25 November 2020

The Rt Hon Robert Buckland QC MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Dear Lord Chancellor,

We are pleased to send you a copy of the latest report from the APPG on Women in the Penal System, *Prison for their own protection: the case for repeal*. We are urging the Government to abolish an outdated law that gives courts the power to send women to prison for their ‘own protection’.

Under the Bail Act 1976, the courts have the power to remand an adult to prison for their ‘own protection’, or in a child’s case for their own ‘welfare’, without that person being convicted or sentenced – even in cases where the charge they face could not result in a prison sentence.

Our report outlines why the use of prison in this way has no place in a modern justice system and the case for repeal is overwhelming.

The APPG has found that although this power is not heavily used, when it is it tends to be employed to detain the most vulnerable of defendants, predominantly those who have been let down by failings of care and support in the community.

Prison is a damaging and unsafe environment for people in crisis, but scrutiny of the power is virtually non-existent and the Government does not collect data about how often adults and children are detained.

The courts can use the power to remove someone’s liberty without expert evidence or any formal investigation into their circumstances, and without them having legal representation.

If someone is in crisis and at risk of harm, they need help and support, not weeks or months in an overcrowded prison that will only make matters worse. Locking up people for their own protection or welfare is a contradiction in terms that belongs to a bygone age.

Our report draws on research by the Howard League for Penal Reform, a charity that provides administrative support to the APPG. The power to remand a person for their
someone to hospital during which time their condition is likely to be deteriorating.

In 2019, Her Majesty’s Chief Inspector of Prisons found that, in more than half of men’s prisons inspected, there was a lack of assessment and treatment for people with mental health needs, emotional needs or learning disabilities.

Our report describes as a “total misnomer” the idea that prisons are suitable places to hold people who need protection from self-injury. Government statistics show that, in the year to June 2020, someone in prison died by suicide every five days in England and Wales. In the 12 months to March 2020, incidents of self-injury were recorded at a rate of 175 per day.

People on remand are especially vulnerable given the uncertainty of their position and the fact that they tend to be held in overcrowded local prisons where conditions are particularly bad.

Women and children are particularly at risk. The rate of self-injury among women in prison is almost five times that of men, and the rate of self-injury among children rose by 66 per cent in the year to March 2020.

The APPG on Women in the Penal System has been engaging with officials regarding the use of remand and we were very pleased to see that the Government intends to remove the power to remand defendants for their own protection on mental health grounds, as indicated in the recent White Paper on sentencing. However, it should not stop there. It is our view that there is a strong case for abolishing completely the outdated power to send people to prison for their ‘own protection’.

We would be very keen to meet with you to discuss how we can work together to end the practice of remanding vulnerable women to prison for their ‘own protection’.

We look forward to hearing from you.

Yours ever,

Jackie Doyle-Price MP
Debbie Abrahams MP
Baroness Corston