



Prison for their own protection: The case for repeal

Key points

- The use of prison for protection or welfare has no place in a modern justice system
- Under the Bail Act 1976, the courts can remand an adult to prison for their own 'protection', or a child for their own 'welfare', without that person being convicted or sentenced, and when the criminal charge they face is unlikely to, or even cannot, result in a prison sentence
- It is wrong in principle to use the most punitive sanction available to the state, imprisonment, to make up for failings in care and protection in the community
- The power is outdated and out of step with other legal frameworks that recognise the need to support vulnerable individuals and to treat them with dignity
- Scrutiny of this extraordinary power is virtually non-existent. The government does not collect data about how often adults and children are detained for their own protection or welfare
- Despite these remands to prison being driven by the need to protect vulnerable, often unconvicted, people, the safeguards for them are minimal
- Using this power the courts can remove someone's liberty without expert evidence or any formal investigation into their circumstances, and without them having legal representation
- These provisions are also problematic in practice. The court cannot direct which location a person is remanded to and has no power to ensure that adults or children remanded under these provisions receive particular care or treatment
- Prisons are not suitable environments for people in crisis, particularly for women with complex mental health needs
- There are ample more appropriate legal mechanisms, and duties, to protect and support adults and children without the need for this power
- It is time to abolish the power to remand adults to prison for their 'own protection' and children for their 'welfare'.

The All Party Parliamentary Group on Women in the Penal System

The All Party Parliamentary Group on Women in the Penal System (APPG) was set up in July 2009, with Baroness Corston as Chair and administrative support provided by the Howard League for Penal Reform. The group comprises MPs and Peers from all parties and works to increase knowledge and awareness of issues around women in the penal system as well as push for full implementation of the recommendations of the Corston Report.

This briefing

The APPG is conducting an inquiry into reducing the imprisonment of women, which has included examining the factors leading to the overuse of remand to prison for women. As part of that work the Howard League has published a briefing '*Reset: Rethinking remand for women*'¹ which highlights the significance of remand decision-making for women and calls for a re-evaluation of how remand hearings are conducted, with a focus on ensuring that judges and magistrates have good guidance, comprehensive information and sufficient time to make the right decisions.

The inquiry, and the Howard League's briefing, identified the particularly damaging impact of imprisonment on women in mental health crisis who are remanded to prison 'for their own protection' or 'as a place of safety'. Baroness Corston first called for this practice to be abolished in her 2007 report (p9). Although this is especially problematic for women, the provisions under the Bail Act 1976 that enable this to happen are applicable to men as well and there is a similar power, to remand for 'own welfare' purposes, which is used for children. As a result, although this briefing was prompted by concerns relating to women in particular, it examines the use of these powers in relation to men and children as well, and calls for the wholesale repeal of these provisions for anyone appearing before the courts.

This briefing draws on available research, prison inspection reports and policy materials, as well as on the Howard League's

engagement with lawyers, legal advisers, magistrates, district judges, policy officials and non-governmental organisations working in the criminal justice sector.

An extraordinary power

The power to remand a person for their own protection or welfare is totally without parallel in our criminal justice system.

The right to liberty and the presumption of innocence are central features of our criminal justice system. Ordinarily, a person who is waiting to be tried or sentenced can only be refused bail and remanded to prison where there are substantial grounds for believing that they present a risk to the community (by committing further offences on bail) and/or to the criminal justice process (by not attending court when required, or interfering with witnesses) (Bail Act Sch1, Pt I, para 2). Even then, generally they cannot be remanded to prison unless there is a 'real prospect' that they will receive a prison sentence at the end of the criminal process (Bail Act Sch 1, Pt I para 1A(c)).

Extraordinarily, none of these conditions are required for a judge or magistrate to remand a person to prison for their 'own protection' or where they are a child for their 'welfare', whilst they wait to be tried or sentenced. In fact, this power can be exercised even if the person is not facing a criminal charge that could result in a prison sentence (Bail Act Sch 1 Pt II para 3). All that is required is that the court is 'satisfied that the defendant should be kept in custody' for their 'own protection' or, in the case of children, 'welfare' (Bail Act 1976, Schedule 1, Parts 1 and 2 (para 3) and Part 1A (para 5)). There is no assistance in the Bail Act 1976, or in other statutory guidance, to clarify what circumstances would need to arise to make such a remand appropriate.

How is the power currently being used?

The power is not heavily used, but when it is, it tends to be employed to detain the most vulnerable of defendants, predominantly those in respect of whom there have been failings of care and support in the community.

Most commonly the power is used to detain those who present a risk of harm to themselves,

¹ Available at <https://howardleague.org/publications/reset-rethinking-remand-for-women/> [Accessed on 24/09/20].

particularly by way of self-injury. These individuals tend to be adults, frequently women, in mental health crisis whose needs are not being adequately met by the social care system, and by healthcare providers. For example, the Howard League is aware of a number of cases where the power has been used on women threatening to kill themselves.

Alternatively, the power is occasionally used to protect an individual from harm by others. The Howard League is aware of cases where a defendant who is at risk of retaliatory attacks, or even being trafficked and exploited, has been remanded to prison for their own protection.

Wrong in principle

The use of the power to remand to prison for 'own protection' or 'welfare' is wrong in principle for a number of reasons:

Wholly inappropriate

Commentators have long identified that using the most punitive function of the criminal justice system – imprisonment - to deliver a therapeutic intervention or achieve a protective outcome is clearly problematic (see for example Player et al 2010). There is an extensive body of other legislation that specifically provides for the protection and welfare of adults and children. The Care Act 2014 was enacted with a clear focus on 'safeguarding adults from abuse and neglect'² and places a duty on local authorities to promote the well-being (section 1) and to meet the identified care and support needs of adults (section 18). Under the Children Act 1989, there is a corresponding duty on local authorities to "safeguard and promote the welfare of children within their area who are in need" (section 17). Where the need for protection arises from a diagnosed or suspected mental illness, then the Mental Health Act 1983 (MHA 1983) should be used. The Act includes a wide range of powers designed specifically to address all eventualities arising from mental illness.

Individuals detained for 'protection' or 'welfare' under the Bail Act provisions are frequently extremely challenging for social and health care providers. However, to remand these most vulnerable of individuals to prison, when they fall through the cracks between services, is to fail

² Care Act 2014, Introductory Text.

them and unfairly to require the prison service to make up for deficits in community care. Papering over the cracks in community provision in this way simply perpetuates the problem.

Detaining children for welfare purposes – a contradiction in terms

In particular, to remand a child to a punitive environment for the purposes of 'welfare' is a contradiction in terms and a sign of abject failure to meet their needs in the community. Detention is particularly harmful for children because of their stage of development, as acknowledged by the requirement in the United Nations Convention on the Rights of the Child (UNCRC) that detention be used as a 'last resort' and only for the 'shortest appropriate period' (Article 37 UNCRC).

Particularly worrying is the fact that Black, Asian and minority ethnic children are over-represented amongst children on remand. This is especially marked in the London area - in Feltham and Cookham Wood prisons, only around one third of the children on remand are white.³

Lacking safeguards

The power to remand to prison for 'own protection' or 'own welfare' is out of step with these other legislative frameworks. Under the Care Act 2014, the Children Act 1989 and the Mental Health Act 1983 (supplemented by the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards) there are clear mechanisms to ensure that an individual's rights and best interests are protected, including requirements for evidence from experts before a person can be detained or looked after against their will, time limitations in some instances,⁴ and a focus on ensuring that the individual is represented and their views are incorporated in decision-making.⁵

³ Response to Freedom of Information Act Request – 200209004, 23 April 2020.

⁴ See for example under section 136 Mental Health Act 1983

⁵ See for example the Mental Health Act 1983: Code of Practice (MHA CoP), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF, Deprivation of Liberty Safeguards Code of Practice (DOLs) available at <https://www.cqc.org.uk/sites/default/files/Deprivation%20of%20liberty%20safeguards%20code%20of%20practice.pdf> [Accessed on 24/09/20].

Where a judge or magistrate is considering remand for an individual's 'own protection' or 'own welfare' there are no comparable safeguards. There is no duty to conduct any particular investigations about the support available, or to consult particular individuals or authorities, and there is no obligation for decision-makers to receive any evidence from experts, such as doctors or social workers. There is also no requirement for the individual to be represented or supported in any way to participate in the hearing at which the decision is made. Whilst there are limits on how long a person can be remanded to prison – 56 days (2 months) before trial in the magistrates' courts and 182 days (6 months) before trial in the crown court (Prosecution of Offences Act 1985) –these periods are extendable. Indeed as a response to the backlog of criminal cases under Covid-19 restrictions, the government has recently announced that a person remanded to await trial in the crown court may face up to 238 days (8 months) in custody before the prosecution needs to apply for any extension.⁶

Almost no scrutiny

Worryingly there is almost no oversight of the use of this power – the government does not collect data about how often the power is used - and there is very little scope to scrutinise the exercise of the power. An individual remanded for their 'own protection' or 'welfare' can make a bail application at a later date, but subsequent hearings do not scrutinise the basis for the original decision to remand to prison. Lawyers have expressed concerns that getting bail for defendants after an initial decision to remand to prison is an uphill struggle – with courts tending to 'rubber stamp earlier decisions' (Transform Justice 2018, 17).

Problematic in practice

Prisons are not 'places of safety' for the mentally unwell

Using the power to remand for 'own protection' judges and magistrates are sending vulnerable defendants to prison effectively as a 'place of safety' – intending for that person to be kept safe and given treatment and support. The phrase 'place of safety' comes from the MHA 1983.

⁶ Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020.

Where someone is in a mental health crisis in the community and is in immediate need of care or control a police officer can take them to a 'place of safety' for a limited period (s136 MHA 1983). The law sets out what a 'place of safety' can be – generally a hospital or care home, local authority accommodation or a private home if everyone agrees. Following changes made to the MHA 1983 by the Policing and Crime Act 2017, police cells can only be used as places of safety in 'exceptional circumstances' for adults, and not at all for children.

But unlike police cells, prisons have never been designated in law as 'places of safety' and for very good reason. They are not equipped to care for people with significant mental or physical health issues. Prison officers and prison medical staff do not have powers under the MHA 1983 to treat a person suffering from a mental disorder against their will. Nor do they routinely receive specialist training for dealing with the mentally ill. So managing extremely vulnerable prisoners in the harsh surrounds of a prison can be very difficult and distressing, both for the individual and those caring for them (Pattinson 2016). Indeed being detained in the noisy, coercive and unpredictable surroundings of a prison is highly likely to exacerbate a mental illness.

Remand power frustrating recent reforms

The reform which restricted the use of police cells as places of safety was designed to ensure that rather than punitive detention in a criminal justice setting, mental health services are appropriately engaged at the earliest opportunity for those who are mentally unwell (see HMIC/HMIP/CQC/HIW 2013). However, the continued existence of the power to remand for 'own protection' is in practice frustrating this intention. Research suggests that, in order to avoid police cells being used as places of safety, instead of using their section 136 MHA 1983 powers, the police are simply charging individuals with low level offences (such as a public order offence arising from the person's distressed behaviour) and passing the challenge of addressing an individual's mental health crisis to the courts (Pattinson 2016). Once at court the power to remand for 'own protection' is used, with the perverse result that, although a short period of detention in a police cell is avoided, people in mental health crisis are instead being subjected to what can be several weeks' detention on

remand. The continued existence of this remand provision places the courts in an impossible position – frustrating the spirit of the reforms and punishing those who are unwell.

Mental healthcare less accessible in prison than in the community

Some magistrates and judges remand individuals, particularly women, for their own protection under the misguided belief that mental health intervention can be more swiftly achieved in prison (Pattinson 2016). In fact, the opposite is the case. Whilst in the community there are strict time limits to ensure swift admission to hospital for those who need it, in prison it takes on average 100 days to transfer a prisoner to hospital during which time their condition is likely to be deteriorating (Wessely 2018).

Although timings vary across prisons, the Chief Inspector of Prisons has raised concerns about the ‘continuing plight of prisoners experiencing severe delays in transfer to secure mental health beds.’ (HMIP 2019a, 32). Concerns about delays in mental health transfers are a particularly common feature of inspection reports of female remand prisons (featuring in the most recent inspection reports for Bronzefield (HMIP 2019b, 36), Styal (HMIP 2018a, 43), New Hall (HMIP 2019c, 37) and Eastwood Park (HMIP 2019d, 39) and Independent Monitoring Board Reports (see for example IMB 2020, 19).

Prisons are simply not resourced to cater for those in mental health crisis. In 2019 the Chief Inspector of Prisons noted: ‘In over half the adult male prisons inspected, we found a lack of assessment and treatment for prisoners with mental health, learning disabilities or emotional needs. Many prisoners were held in conditions that were in no way therapeutic, and which often clearly exacerbated their condition.’ (HMIP 2019a, 32).

Persistent and problematic overuse of the power for women in crisis

Concerns have continued to be raised about the persistent overuse of remand for ‘own protection’ for women in crisis in particular. The latest inspection of Low Newton, where Pattinson conducted her research, identified that, despite efforts in local courts to reduce the use of the power, courts were still ‘inappropriately using the

prison as a place of safety for some women with more severe and acute mental health problems.’ (HMIP 2018b, 5). The recent increase in ‘very ill’ women being remanded to prison as a ‘place of safety’ has also been noted by the Independent Monitoring Board (IMB 2020, 19).

The overuse of this power for women was referred to on 12 May 2020 in evidence to the Justice Select Committee by Steve Bradford (Prison Group Director for the Women’s Estate) who observed:

‘If a woman is very poorly with a long-term condition, even a life-threatening condition, or if women are seriously mentally ill, we find that they get sent to us, maybe only for a few weeks, as a place of safety because there is no alternative provision available in the community.’⁷

Increasingly senior prison officers are raising the negative impact that remanding women inappropriately to prison can have on prison resources and their capacity to work effectively with sentenced prisoners.⁸

Prisons are not safe for people in need of protection from themselves

Whilst prison officers do their best for those in their care, the idea that prisons are suitable places to hold people who are in need of protection from self-injury is a total misnomer, as government statistics make plain. In the year to June 2020, a prisoner died by their own hand every five days in England and Wales (MoJ 2020a). In the twelve months to March 2020, there were 64,552 reported incidents of self-injury in prisons (the equivalent of more than 175 incidents per day), up eleven per cent from the previous twelve months, and the highest recorded figure (MoJ 2020a). The Chief Inspector’s annual review for 2019 noted: ‘Inspectors sometimes found an inexcusable lack of supervision or management intervention to ensure men at risk of self-harm were held safely.’ (HMIP 2019a, 8).

Remand prisoners are especially vulnerable given the uncertainty of their position and the

⁷ Justice Committee Oral Evidence Session: Ageing Prison Population, HC304, 12 May 2020, Q109. Available at <https://committees.parliament.uk/oralevidence/370/default/> [Accessed 24/09/20].

⁸ For example, presentation of V. Robinson as acting governor of Bronzefield prison to the London Prison’s Mission, Safer Homes Summit, 21/11/19.

fact that they tend to be held in overcrowded local prisons where conditions are particularly bad. In addition, although entitled to various privileges by virtue of their unconvicted or unsentenced status (Prison Rules 1999), they tend not to engage their enhanced rights and struggle to access the level of support available for sentenced prisoners (HMIP 2012).

Again, the problem is particularly acute in women's prisons – the rate of self-injury amongst women is almost five times that of men (3,207 incidents per 1,000 female prisoners in comparison to 661 incidents per 1,000 male prisoners in the 12 months to March 2020 (MoJ 2020a). Despite the prevalence of self-injury, preventative measures are not always sufficiently proactive. At Foston Hall prison, for example, inspectors were concerned that staff were 'relying too much on reacting to incidents of self-harm or other destructive behaviour after it had happened, rather than dealing with issues to avoid the crisis in the first place.' (HMIP 2019e, 13).

The picture is even worse in the youth estate where the rate at which children self-injure has increased dramatically - there was a sixty-six per cent increase in the self-injury rate per 1,000 children in the year to March 2020 compared to the previous twelve months - up from 1,133 to 1,885 per 1,000 children) (MoJ 2020a).

Prisons are not appropriate places for providing protection from harm from others

Remanding a person to prison is also no guarantee that they will be kept safe from harm by others. Prison walls present little obstacle to a criminal group or gang intent on retaliation or violence towards a vulnerable prisoner. Their reach often extends into the prison environment, whilst family members and friends can be targeted in the community. Judges or magistrates remanding someone to prison do not have the power to stipulate where the person is to be held or with whom, even if they could identify potential aggressors and their associates.

In line with the concerns of the Committee for the Prevention of Torture outlined above, the Chief Inspector of Prisons has characterised safety across the secure estate as 'still a major problem' (HMIP 2019, 11). In the 12 months to

March 2020 there were 22,210 adult prisoner-on-prisoner assaults – amounting to 60 assaults per day (MoJ 2020a).

Particularly damaging for children

The situation is more problematic for children. Far from experiencing prison as a safe place, children in custody face high levels of violence and harm (Gooch 2016). The use of physical restraint on children in prison has escalated in recent years (YJB/MoJ 2020), particularly for children with mental health difficulties. In the year to March 2019 there were on average more than 600 occasions every month when staff used force to restrain children in custody (MoJ 2020b). As the Medway Secure Training Centre expose revealed,⁹ children in custody are also at risk of routine sexual and physical abuse by staff (Janes 2019). Investigating sexual abuse in custodial institutions for children, the Independent Inquiry into Child Sexual Abuse received evidence of '1,070 reported incidents of alleged sexual abuse in the period 2009–2017', leading it to conclude that 'children in YOIs (young offender institutions) and STCs (secure training centres) are not safe from harm, either physical or sexual' (IICSA 2019, vi).

More recently coronavirus restrictions have made conditions for children remanded to prison almost intolerable. As the Howard League's work has identified, children have for many months been struggling to cope with prolonged periods in their cells (often as much as 23 hours per day), almost non-existent education and no family visits. The impact of these conditions is profound and likely to be long-lasting (Howard League 2020).

Alternative mechanisms to address needs

There are ample, more appropriate mechanisms to address the needs of those who are in need of protection or welfare support:

Diagnosed or suspected mental illness

Where none of the other exceptions to bail apply, and the need for protection arises from a diagnosed or suspected mental illness, then the MHA 1983 should be used. The police can be

⁹ See BBC One Television, Panorama (11 January 2016), (previously available at <https://www.bbc.co.uk/programmes/b06ymzly>).

called upon to exercise their power under section 136 to take a person in need of immediate care and control to a designated 'place of safety'. The courts themselves have the power to remand an individual facing an imprisonable offence to hospital for a report on their condition to be prepared (section 35).¹⁰ In the crown court there is also the power to remand an individual to hospital for treatment (section 36). Whilst such a remand requires medical evidence, liaison and diversion practitioners at court are able to conduct initial assessments and link to specialist clinicians. The Wessely Independent Review of the Mental Health Act 1983 (2018) has made recommendations to equalise the magistrates' court's powers with those of the crown court in relation to sections 35 and 36.

Another avenue which is often overlooked is the availability of an informal admission to hospital, where the individual consents (Pattinson 2016). In those circumstances, should the individual's condition become of concern, hospital staff have at their disposal powers to detain for assessment and treatment under Part II of the MHA 1983.

Children and care leavers

The local authority's duty to children in need in their area (section 17, Children Act 1989) extends to providing accommodation, where necessary, for the welfare or safeguarding of the child. This can be achieved by consent where no objection is raised by the child or those with parental responsibility (section 20), under a court imposed care or supervision order (section 23 and 24) or where accommodation is used to restrict the liberty of a child likely to suffer significant harm should the child abscond (under section 25). An emergency protection order can also be obtained where that is required (section 44), and the child may be kept in police protection to enable that to happen (section 46).

Where the child has been refused bail following charge by the police, there should already have been contact with the child's home local authority in line with the police's duty to transfer to local authority accommodation (PACE s38(6)). The police also have a duty under s11 of the Children Act 2004 to make a referral to social care if the child appears to lack appropriate accommodation or support. Under the Children Act 1989 they can

¹⁰ In the magistrates' courts if the defendant is unconvicted, their consent would be required (s35(2)(b)).

make a child in need referral (section 17) or a child protection referral (section 47).

For children currently or recently in the care of their local authority, the '*National protocol on reducing unnecessary criminalisation of looked-after children and care leavers*' (DfE/HO/MoJ 2018) provides a framework to ensure that care providers and other agencies work effectively together to divert the child or young person from the criminal justice system and to avoid the use of detention.

Vulnerable adults in need of protection

Local authorities have the same duties to promote the well-being and meet the care needs of vulnerable adults in contact with the criminal justice system as they have in relation to other residents (section 76). They have a duty to assess the care and support needs of an adult (section 9) and to prepare care and support plans for them (section 24). The nationwide specification for liaison and diversion services includes referral to social services as a part of their remit (NHS England 2019).

Potential victims of modern slavery and criminal exploitation

Where the concern is that the individual may be in danger of harm from others as a potential victim of exploitation through modern slavery, then support is available through the National Referral Mechanism (Home Office 2020). An individual who has been referred can access specialist tailored support for a period of at least 45 days whilst their case is being considered. This can include accommodation, protection and legal advice. If the defendant is a child, then they may also be entitled to support from an Independent Child Trafficking Guardian depending on the area of their arrest. The referral should be made as a matter of urgency so that the support can be accessed, rather than the individual being further penalised by a period remanded to prison. A referral can be made by a number of 'first responder' bodies including the police and local authorities.¹¹

¹¹ See National Referral Mechanism Guidance: Adult (England and Wales) updated January 2020. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896033/July_2020_-_Statutory_Guidance_under_the_Modern_Slavery_Act_2015_v1.01.pdf [Accessed 24/09/20].

Those at risk of harm from retaliation

For those adults who are at risk of harm from others through retaliation, but who cannot access the specific avenues of support outlined above, the answer is not to remand them to prison for a lengthy period. To remove their liberty for this reason alone flies in the face of the presumption of innocence, as well as being likely to be ineffective for all the reasons outlined above. Unconvicted or unsentenced, they are entitled to protection from the police as any other citizen is, whilst bail conditions can still be imposed to reduce any specific risks which might be identified to support their protection and welfare in the community (Bail Act 1976 Sched 1, Pt1, para 8).

In the recent case of *Archer v Commissioner of Police of the Metropolis* [2020] EWHC 1567 (QB) the High Court made plain [at 50-53] that prolonged detention under the Bail Act 1976, where other reasonably available and more appropriate means of protecting the individual exist, is unlikely to be considered a justifiable curtailment of the right to liberty under Article 5 European Convention on Human Rights.

The right time to repeal the provision in its entirety

The case for abolishing the power of the courts to remand for 'own protection' or 'own welfare' is overwhelming. The use of prison to secure protection and welfare is wrong in principle and ineffective, even damaging, in practice. This residual and outdated power in the Bail Act 1976 provides none of the protections for the individual which characterise modern legislation designed to support welfare and protect the vulnerable. Its continued existence enables failures in community provision to be overlooked at the expense of exacerbating the situation of exceptionally vulnerable defendants.

Repealing the provisions in their entirety would be in-keeping with the direction of other recent and proposed reforms. In particular it is in line with, and is a necessary and urgently required extension of, the reforms to the use of police cells as a 'place of safety' under the Policing and Crime Act 2017.

The Wessely Review has recommended that the power of the courts to remand defendants

for their 'own protection' and 'own welfare' on mental health grounds be removed (Wessely 2018). The Ministry of Justice has indicated that they will act on that recommendation.¹² The government's White Paper 'A Smarter Approach to Sentencing'¹³ reflects this intention (at paragraph 185 and following) and also proposes reforms to the remand provisions for children (at paragraph 368 and following).

Whilst primary legislation is being drafted to achieve these changes, the APPG urges, for the reasons set out in this briefing, that the amendment of the Bail Act 1976 should not be limited to removal of the power to remand for 'own protection' or 'own welfare' on mental health grounds. For all the reasons identified above, a principled and practical approach requires repeal of this outdated power in its entirety.

References:

Corston, J., (2007) *The Corston Report*, London: Home Office.

Department for Education/Home Office/Ministry of Justice (DfE/HO/MoJ), (2018) *National protocol on reducing unnecessary criminalisation of looked-after children and care leavers*, London: DfE.

Gooch, K., (2016) *A Childhood Cut Short: Child Deaths in Penal Custody and the Pains of Child Imprisonment*, 55 *The Howard Journal of Crime and Justice*, p278.

Her Majesty's Inspectorate of Prisons (HMIP), (2012) *Remand prisoners: A Thematic Review*, London: HMIP.

HMIP, (2018a) *Report on an unannounced inspection of HMP & YOI Styal, by HM Chief Inspector of Prisons, 23 April–6 May 2018*, London: HMIP.

HMIP, (2018b) *Report on an unannounced inspection of HMP & YOI Low Newton by HM Chief Inspector of Prisons, 12-22 February 2018*, London: HMIP.

¹² Letter from Lucy Frazer QC MP to Frances Crook 14/04/20

¹³ Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918187/a-smarter-approach-to-sentencing.pdf

HMIP, (2019a) *HM Chief Inspector of Prisons for England and Wales Annual Report 2018–19*, HC 2469, London: HMIP.

HMIP, (2019b) *Report on an unannounced inspection of HMP & YOI Bronzefield by HM Chief Inspector of Prisons, 26 November–26 December 2018*, London: HMIP.

HMIP, (2019c) *Report on an unannounced inspection of HMP & YOI New Hall by HM Chief Inspector of Prisons, 25 Feb–8 Mar 2019*, London: HMIP.

HMIP, (2019d) *Report on an unannounced inspection of HMP Eastwood Park by HM Chief Inspector of Prisons, 3–17 May 2019*, London: HMIP.

HMIP, (2019e) *Report on an unannounced inspection of HMP & YOI Foston Hall by HM Chief Inspector of Prisons, 4–15 Feb 2019*, London: HMIP.

Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and the Healthcare Inspectorate of Wales, (HMIC/HMIP/CQC/HIW) (2013) *A Criminal Use of Police Cells? The use of police custody as a place of safety for people with mental health needs*.

Home Office, (2020) *National referral mechanism guidance: adult (England and Wales)*, as updated 22 January 2020. Available at: <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#the-referral-process> [Accessed 24/09/20].

Howard League for Penal Reform, (2020) *Children in prison during the Covid-19 pandemic, A briefing from the Howard League for Penal Reform*. Available at: <https://howardleague.org/wp-content/uploads/2020/05/Children-in-prison-during-covid-19.pdf> [Accessed 24/09/20].

Independent Inquiry into Child Sexual Abuse, (2019) *Sexual Abuse of Children in Custodial Institutions: 2009–2017, Investigation Report, February 2019*, London: HMSO.

Independent Monitoring Board, (2020) *IMB National Annual Report 2019-20*, available at: <https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2020/09/IMB-national-annual-report-201920-FINAL.pdf> [Accessed 24/09/20].

Janes, L., (2019) *Opinion, Thirty Years On: Continuing Challenges of Bringing the UN Convention on the Rights of the Child to Life for Children in Custody in England and Wales*, [2019] 6 E.H.R.L.R. 577.

Ministry of Justice (MoJ) (2020a) *Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to June 2020 Assaults and Self-harm to March 2020*, Published 30 July 2020, London: MoJ.

MoJ (2020b) *Use of force on young people in custody*, published 11 May 2020, London: MoJ.

NHS England, (2019) *Liaison and Diversion Standard Service Specification 2019*. Available at: <https://www.england.nhs.uk/wp-content/uploads/2019/12/national-liaison-and-diversion-service-specification-2019.pdf> [Accessed 24/09/20].

Pattinson, T., (2016) *Prison as a place of safety for women with complex mental health needs*, The Griffins Society. Available at: https://www.thegriffinsociety.org/system/files/papers/fullreport/griffins_research_paper_2015-01.pdf [Accessed 24/09/20].

Player, E., Roberts, J., Jacobson, J., Hough, M. and Robottom, J., *Remanded in Custody: An Analysis of Recent Trends in England and Wales*, The Howard Journal Vol 49 No 3. July 2010, p231–251.

Transform Justice, 2018, *Presumed innocent but behind bars – is remand overused in England and Wales?* Accessible at: http://www.transformjustice.org.uk/wp-content/uploads/2018/03/TJ_March2018report.pdf [Accessed 24/09/20].

Wessely, S., (2018) *Modernising the Mental Health Act: Increasing choice, reducing compulsion. Final report of the Independent Review of the Mental Health Act 1983*, London: DHSC.

Youth Justice Board/Ministry of Justice, (2020) *Youth Justice Statistics 2018/19 England and Wales*, Statistics Bulletin, published 30 January 2020, London: MoJ.

About the APPG on Women in the Penal System

The APPG on Women in the Penal System was set up in July 2009 with administrative support from the Howard League for Penal Reform.

The APPG comprises MPs and Members of the House of Lords from all parties and works to increase knowledge and awareness of issues around women in the penal system.

The APPG has conducted inquiries into the sentencing of women, the treatment of women in the criminal justice system, preventing the unnecessary criminalisation of women and on girls in the penal system.

The following APPG reports are available on the Howard League website:

www.howardleague.org

Arresting the entry of women into the criminal justice system: Briefing two

Arresting the entry of women into the criminal justice system

Sentencers and sentenced: exploring knowledge, agency and sentencing women to prison.

Is this the end of women's centres?

Report on the Inquiry into preventing unnecessary criminalisation of women

Keeping girls out of the penal system

Inquiry on girls: from courts to custody

Women in the penal system: second report on women with particular vulnerabilities in the criminal justice system

About the Howard League for Penal Reform

The Howard League is a national charity working for less crime, safer communities and fewer people in prison.

We campaign, research and take legal action on a wide range of issues. We work with parliament, the media, criminal justice professions, stakeholders and members of the public, influencing debate and forcing through meaningful change.

www.howardleague.org

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