



All Party Parliamentary Group
Women in the Penal System

Meeting of the All-Party Parliamentary Group on Women in the Penal System

**3pm-4pm
Wednesday 4 November 2020
Virtual meeting via Zoom**

Minutes

Chair: Jackie Doyle-Price MP

Attendees

Debbie Abrahams MP
Baroness Bennett
Baroness Corston
Baroness Hamwee
Lord Ramsbotham

Apologies

Baroness Armstrong
Lord Bishop of Gloucester
Lord Dubs
Carolyn Harris MP
Lord Judd
Liz Saville-Roberts MP

In attendance

Lorraine Atkinson, the Howard League
Tara Casey, APPEAL
Gavin Cowings, Office of David Lammy MP
Frances Crook, the Howard League
Tracey Desjardins, Ministry of Justice
Emily Evison, PRT
Ollie Glick, Ministry of Justice
Alli Gregory, Ministry of Justice
Amy Lacy, Advance
Janice James, Ministry of Justice
Andrew Jonathan, Ministry of Justice

Gabrielle Lee, HMPS
Kate Lill, Prisoners' Advice Service
Fiona Mactaggart
Nerissa Martin, the Tolkein Trust
Olivia Mervyn-Smith, Housing 4 Women
Lauren Nichols, Clinks
Kate Paradine, Women in Prison
Harriet Paul, The Disabilities Trust
Rob Preece, the Howard League
Sophie Radice, APPEAL
Nicola Tutty, NHS England and NHS Improvement

1. Welcome from the chair

Jackie Doyle-Price MP welcomed Parliamentarians and observers. The minutes of the EGM on 16 September 2020 were agreed.

The APPG report on [Prison for their own protection, the case for repeal](#) had been published and received coverage in the national media.

2. Evidence Session

Giving evidence:

Dr Miranda Bevan, ESRC Post-Doctoral Fellow, London School of Economics

Dr Miranda Bevan stated that under the Bail Act 1976, the courts had the power to remand adults for their own protection or, in case of a child, to remand for their own welfare. She acknowledged the power existed not because it was thought that prison was the right place for people in need of protection or to support the welfare of a child but because of difficulties in accessing care in the community. It was wrong in principle to use the most punitive response available to the state in the name of protecting/supporting the most vulnerable. The powers were extraordinary and outdated.

The central principle of the criminal justice system was the presumption of innocence and the right to liberty. Remanding someone to prison to await trial or sentence was itself an extraordinary power as a person was unconvicted (presumed innocent) or unsentenced. There were restrictions on the use of the power of remand –it must be a threat to the community or to the process, and ordinarily a 'real prospect' of prison being imposed at the end of the day.

The power to remand for own protection had none of those safeguards – a person need not present a risk to the community or to the process and could be remanded even where they faced a charge which could not result in prison. All the magistrate or judge must find is that they should be detained for own protection or welfare. The Bail Act provided no guidance about when that would be appropriate nor required any particular finding.

It was outdated in comparison to a raft of legislation for protecting and supporting the welfare of vulnerable adults and children, including the Care Act 2014, the Mental Health Act 1983 and the Children Act 1989. Under these provisions, when a

vulnerable person was to be deprived of their liberty, there were safeguards including time limits, expert evidence (especially the Mental Health Act 1983), and participation support and legal representation.

None of these safeguards applied for to the power to remand for own protection – a person could be remanded without representation and no evidential requirement.

Dr Bevan said prisons were not places of safety – prison officers were not trained to support people in crisis and prison doctors did not have powers to treat people against their will. It was hugely distressing for individuals, officers and other prisoners. It was especially used against women facing a mental health crisis.

Prison was particularly damaging to the development of children and it was wrong to use it for welfare purposes. The Independent Inquiry into Child Sexual Abuse found a ‘habitually violent atmosphere’ in YOIs and STCs. Prisons were not safe for those in need of protection from others – prison walls were porous.

There were ample mechanisms for protecting and securing a person’s welfare, including the Mental Health Act 1983 (powers for police s136, courts s35, 36 and medics (for example s2 and s3) as well the Children Act 1989 – to provide accommodation, including secure accommodation. Powers to provide emergency protection existed under s44, including police protection to enable emergency application (s46), under the Care Act 2014 for vulnerable adults, plus support under the National Referral Mechanism for those at risk of, or subject to sexual or criminal exploitation.

Dr Bevan argued now was the right time to repeal – legislation was forthcoming in the White Paper, including proposed changes to remand and the Mental Health Act 1983.

3. Questions from Parliamentarians

Debbie Abrahams MP asked Dr Bevan to expand on the issue around the magistrates’ use of the power to remand for own protection.

Dr Bevan stated there was almost no oversight of the use of the power and the Government did not collect data on its use. The reasons why the power was used were not known. A study by Gabrielle Lee for HMPS had shown it was not widely used. Conversations with magistrates suggested when it was used, it tended to be for women who were extremely vulnerable.

Baroness Corston noted that magistrates were remanding people to prison but it was not true that they would get help there.

Dr Bevan noted it should not be for the criminal courts to try to seek mental health provision using the criminal justice system. Dr Bevan said it was true that mental health settings were hard to access but using the criminal courts to access them was the wrong route. Local healthcare trusts had a duty to provide care.

Jackie Doyle-Price MP stated that in her role as Parliamentary Under-Secretary of State for the Department of Health, she had tried to encourage trusts to think beyond

formal care. Clinical healthcare could hold things back. There needed to be more conversations about informal care.

Gabrielle Lee explained about the research commissioned by HMPS on the use of prison for remand for own protection. She said that vulnerability was often cited by the courts alongside other reasons for remand. She said that as a prison governor she had experienced long delays waiting for an extremely distressed person on remand to be assessed for a bed in the mental health system. The findings of the survey which had input from 9 prisons was due to be published in the new year.

Dr Bevan stated there was a strong case for a review of the guidance for magistrates on the use of remand.

Debbie Abrahams MP said that policy change was needed to ensure there was adequate funding for provision of mental health services for people in the community. She said there was currently a vacuum. Doing nothing should not be an alternative.

Dr Bevan said that those who worked in the prison system noted that there was a crisis in the prison system as well as the mental health system.

Baroness Hamwee said that the current law on remand for own protection was Victorian. She asked about the attitudes of the Magistrates' Association, the Law Society and the Criminal Bar Association towards the use of remand for own protection. Stephen Shaw had conducted a report for the Home Office on the [remand of vulnerable people in detention centres](#) and there were similarities.

Dr Bevan said one of the difficulties was that people who were mentally unwell were not able to engage with their legal representatives in court. [The Howard League briefing on rethinking the use of remands for women](#) had found that the vast majority of women on remand could safely be released on bail. Ministry of Justice pilot bail schemes during the pandemic had shown encouraging results but there were no plans to continue the scheme beyond the pandemic.

Jackie Doyle-Price MP agreed that the absence of good mental health provision was linked to the use of remand. She stated that that the provision of housing was also an issue, for example for women who were victims of sexual exploitation.

Dr Bevan agreed. She said that the [Independent Monitoring Board \(IMB\) thematic review on resettlement](#) had highlighted the problems facing women on leaving prison and many women were homeless or lost their homes on arrival to prison.

Baroness Bennett asked whether people at risk of gang exploitation were being remanded to prison for their own protection.

Dr Bevan said the evidence was sparse. She noted that people could still be exploited inside prisons as there were gang affiliations inside some prisons.

Gabrielle Lee said that many of the women remanded to her prison were in extreme distress -they were incoherent, incontinent, paranoid and suffering from insomnia. Prisons were not able to treat them, just hold them.

Debbie Abrahams MP said that the APPG should write to the Magistrates Association with a copy of the report.

Frances Crook suggested that the APPG should also contact the National Police Chiefs' Council.

Jackie Doyle-Price MP noted the importance of changing the behaviour of magistrates to ensure remand to prison was not used for vulnerable women in need of protection. She stated that the APPG co-chairs would write to the Secretary of State for Justice to ask for a meeting. She thanked everyone for attending.

The meeting ended at 4pm.