



Howard League for Penal Reform submission to the Justice Select Committee inquiry on rehabilitation and resettlement: ending the cycle of reoffending

16 January 2025

Key points

- Ambitions for prisons to be places of rehabilitation in a context of gross overcrowding and capacity crisis are extremely difficult, if not impossible, to achieve.
- Ultimately, a fundamental rebalancing between *supply* and *demand* within the system is necessary. This is precisely why the current sentencing review announced by the government is so important.
- The billions of pounds earmarked for building new prisons would be better invested in securing an effective and responsive probation service, working to cut crime in the community, and to improve conditions in existing jails.
- Probation also faces structural problems that inhibits its ability to work effectively. Merging the probation service with the prison service to provide 'end-to-end offender management' has not worked. Probation should be independent and structured more locally to be effective.
- The concept of 'justice reinvestment' provides a more radical and whole-system approach to thinking about criminal justice reform. Considering how justice reinvestment principles could be applied to the current criminal justice landscape would be a fertile area for the committee to examine in a future inquiry.

1. About the Howard League for Penal Reform

1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has about 7,500 members and 14,500 supporters, including people in prison and their families, lawyers, criminal justice professionals and academics. It is an independent charity and accepts no grant funding from government.

1.2. This submission does not attempt to answer every question posed by the committee but seeks to highlight the key overarching issues that should inform any consideration of rehabilitation in criminal justice. In particular, we have not addressed issues pertaining to the female or youth custody estates, as it would be our recommendation that the committee considers the distinct needs of women and children in separate inquiries. The youth justice system, in particular, is structured very differently from the adult system, and the challenges to be found in youth custody are not the same as those found in adult prisons.

2. Reoffending – measuring the problem

2.1 Currently, recidivism in England and Wales is measured by proven reoffences over a one-year follow-up period.¹ As explained by the Ministry of Justice (MoJ), “A proven reoffence is defined as any offence committed in a one-year follow-up period that leads to a court conviction, caution, reprimand, or warning in the one-year follow-up or within a further six-month waiting period to allow the offence to be proven in court.”² The MoJ acknowledges the challenges involved in measuring true reoffending.³

2.2 It is difficult to compare international reoffending rates. A recent study concluded that international data sources are too varied to be directly comparable.⁴ England and Wales, for example, are an outlier in recording practices, measuring reoffending in a one-year follow-up period as opposed to two years. Comparative international analysis may in fact be more useful in identifying other relevant trends, for example the relationship between recidivism and offence type. The reporting and detection of property crime (consistently associated with the largest relative recidivism risk), for example, could impact reoffending rates.⁵ Offering another example, Yukhnenko et al hypothesise that Scandinavian countries may have lower reoffending rates due to lower recording of non-violent crimes (because of lower levels of prevalence, detection, investigation or prosecution). Other factors include imprisonment rate, homicide rate, and socioeconomic factors.⁶

2.3 The success and efficacy of criminal justice interventions to rehabilitate and encourage desistance can also be measured in other ways beyond reconviction rates. One measure is the ability of a sentence to meet an individual’s criminogenic needs.⁷ Studies illustrate the efficacy of treatment in the community for mental health or drug and alcohol needs. For example, one study found a 33% reduction in the number of offences following drug or alcohol treatment.⁸ Another study found that court orders were more effective at promoting desistance than short custodial sentences for people with mental health diagnoses, and people with a greater number of previous convictions.⁹

¹ MoJ, *Proven reoffending statistics quarterly bulletin, October to December 2022* (2024) https://assets.publishing.service.gov.uk/media/671f7c0b4fdbe4653d6ecb39/PRSQ_Bulletin_Oct_to_Dec_2022.pdf accessed 16 January 2025

² Ibid.

³ MoJ, *Guide to proven reoffending statistics* (2024) https://assets.publishing.service.gov.uk/media/671f81dab1ec0ea8598d5d9d/Technical_guide_to_proven_reoffending.pdf accessed 16 January 2025

⁴ Denis Yukhnenko, Leen Farouki and Seena Fazel, ‘Criminal recidivism rates globally: A 6-year systematic review update’, *Journal of Criminal Justice* (2023) 88; and UNODC, *2024 Prison Matters. Global prison population and trends: A focus on rehabilitation* (2024) https://www.unodc.org/documents/data-and-analysis/briefs/Prison_brief_2024.pdf accessed 16 January 2024

⁵ Yukhnenko et al, ‘Criminal recidivism rates globally’ (n4)

⁶ Ibid.

⁷ Sentencing Academy, *Community orders: A review of the sanction, its use and operation and research evidence* (2021) <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/Community-Orders-3.pdf> accessed 16 January 2025

⁸ MoJ, *The impact of community-based drug and alcohol treatment on re-offending* (2017) <https://assets.publishing.service.gov.uk/media/5a829ff0e5274a2e8ab587fa/PHE-MoJ-experimental-MoJ-publication-version.pdf> accessed 16 January 2025

⁹ MoJ, *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?* (2018) <https://assets.publishing.service.gov.uk/media/5af9497eed915d0deef5b3d1/do->

3. Rehabilitation in prisons

3.1 Before discussing the reality of rehabilitation in prisons, it is worth considering what we mean by 'rehabilitation'. In a paper addressed to the 2021 United Nations Congress on Crime Prevention and Criminal Justice, held in Kyoto, the Howard League's current chair and leading international desistance expert, Professor Fergus McNeill, outlined four forms of rehabilitation¹⁰:

- *Personal rehabilitation* aims to develop new or existing motivation to change, as well as building new skills, capabilities and capacities for living differently.
- *Judicial rehabilitation* is a process of formal, legal "de-labelling" where the status and rights of the citizen are reinstated. This is a duty that the punishing state owes to those citizens who have completed their sanction; it signifies and secures the end of punishment.
- *Moral and political rehabilitation* is more informal and focuses on dialogue between citizen, civil society and state – a civic and civil conversation that looks back not just at the offence but at what lies behind it, and that explores harm and repair.
- *Social rehabilitation* concerns the individual's social position and their social identity. It is about their connections and resources, their social capital; the help and welcome that they require from other citizens along the path to reintegration.

3.2 The paper also outlines some key principles that have emerged from research into what works as regards desistance from crime and rehabilitation:

1. Desistance is not a linear process; it usually involves numerous lapses and setbacks. We need to find ways to use these as learning opportunities, *supporting people towards compliance* rather than rushing to punitive enforcement.
2. Desistance is process of personal development which different people experience differently; studies have explored differences, for example, related to gender and ethnicity, as well as those related to different social and cultural contexts. So, we need to individualise the forms of support we offer, *respecting diversity*.
3. Desistance is associated with the development of hopefulness and a sense of agency or increasing control over the direction of one's life. We should therefore work in ways which nurture hope and which *enable self-determination*; for example, engaging people in planning their own

[offender-characteristics-affect-the-impact-of-short-custodial-sentences.pdf](#) accessed 16 January 2025. See also Prison Reform Trust, *Prison Reform Trust response to Justice and Home Affairs Committee inquiry into community sentence – June 2023* (2023) <https://prisonreformtrust.org.uk/wp-content/uploads/2023/11/Justice-Home-Affairs-Committee-inquiry-into-community-sentences-PRT-written-evidence.pdf> accessed 16 January 2025

¹⁰ McNeill, F. (2021), 'Reducing Reoffending and Enabling Reintegration', plenary address to the *UN Congress on Crime Prevention and Criminal Justice*, Kyoto, 8-9 March 2021. Published online by the United Nations Asia and Far East

Institute: https://www.unafei.or.jp/publications/pdf/14th_Congress/10_Dr.Fergus_McNeill.pdf

pathway through and beyond their sentence, and helping them develop the capacities required to direct their lives.

4. Relationships are central to desistance; *social relations and social capital play key roles*, so we should also work with partners, families, friends and communities to find ways together to support people through desistance.
5. Desistance involves constructive changes in people's routine activities and social situations. This means we need to *provide practical support* for such changes, for example via public assistance with financial need, housing, access to health services, education and training, etc.
6. Recognition of people's efforts to change has a reinforcing effect. By contrast, if the attitudes, language and practices of criminal justice practitioners and of communities undermine change (for example, by reinforcing criminalisation and exclusion), then they will undermine change. We should therefore focus on *finding ways to recognise, certify and celebrate change*.

These principles correspond to the four forms of rehabilitation discussed above. Whereas principles 1-3 guide our approaches to personal rehabilitation, principles 4 and 5 direct us towards the importance of social and moral rehabilitation. Principle 6 connects with the importance of judicial rehabilitation.

3.3 Professor McNeill's paper goes on to consider the concept of a 'rehabilitative prison'. There is some evidence that prison environments designed with the principles above in mind can encourage personal change. However, crucially, "almost all prison researchers agree that the possibility of developing these kinds of prison environments diminishes as prison systems swell in size and scale; overcrowded, under-funded and under-staffed institutions cannot provide rehabilitative environments."

3.4 The findings of academic researchers are mirrored in the regular inspection reports we see published by HM Inspectorate of Prisons (HMIP). A large and rising population affects the safe, effective and purposeful management of prisons, especially when appropriate resources are not injected into the system. Overcrowding affects the physical and mental health and wellbeing of people living and working in prisons.¹¹ Safety in prisons, including levels of self-harm, suicide and assaults, continues to worsen.¹² HMIP reports make for alarming reading in this regard, with inspectors consistently highlighting declining levels of safety in prison. Current population and staffing pressures mean that access to daily regime and purposeful activity is severely limited. The difference between local and training prisons is increasingly difficult to discern.

¹¹ For further detail, see: Howard League, *Submission to the Justice Committee inquiry into the future prison population and estate capacity* (2023) <https://howardleague.org/submission-to-the-justice-committee-inquiry-on-the-future-prison-population-and-estate-capacity/> accessed 16 January 2025; Howard League, *Submission to the UN Special Rapporteur on Torture's call for input on current issues and good practice in prison management* (2023) <https://howardleague.org/submission-to-the-un-special-rapporteur-on-tortures-call-for-input-on-current-issues-and-good-practice-in-prison-management/> accessed 16 January 2025; and HMIP, *HM Chief Inspector of Prisons for England and Wales Annual Report 2022-23* (2023) <https://webarchive.nationalarchives.gov.uk/ukgwa/20240417095837/https://www.justiceinspectorates.gov.uk/hmiprison/inspections/annual-report-2022-23/> accessed 16 January 2025

¹² MoJ, *Safety in custody: quarterly update to June 2024* (2024) <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-march-2024> accessed 16 January 2025

3.5 As Charlie Taylor, the Chief Inspector of Prisons, has written in his most recent annual report:

Prisons must be equipped to deliver the work for which they were designed: to reduce the risk of further offences being committed and more victims of crime created. In their present state, the brutalising conditions faced by all those living and working within their walls fundamentally undermines any effort to achieve this. If we use them simply to warehouse people in squalor, surrounded by drugs and violence and failing to address their unmet mental health needs, what can we really expect when they are released?¹³

This is what might be termed the *qualitative* crisis in the prison system, as opposed to the *quantitative* crisis around a shortage of prison capacity that has largely focused political attention on the system. Beyond the government facing the prospect of running out of prison cells, the prison accommodation that is available is reduced to warehousing people “in squalor”. Ambitions for prisons to be places of rehabilitation in such a context are extremely difficult, if not impossible, to achieve.

3.6 Ultimately a fundamental rebalancing between *supply* and *demand* within the system is necessary. The supply in question is not simply of prison places, but of the resources required to staff institutions properly and offer a good range of purposeful activity. The need to tailor demand on prison places to available supply of resources is precisely why the current sentencing review announced by the government is so important.

3.7 A sustainable criminal justice system is one in which prison is used as sparingly as possible, for as little time as possible. The Howard League’s submission to the sentencing review makes a number of recommendations on reforming custodial sentences.¹⁴ We refer the committee directly to our submission.

4. Resettlement services and alternatives to custody

4.1 A well-resourced and effective probation service is crucial to the delivery of community sentences and to supporting resettlement after release from prison. The reasons for a decline in the use of community sentences, in particular, are complex but are in part related to sentencers’ lack of confidence in probation’s ability to deliver them.¹⁵ Previous decades of misguided reform to the probation service have hampered the effective delivery of community sentences, with the failed privatisation of the service a nadir in probation’s history.¹⁶

¹³ HMIP, *Desperate times for prisons: Chief Inspector of prisons calls for sustained action to tackle the crisis* (2024) <https://hmiprisons.justiceinspectorates.gov.uk/news/desperate-times-for-prisons-chief-inspector-of-prisons-calls-for-sustained-action-to-tackle-the-crisis/> accessed 16 January 2025

¹⁴ Howard League, *Submission to the Independent Sentencing Review 2024 to 2025: Call for Evidence* (2025) [Howard-League-for-Penal-Reform-submission-to-Independent-Sentencing-Review-2024-to-2025-Call-for-Evidence-9-January-2025.pdf](https://www.howardleague.org.uk/wp-content/uploads/2024/09/Howard-League-for-Penal-Reform-submission-to-Independent-Sentencing-Review-2024-to-2025-Call-for-Evidence-9-January-2025.pdf) accessed 16 January 2025

¹⁵ Justice and Home Affairs Committee, *Cutting crime: better community sentences* (House of Lords, 2023) <https://committees.parliament.uk/publications/42651/documents/212004/default/> accessed 8 January 2025 and Sentencing Academy, *Community orders: A review of the sanction, its use and operation and research evidence* (2021) <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/Community-Orders-3.pdf> accessed 16 January 2025

¹⁶ The Howard League for Penal Reform, *The Howard League for Penal Reform* —

4.2 It is impossible to consider the resourcing of the probation service in the community without comparing it to the resourcing of the prison estate. The National Audit Office's (NAO) recent report, *Increasing the capacity of the prison estate to meet demand*,¹⁷ states that a commitment made by the previous government in 2021, to create 20,000 additional prison places by the mid-2020s, was "unrealistic and not prioritised".¹⁸ It concludes that the plans will not be delivered until 2031, will cost far more than estimated, and will be insufficient to meet the rising demand for the additional projected population increase by the MoJ from today's population of almost 86,000 to 105,200 by March 2029.

4.3 At the same time, it might be reasonably expected that the government's sentencing review will look to reverse the trend of sentencing inflation to some degree and reduce the use of custody in a bid to avert further critical shortages in prison capacity. This, in turn, places a burden on the probation service. It therefore makes little sense that the MoJ has doubled down on spending commitments that prioritise prison building over investing in other relevant areas of the criminal justice system.

4.4 The billions of pounds earmarked for building new prisons would be better invested in securing an effective and responsive probation service, working to cut crime in the community, and to improve conditions in existing jails with a view to ensuring they are safe places of accommodation, with adequate staff levels and the resources required to rehabilitate people serving custodial sentences. The NAO analysis stresses the current crisis position will not represent value for money until there is greater coherence between the government's wider policy agenda and funding for the prison estate.

4.5 Probation also faces structural problems that inhibit its ability to work effectively. Merging the probation service with the prison service to provide 'end-to-end offender management' has not worked. The 'Offender Management in Custody' (OMiC) model, which sees hundreds of probation officers seconded to prisons, was found to be "simply not working" in its last joint inspection.¹⁹ Inspectors found shortfalls in public protection work, information sharing, and relationship building between prison staff, probation workers and prisoners. The Howard League has questioned why the government persists with OMiC and the current deployment of probation officers in custody despite the criticism this approach has faced.²⁰

4.6 More broadly, the probation service needs both a national strategic focus, with leadership and accountability, as well as localised service delivery. The Howard League would advocate for the creation of a new body, independent from HM Prison

Written evidence (JCS0012) (2023) <https://committees.parliament.uk/writtenevidence/121882/pdf/> accessed 16 January 2025

¹⁷ National Audit Office, *Increasing the capacity of the prison estate to meet demand* (2024) <https://www.nao.org.uk/reports/increasing-the-capacity-of-the-prison-estate-to-meet-demand/> accessed 15 January 2025

¹⁸ *Ibid.*, p. 11.

¹⁹ HMIP, *A joint thematic inspection of Offender Management in Custody – pre-release* (2022) <https://www.justiceinspectorates.gov.uk/hmiprobation/inspections/omic-thematic/> accessed 15 January 2025

²⁰ Howard League, *The Howard League: What to do about probation?* (2024) <https://howardleague.org/blog/what-to-do-about-probation/> accessed 15 January 2025

and Probation Service, that would provide strategic leadership, promote best practice, and ensure a level of consistency in local service delivery. Separating probation and prisons provides a clearer distinction between the two services, reinforcing their separate identities and professional expertise. Borrowing from the Scottish experience²¹, the Howard League has suggested refocusing probation services under the banner of 'Community Justice'.

4.7 This new body would have responsibility for workforce development and would work to evaluate and innovate on interventions. It would be led by a figurehead with responsibility for providing a national voice on the issues. The new body, focusing on Community Justice, would set some clear national targets around service expectations that could be developed locally – for example, to ensure that there is sufficient commissioning for gender-specific services, or tailored services for racially minoritised communities. It would also be responsible for some specific services that could only be provided nationally – for example, contact with the victims of prisoners.

4.9 Actual probation work should be delivered through local Community Justice partnerships. These partnerships would be similar to the old model of independent P probation trusts and reflect better coterminosity across local government and criminal justice partners. Each partnership would have a board including representatives from the police, local authorities, local voluntary groups and members of the community, sentencers, health boards and regional prison management. In cities such as London and Manchester, where the role of police and crime commissioner is subsumed into the larger mayoralty role, these partnerships would sit under the mayor as part of the devolution of justice services and a whole system approach.

4.10 Localised probation services in England and Wales should be targeted at those who will most benefit, and delivered in ways to help people desist from crime. Service delivery should be run in a way that makes help accessible, encourages compliance, and prioritises timely completion – over supervision for its own sake and models which promote incarceration by encouraging breach and recall.

4.11 The Howard League has made a number of recommendations to the sentencing review regarding recall and the use of community sentences. We refer the committee directly to our submission.²²

5. Wider ambitions for reform

5.1 The political impetus that has been injected into prison reform and criminal justice policy more broadly has come from the prison capacity crisis, and the prospect over the summer that the government would run out of available prison places. While the renewed political attention is welcome, there is a risk that the exigencies of dealing with the capacity crisis crowd out the government's ability to think more strategically about the future.

²¹ Community Justice Scotland, [Community Justice Scotland](#) accessed 15 January 2025

²² Howard League, *Submission to the Independent Sentencing Review 2024 to 2025: Call for Evidence* (2025) [Howard-League-for-Penal-Reform-submission-to-Independent-Sentencing-Review-2024-to-2025-Call-for-Evidence-9-January-2025.pdf](#) accessed 14 January 2025

5.2 In a policy briefing published just after the general election, the Howard League suggested that the concept of ‘justice reinvestment’ should be revisited. This approach, originating from the United States of America, provides a more radical and whole system approach to thinking about criminal justice reform. The vision for probation outlined above is partly informed by the localist principles of justice reinvestment.²³

5.3 The committee may wish to revisit its own report of 2009, *Cutting crime: the case for justice reinvestment*, as part of this inquiry.²⁴ As that report described, at its simplest justice reinvestment “refers to the persuasive proposition that it is far better – and probably much cheaper – to focus resources on preventing criminality than solely on catching, convicting and incarcerating criminals”. We also recommend the final report of the Commission on English Prisons Today, published in the same year.²⁵ Considering how justice reinvestment principles could be applied to the current criminal justice landscape would be a fertile area for the committee to examine in a future inquiry.

5.4 The Howard League would welcome the opportunity to give further evidence to the committee on any of these points.

²³ Howard League, *Grasping the nettle: Options for a lasting solution to the prison capacity crisis* (2024) <https://howardleague.org/wp-content/uploads/2024/07/Grasping-the-nettle-Options-for-a-lasting-solution-to-the-prison-capacity-crisis-.pdf> accessed 15 January 2025

²⁴ Justice Committee, *House of Commons - Cutting crime: the case for justice reinvestment - Justice Committee* (2009) <https://publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/9402.htm> accessed 15 January 2025

²⁵ Howard League, *Do Better Do Less: the Report of the Commission on English Prisons Today* (2009) <https://howardleague.org/publications/do-better-do-less/> accessed 15 January 2025