experience of people caught up in the system. It also intends to learn more about the prevalence of gambling-related crime.

Commissioners took the decision after carrying out a literature review, which found that, while millions of people are affected by gambling either directly or indirectly, there appear to be fewer than 50 peer-reviewed papers in the last 25 years that address the links between problem gambling and crime specifically.

Lord Goldsmith QC said: "Concern about harmful gambling activity has been growing for some time, but this is the first commission to focus specifically on the relationship between problem gambling and crime.

"From people getting into debt and defrauding family members or employers, to domestic violence and other crimes relating to gambling-related stress, we know anecdotally that police stations, courts and prisons see significant numbers of cases – but only a handful of academic studies have looked at this across the globe.

"The criminal justice system itself does very little work to capture the scale of the challenge and even less in terms of offering interventions like those we see



Fewer than 50 research papers in the last 25 years have addressed the links between gambling and crime

for alcohol or drug problems. This has to change and our Commission can play a key role in improving the response to disordered gambling and crime."

The literature review covers jurisdictions including Australasia, the US, Canada, Germany, Scandinavia and the UK. It reveals that, while the overall quantity of research is not huge, there is a consistency in

findings across all jurisdictions.

Researchers have found high prevalence rates of people committing crimes to fund their gambling. A wide variety of crimes are committed as a result of gambling addiction; not just 'white collar' crimes such as theft and fraud, but also offences that occur in public spaces such as street robbery. There is significant evidence of domestic abuse and

child neglect linked to problem and pathological gambling.

Studies have indicated that the more complex, prolonged and persistent a gambling problem is, the more likely it is that a crime will be committed and, indeed, that many crimes may result.

Although there has been a growing understanding that gambling addiction is a

behavioural disorder, little of this has been translated to sentencing; problem gambling is not considered to be a mitigating factor in sentencing in the way mental health problems or drug and alcohol addiction are.

Research suggests that, in spite of extremely high rates of gambling addiction among prisoners, prisons offer only limited treatment.

In Conversation with MPs Lyn Brown and Sir Bob Neill

MEMBERS and supporters will get the chance to hear from two of Westminster's leading voices on criminal justice as the Howard League holds a new set of online events.

The charity is to host 'In Conversation' events with Lyn Brown, Labour's Shadow Minister for Prisons and Probation, and Sir Bob Neill, Conservative MP and chair of the Justice Committee.

There will be much to discuss, as the criminal justice system faces huge challenges as a result of the coronavirus pandemic.

In Conversation with Lyn Brown MP will take place on Monday 12 October from 5pm to 5.45pm.

In Conversation with Sir Bob Neill MP will take place a day later, on Tuesday 13 October from 5.30pm to 6.15pm.

Members and supporters will be able to register for these

events and submit questions to the speakers by downloading the Howard League's new events app.

A third online event, the Howard League annual general meeting, is to be held on Wednesday 25 November. This meeting will be open to Howard League members only.

For more information about the events and the new Howard League app, visit:

www.howardleague.org/our-events/



Howard League works for changes to remand as courts send thousands of women to prison unnecessarily



THE Howard League is working for major changes to the way courts make decisions about remanding women to prison – as figures reveal that almost two-thirds of women denied bail and sent to prison by magistrates go on to be found not guilty or do not receive an immediate custodial sentence.

A new briefing by the charity shows how thousands of women are being sent to prison unnecessarily, damaging them and their families, including the children who depend on them, and piling more pressure on prisons and the wider criminal justice system.

The vast majority of women awaiting trial or sentence could safely be released on bail, but the number of women being held in prison on remand has been growing. At the end of 2019, the number of remanded women in prison in England and Wales was 21 per cent higher than at the end of the previous year.

Last year, prisons recorded almost 2,000 incidents of self-injury by women on remand – the highest number for eight years. Although a person can only be held in police custody if they have been assessed as fit to be detained, there is no such requirement for those being remanded to prison.

The figures indicate that measures introduced eight years ago, to reduce the use of remand, are not working. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 restricted the circumstances in which bail could be refused, but this has not succeeded in preventing unnecessary remands of women.

The briefing, *Reset: Rethinking remand for women*, highlights the need for remand decision-making to be rethought and reformed to enable judges and magistrates to take a distinct approach to women.

In order to make fair and appropriate decisions, judges

and magistrates require guidance and good information about the people appearing before them, particularly women, and about the services they can access in the community.

The Howard League is working for significant legislative and practice reform to ensure that women are only remanded to prison in the most exceptional and serious cases.

As the courts begin to return to normal following the lockdown, the need for vigilance to reduce the number of people entering the prison system remains critical.

The charity has written to the Lord Chancellor and Secretary of State for Justice, the Lord Chief Justice of England and Wales, and the Director of Public Prosecutions to encourage anxious scrutiny of all decisions in relation to remand and prosecution.

Frances Crook, Chief Executive of the Howard

League for Penal Reform, said: "The presumption of innocence and the right to liberty are fundamental principles of a fair criminal justice system.

"Remanding someone to custody runs contrary to these principles and so should be an exceptional measure, but every day women are being sent to prison unnecessarily.

"It is time to push the reset button. If women must be prosecuted and brought to court, we must do all we can to ensure they stay with their families and out of prison.

"A new approach that meets women's needs instead of penalising them would reduce crime and benefit everyone."

Remand to prison can have a devastating impact on families. Most remands happen immediately following arrest and, in these circumstances, women brought directly from the police cells to court routinely have no opportunity to make arrangements for any children

or dependants they care for.

As remand can last several weeks or even months, a woman can lose her job and her home and there is a real risk that her children will be taken into care. Without knowing when she will be released, it is difficult to plan ahead, particularly when trying to secure somewhere to live.

Women who have been remanded but go on to be acquitted or sentenced to a community order do not receive compensation. Nor do they receive a discharge grant or travel warrant to support them to return home safely on release.

The high number of remands also puts more pressure on prisons, which must deal with the 'churn' of women moving in and out through their gates. Significant resources are needed to process their reception, induction and release, and it can prevent prison staff from having time to work constructively with the sentenced women in their care.

People living in open prisons can have full employment status

THE Howard League has secured an important victory by getting the government to recognise that working prisoners in open conditions can have full employment status.

The charity has fought for many years to promote real work in prisons and support people with employment to prepare for release, and this development could make a big difference for thousands of families and businesses.

When one young adult received a letter from his external employer stating that he would be furloughed, only for his prison to insist that prisoners were not eligible for the furlough scheme, the Howard League legal team was ready to help him.

An erroneous memorandum issued by the prison service had stated that furlough for people in prison was not permissible. After Howard League lawyers challenged this, the Government Legal Department confirmed that there was no legal bar to the man being recognised as an employee. This meant that his employer was able to register him for the furlough scheme shortly before its deadline.

The story does not end there, as many more people in prisons up and down the country are likely to be affected, both in respect of their right to be part of the scheme and their right to be recognised as employees. The Howard League legal team has received a number of calls about this issue.

One caller said that he was aware of about 25 other men in his open prison who were in the same situation as the young man helped by the charity, only they were not furloughed because their employers were not contacted in time.

The Howard League wrote to the Secretary of State for Justice, Robert Buckland, asking for a grace period with the Treasury for people who have been unable to participate in the furlough scheme because of the government's misstatement.

This was refused, but the Secretary of State did state that any prisoner who was originally furloughed (for a period of 3 weeks) was eligible to make a claim for any missed period of furlough until 31 July 2020.

Dr Laura Janes, Legal Director at the Howard League for Penal



Andy Aitchison

The Howard League has fought for many years to promote real work in prison

Reform, said: "Getting people in prison into work and treated as employees is a much better way to boost the economy than building more prisons."

Howard League solicitor Claire Salama wrote an article about the case for *Inside Time*, a newspaper

distributed to all prisons.

The article stated: "The decision is important not only because it means prisoners can be furloughed, but also because it means prisoners working in open conditions can be 'employees'.

"If you are an 'employee', according to the law, you can benefit from a range of employment rights.

"If your employer breaches any of these rights, you may be able to challenge them in the Employment Tribunal."

Support our work

By supporting our work, you add your voice to our movement and help ensure its success.

Our supporters are our strength, our advocates and our most important source of knowledge and financial support.

With your help, we can continue to achieve real and lasting change in the criminal justice system.

I would like to give a monthly amount to the Howard League for Penal Reform

£5 ☐ £10 ☐ £25 ☐ Other £ (minimum £2.00)

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