

## **Written evidence from Agenda, the alliance for women and girls at risk**

### **About Agenda**

Agenda is an alliance of over 100 organisations working in England and Wales to build a society where women and girls are able to live their lives free from inequality, poverty and violence. We campaign for women and girls facing abuse, poverty, poor mental health, addiction, contact with the criminal justice system and homelessness to get the support and protection they need.

Agenda was founded in 2015 by a group of trusts and foundations following the publication of Baroness Corston's seminal report into women in the criminal justice system, and in recognition that imprisonment is just one of a range of negative outcomes for women and girls at risk. Most women and girls in the criminal justice system experience multiple types of disadvantage, and are failed by services and policy responses that are primarily siloed and gender-neutral.

### **Women and girls facing multiple disadvantage**

Women and girls facing multiple disadvantage experience a combination of complex and overlapping problems. We use the term multiple disadvantage to refer to any combination of: homelessness, violence and abuse, substance misuse, poor mental health, poverty and contact with the criminal justice system. However, there are many other outcomes that are commonly related to these experiences of disadvantage, for example involvement in 'survival sex', removal of children into social care, and poor educational outcomes.

For many women and girls, their experiences of disadvantage are underpinned by a history of extensive violence and abuse. Agenda research shows that women are ten times as likely as men to have experienced extensive physical and sexual abuse during their lives, with one in 20 women affected.<sup>1</sup> That's 1.2 million women in England alone.

Women make up 70% of people who experience homelessness, substance misuse, poor mental health and interpersonal violence and abuse simultaneously,<sup>2</sup> all of which put women at greater risk of the criminal justice system.<sup>3</sup>

Women in prison have often experienced far more serious crimes against them than those they are convicted of. More than half (57%) of women in prison report having suffered domestic violence,<sup>4</sup> and 53% report having experienced emotional, physical or sexual abuse during childhood.<sup>5</sup> Both of these figures are likely to be significant underestimates. Between three-quarters and 90% of girls (under 18) in the criminal justice system may have experienced abuse from a family member or someone they trusted.<sup>6</sup> Women and girls' victimisation can often be a cause of their offending and criminalisation, for example data shows many are repeatedly being arrested when they show signs of distress or have been victims of crime themselves.<sup>7</sup>

These experiences can be further compounded by overlapping and intersecting structural inequalities such as racism, ableism, homophobia, transphobia and classism. National policies such as the No Recourse to Public Funds (NRPF) condition, where those with insecure immigration status are unable to access public funds, drive

migrant women further into multiple forms of disadvantage.

## **Introduction**

Agenda welcomes the opportunity to respond to this consultation on women in prison. For the majority of women in prison, the disadvantage they face that drives their criminalisation begins in childhood. Agenda and the Alliance for Youth Justice (AYJ) currently run the Young Women's Justice Project, which provides a national platform to make the case for the needs of young women aged 17–25 in contact with the criminal justice system, including the needs of girls transitioning into adult services as they turn 18.<sup>8</sup> This response therefore brings together evidence from this project and Agenda's wider work on the needs and experiences of both women and girls in contact with the criminal justice system, and the importance of gender, age and trauma-informed support.

### **Key points:**

- While the number of women and girls in prison has declined in recent years overall, unreleased Government modelling<sup>i</sup> suggests that the female estate will increase by at least 500 women in the years to come – undermining the main objective of the Female Offender Strategy to reduce the female prison population.
- Black and minoritised women and girls<sup>ii</sup> make up a disproportionate proportion of women in custody and remand, face longer sentence lengths and report experiences of discrimination throughout the criminal justice system, including custody.
- It is estimated that a third of women in prison were in care as children,<sup>9</sup> and nearly two thirds of young adult women (compared to just under half of young men) in custody aged between 16 and 21 have recently been in statutory care.<sup>10</sup>
- Young women face distinct challenges in custody, and are often overlooked in policy responses on account of both their gender and age.
- Prison environments are risky and re-traumatising, and do not provide adequate trauma-informed support for women and girls with complex needs.
- Making up a majority of primary care givers in custody, the imprisonment of women – including young women - is harmful to whole communities, with thousands of children impacted every year.
- Despite the welcome introduction of The Concordat on Women in or at risk of contact with the Criminal Justice System<sup>iii</sup>, and promising local responses, there remains significant progress to be made on implementing a Whole Systems Approach to meeting the needs of women before and after prison.

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<sup>i</sup> As of June 2021, yet unpublished modeling by the Ministry of Justice. Repeated requests to review the modelling that has led to this decision to increase the number of women's prison places have been repeatedly ignored.

<sup>ii</sup> The term 'Black, Asian and Minority Ethnic' is commonly used in policy and commissioning contexts but can collapse together a broad range of differences between individuals, as well as reinforcing the idea that certain groups automatically occupy a minority position. Drawing on critical analysis of this term by services led by and for marginalised groups (see Thiara and Roy (2020), *Reclaiming Voice: Minoritised Women and Sexual Violence*, Imkaan), this literature review refers to 'Black and minoritised' girls and young women. Whilst groups can be 'minoritised' in a number of ways, we specifically use this term to highlight the way in which certain racialised or ethnic groups are constructed as 'minorities' through processes of marginalisation and exclusion. We include Gypsy, Roma and Traveller people within this definition.

<sup>iii</sup> Hereafter referred to as the 'National Concordat'. Ministry of Justice (2020) [The Concordat on Women in or at risk of contact with the Criminal Justice System](#)

### Summary recommendations:

- **Reducing the female prison population:** Government should reverse its decision to spend £150 million in 500 new prison places for women and invest this in diversion schemes and gender-specific and trauma-informed community-based support which tackle the root of women and girls' criminalised behaviour. The modelling that has been used to inform the decision to expand the women's prison estate by 500 places must be published for public scrutiny.
- **Community solutions:** The national network of women's centres must be adequately and sustainably funded and commissioned to continue delivering gender-specific and trauma-informed support to all women and girls who need it, including developing age-appropriate for young women to divert them from the criminal justice system at the earliest possible opportunity.
- **Cross-government leadership:** A central government fund drawn from the budgets of departments including the Department for Health and Social Care, Ministry for Housing, Communities and Local Government, Cabinet Office, Ministry of Justice (MoJ) and Department for Education should be established to increase the resilience of these organisations.
- **Oversight and transparency:** MoJ should develop, in consultation with the Advisory Board for Female Offenders (ABFO), a clear action plan to support and monitor the implementation of the remaining commitments from the Female Offenders Strategy. MoJ should report quarterly on the progress implementing the National Concordat to ABFO, to ensure more effective monitoring of progress.
- **Eliminating discrimination and addressing disproportionality:** To improve outcomes amongst Black and minoritised women and girls including a review of sentencing decisions, effective specialist training for staff on race equality, data collection and analysis disaggregated across all protected characteristics, and tailored resettlement support. Government must ring-fence funding and incentivise commissioners to commission specialist services run 'by and for' the communities they serve, including those led by and for Black and minoritised women and culturally specific health and education services.
- **Protecting the rights of the child and maintaining family ties:** The duty to consider the impact of sentencing on children must be given statutory force in order to shift entrenched practice. Government should introduce a legal presumption against the imprisonment of primary carers and pregnant people in order to uphold the rights of dependent children and maintain family ties, which is key to reducing reoffending.
- **Short sentences:** Introduction of a presumption against sentences of less than six months for women and girls, to enable them to be rehabilitated in the community and support family and community relationships.
- **Greater age- gender-,and trauma-responsiveness throughout the justice system,** including a shift towards providing specialist support for young adult women. Professionals working in the adult and youth justice system must be trained to respond and understand the particular experiences of women and girls, including mental health awareness and the impact of trauma and abuse.
- **Facilitating transitions:** MoJ to integrate an age-informed response to young adult women within the Female Offender Strategy and the National Concordat, including a focus on sentencing, the vulnerabilities arising around

transitions at 18, and considering a more flexible endpoint to young women's supervision by Youth Offending Teams.

- **Delivering a Whole System Approach:** MoJ must drive forward commitments made by signatories to the Concordat on Women in or at risk of contact with the Criminal Justice System, and report on progress in the development of local responses to delivering a Whole Systems Approach to meeting the needs of women before and after prison.

## **Full response:**

### **Reducing the number of women in custody**

#### **1. What progress has been made on commitments to reduce the number of women in custody since the publication of the Female Offender Strategy?**

As at 30 June 2019, five per cent of the prison population was female.<sup>11</sup> This proportion has remained stable for the last five years, although a slight decrease was observed between 2018-19.<sup>12</sup>

The announcement on 23 January 2021 of Government spending £150 million on 500 new prison places in the female estate is extremely concerning.<sup>13</sup> MoJ's modelling (unpublished) predicts that the recruitment of 23,400 new police officers<sup>14</sup> will result in 500 more women being imprisoned. This policy response undermines the core objectives of the Female Offender Strategy, which seeks to reduce the number of women in prison.

The £150 million figure for new cells dwarfs the announcement of £2 million for diversion schemes made on the same day,<sup>15</sup> and the subsequent £45 million announced for organisations working with women in contact with the criminal justice system through new probation contracts. The Prisons and Probation Minister claims it is not a case of "either/or" in terms of spending,<sup>16</sup> yet the ongoing cost of maintaining prison places, and holding women in custody is likely to continue to outweigh investment in community alternatives to prison.

Black and minoritised women and girls are already overrepresented in the criminal justice system and custody. Currently, of all females sentenced in 2019, Black women had the highest custody rate<sup>iv</sup>, at 23%.<sup>17</sup> Since 2015, the Average Custodial Sentence Length (ACSL) for indictable offences has risen for both men and women from all ethnic groups. Consistently, White women had the shortest ACSL, while Asian women had the longest ACSL for indictable offences in 2019.<sup>18</sup> Black and minoritised women, therefore, will be disproportionately impacted by this measure.

#### **Woman with lived experience**

*"Women are treated lesser than men and I think Black, Asian people are treated lesser than white people so if you are a black or Asian woman... You're already at a disadvantage, a double disadvantage."*<sup>19</sup>

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<sup>iv</sup> The custody rate is the proportion of all offenders sentenced to immediate custody, out of all sentencing outcomes.

Despite recommendations made in the Laming Review on how children in care can be diverted away from the criminal justice system, individuals with experience of care continue to be overrepresented in custody. Nearly two thirds of young adult women (compared to just under half of young men) in custody aged between 16 and 21 have recently been in statutory care.<sup>20</sup>

### **What more can be done?<sup>v</sup>**

- The commitment to reduce the number of women in custody remains the right one. Government should reverse its decision to spend £150 million in 500 new prison places for women and invest this in diversion schemes and gender-specific and trauma-informed community-based support which tackle the root of women and girls' criminalised behaviour, which are far more effective at reducing reoffending.<sup>21</sup>
- The modelling that has been used to inform the decision to expand the women's prison estate by 500 places must be published for public scrutiny.

## **2. What has been done to reduce the number of women serving short prison sentences?**

There are some signs of progress that the number of women serving short sentences is in decline. Data on prison populations shows that between 2018-2019 there was an overall downward trend in the number of women serving sentences of less than six and 12 months.<sup>22</sup>

However, recent statistics still show that three out of five of women are sent to prison for less than six months,<sup>23</sup> and custodial lengths are disproportionately high among Black and minoritised women. In 2019, the average custodial length for White<sup>vi</sup> women was around 11 months, however this increases to an estimated 15 months for Chinese 'and other' women, 16 months for Black and mixed race women, and approximately 21 months for Asian women.<sup>24</sup>

Women are still drawn into the criminal justice system unnecessarily for non-violent offences. TV licence evasion was the most common offence for which women were convicted in 2019: 74% of those convicted for TV licence evasion were women. This offence accounted for 30% of all women's convictions, compared to 4% of men's convictions.<sup>25</sup>

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<sup>v</sup> There are important sentencing reforms that can be made to reduce the number of women and girls in custody. We support Women in Prison's calls made in their evidence submission to this inquiry, including:

- a) Introduce a [statutory defence](#) for women whose alleged offending was driven by their experience of domestic abuse.
- b) End the [criminalisation of debt](#) by decriminalising the non-payment of council tax and the TV licence fee which disproportionately affects women and can result in a custodial sentence.
- c) End to the use of remand to prison for women's ['own protection'](#) by abolishing the power under the Bail Act 1976.
- d) End the use of [Joint Enterprise laws](#) which allow for severe sentences to be passed down to multiple defendants for a single offence based on weak circumstantial inferences.

We have also joined [with other organisations in coalition](#), coordinated by the Criminal Justice Alliance, to support calls to ensure the Police, Crime, Sentencing and Courts Bill does not disproportionately impact on Black and minoritised women and girls. This includes highlighting concerns over the increased sentences for assault on an emergency worker and drug trafficking offences.

<sup>vi</sup> These terms reflect those used as census categories by the Ministry of Justice.

Often women's offending is linked to their experiences of disadvantage and poverty. In 2019, the custody rate of women convicted of theft from shops was 19%.<sup>26</sup> 'Revolving door' offences – repeated, non-violent crimes – are driven by a combination of needs, often stemming from complex trauma and economic disadvantage linked to gender inequality.

### **Do community sentences currently offer a credible alternative to custody? (If no, why not?)**

The majority of women and girls are serving short sentences of less than six months for non-violent crimes, leaving little opportunity for meaningful rehabilitative work. Community sentences offer a much more effective alternative to custody, enabling women and girls to take the time to address the underlying drivers of their offending behaviour in a holistic and therapeutic environment.<sup>27</sup> Women released from prison are more likely to reoffend, and reoffend sooner, than those serving community sentences.<sup>28</sup>

A review of provision for girls in custody to reduce reoffending found that custody was associated with higher levels of reoffending than other disposals, such as community-based disposals.<sup>29</sup> Low custody rates among girls mask the reality that many girls are passing through the secure estate for very brief periods on short sentences, meaning that a larger number of girls are experiencing custody than a 'snapshot' at a static point in time might suggest.<sup>30</sup>

Women's centres<sup>vii</sup> are proven to improve women's mental health and wellbeing.<sup>31</sup> The estimated cost of keeping a woman in prison for a year is £52,121,37 and £1.7bn is spent on issues linked to women's offending annually.<sup>32</sup> A place at a women's centre ranges from £1,223 to £4,125 per woman, depending on her needs. In the long term, £2.84 is saved for every £1 spent on women's centres, with one centre making a saving of £18 million over a 5-year period.<sup>33</sup>

Small, specialist voluntary sector providers, including women's organisations, have struggled to compete for contracts through the new probation commissioning model, the Dynamic Framework. The process has been cumbersome, resource-intensive and hugely challenging for small charities with limited infrastructure. Specialist 'by and for' services are particularly vulnerable to being excluded. These services provide essential, tailored support to their communities, who often report they do not feel comfortable or are not able to access statutory services or mainstream women's services, and could provide critical support to reduce racial disproportionality in the system.

### **What more could be done?**

- The national network of women's centres must be adequately and sustainably funded and commissioned to continue delivering gender-specific and trauma-informed to all women and girls who need it.<sup>34</sup> These should be supported to expand their delivery to reach more women, including developing age-appropriate for young women to divert them from the criminal justice system at the earliest possible opportunity.<sup>35</sup>

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<sup>vii</sup> Women's centres and specialist girls' services are community-based support services for women and girls facing multiple disadvantage, including women and girls in contact with the criminal justice system. These services provide holistic, gender and trauma-responsive services in safe, women- and girls-only spaces.

- A central government fund drawn from the budgets of departments including the Department for Health and Social Care, Ministry for Housing, Communities and Local Government, Cabinet Office, MoJ and Department for Education should be established to increase the resilience of these organisations, and deliver on the objectives in the Government’s Female Offender Strategy and the National Concordat with the Criminal Justice System.
- Government must ring-fence funding and incentivise commissioners to commission specialist services run ‘by and for’ the communities they serve,<sup>viii</sup> such as those led by and for Black and minoritised women.
- Problem-solving courts for women, which require people to engage with support services instead of being sentenced to a short prison sentence or a community order, are a welcome introduction and should be well evaluated. These courts will require sustainable investment in order to ensure there is confidence in the process from the public, judiciary, and women who engage with the process.

### **3. What progress has been made on the development of Residential Women’s Centres?**

#### **Do these offer a suitable alternative to custody?**

The first Government funded Residential Women’s Centre in Wales was announced on 20<sup>th</sup> May, to open by end of 2021. The four other sites are yet to be identified. The pilot is reported by Government to “...likely last until the latter part of this decade”, with a suitable second site in South Wales “being looked at”.<sup>36</sup>

One Small Thing is pioneering a similar alternative to custody in Southampton, with the new residential community expected to be built by Spring 2022.<sup>37</sup> Other residential centre models for women, such as the Nelson Trust and Anawim, and Trevi House, which includes spaces where women can stay with their children, exist around the country, providing safe, effective alternatives to custody.

Prisons are not an appropriate or safe environment for women or their children. The intention of purpose-built Government Residential Women’s Centres is that they will allow women to take care of the children in a safe, trauma-informed environment and address the root causes of their offending behaviour in a holistic way. As they are yet to be built, it remains to be seen whether Residential Women’s Centres will fulfil this ambition, but should be closely monitored and evaluated to examine progress.

### **4. What has been done to ensure that the welfare of dependent children is taken into account when sentencing decisions are made?**

#### **7. How are women supported to maintain family ties in prison? What progress has been made on improving family ties since the Farmer Review? What effect has Covid-19 had on maintaining family ties for women in custody? What support is available for mothers to maintain contact with dependent children?**

Progress on centralising children’s right to the protection of family life when their mother is sentenced is lagging. The Joint Committee on Human Rights recently

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<sup>viii</sup> This term refers to specialist services that are designed and delivered by and for the users and communities they aim to serve. This can include, for example, services led by and for Black and minoritised women and girls, LBT women and girls, disabled women and girls and migrant women and girls.

published a report in which it observes “children are hidden from sight because there is no central or consistent way of collecting information on children whose mother is sentenced to prison.”<sup>38</sup> Children experience a wide range of emotions as a result of their mother going to prison, including grief, trauma, and shame. The knock-on effects of stigmatisation may also lead to social isolation and discrimination.

While central data is not available, research suggests women’s imprisonment affects an estimated 17,240 children in England and Wales.<sup>39</sup> Around 61% of women in prison have children under the age of 18,<sup>40</sup> with women much more likely to be the sole carer for a child than men. As much as 95% of children who are separated from their mother by imprisonment have to leave the family home to go into care or live with relatives.<sup>41</sup>

The lack of available data reflects a broader de-prioritisation of the rights of the child in sentencing decisions. Whilst there have been “some minor changes to guidance to try to give greater visibility to the obligation on the court to consider the best interests of children when a primary carer is sentenced to custody”, the welfare of children whose primary care-givers - most often women - are sentenced to prison is still not on a statutory footing.

Some progress on women maintaining family ties has been made since the Farmer Review – such as the gradual rollout of video technology - however important progress remains to be made to improve women’s ability to maintain family ties in custody. The central problem remains that the smaller number of women’s prisons means women are often held in custody far from their homes. Many women’s families, friends and children will not have the time or financial ability to travel long distances on a regular basis.

The Covid-19 pandemic has exacerbated this issue, with stricter limitations on visiting introduced to curb the spread of the virus. The MoJ failed to meet its own targets of early release of people who were pregnant or in Mother and Baby Units, releasing approximately one third (25 out of 70) of those initially deemed eligible by the Government following advice from Public Health England, before the scheme was ‘paused’ at the end of August.<sup>42</sup>

The proposed introduction of overnight stays in custody for women’s children is not an appropriate solution to this problem.<sup>43</sup> Keeping women out of custody in the first place, and developing models whereby women can leave custody for family visits, are far more appropriate methods of promoting family ties and reducing the need for children to be exposed to the prison environment.

### **What more could be done?**

- The Police, Crime and Sentencing Bill represents a vital opportunity to implement sentencing reform for mothers of dependent children. Amendments have been put forward by the Joint Committee on Human Rights as well as Women in Prison that address this important issue by giving statutory weight to the duty to consider the impact of sentencing on children, and a legal presumption against the imprisonment of primary carers and pregnant persons.

- There should be a presumption against sentences of less than six months for women, which would allow women and girls to be rehabilitated in the community where they can much more effectively maintain family relations.
- The Government must publish the delayed progress report on recommendations from the Farmer review which was due in September 2020.

### **Women in Custody**

#### **5. Since the publication of the Female Offender Strategy, what work has been done to improve conditions for those in custody?**

There has been varied progress improving the conditions for women and girls in custody. However, it appears that during the Covid-19 pandemic prison conditions have broadly deteriorated. Many women have been cut off from their families and support networks, and forced to spend almost all of their time in their cells. A report by HM Chief Inspector of Prisons published in July 2020 observed that “the suspension of visits has had a particularly acute impact in the women’s estate; many prisoners...had not seen their children for over three months.”<sup>44</sup> A subsequent report in March 2021 reflected that “women repeatedly described the debilitating impact that being locked in a cell for about 23 hours every day was having and the toll it was taking on their mental health and emotional well-being.”<sup>45</sup>

Re-traumatising practices, such as use of force, continue to be used in high numbers. In HMP & YOI Peterborough, for example, the use of force has increased and was much higher than the previous six months preceding March 2021.<sup>46</sup> This practice is used disproportionately on younger women. For the many women and girls in prison have experienced violence and abuse, restraint – often by male staff – can be extremely distressing and re-traumatising.

In terms of available support services, health, including mental health, and drug and alcohol<sup>47</sup> support services are not equal to those in the community. NHS England commissioned a survey of health care users across in the Send and Downview women’s estates and found that 68% of women said their mental health had deteriorated since 23 March and 71% said their physical health had deteriorated.<sup>48</sup> Many health services in prison were diminished in the wake of Covid-19, with much of the available support moving to telephone. For women with complex mental health conditions, this is not adequate.

#### **Woman with lived experience<sup>49</sup>**

*“I think people generally have a distorted view of what happens to women in prison. There is no mental health support. There is no rehabilitation. We literally sit there at your expense, doing nothing, getting worse.*

*“When I got out, my life was shattered, and again, I had to start rebuilding from scratch. I couldn’t function normally, I felt estranged from my life and my friends. I had been re-traumatised by the system that was meant to protect me.”*

Staff often do not have the capacity to have regular enough check-ins and develop a real understanding of an individual and her specific needs and experiences. This is

compounded by short-term sentences, which can mean women do not have time to build trusting relationships with staff.

These findings reiterate the fact that custody is unsuitable and inappropriate for women and the needs of the vast majority would be better served in the community, where they can access holistic and joined-up support.

**6. Does the female prison estate take a Whole System Approach (that considers all of the offenders needs) to those in their care? Are there any barriers in achieving a Whole System Approach to female offending?**

**10. What support is available to ensure that women are successfully resettled into the community upon release and reduce reoffending? Are there any barriers to effective resettlement, and reduced reoffending?**

Currently there is not a consistent Whole System Approach (WSA) to women and girls in the criminal justice system. The primary barrier to creating this is effective partnership working and a recognition at all parts of the system of women's distinct gendered needs and experiences. As most women and girls serve short sentences, a Whole System Approach is particularly important for resettlement support. Nearly 6/10 women leaving prison have nowhere safe to go,<sup>50</sup> and the proportion of women in employment six weeks after release from prison is three times lower than for men.<sup>51</sup> Young women leaving prison face distinct challenges relating to their gender and age. For example, women and girls under 25 are entitled to lower rates of benefits for housing support, and so many are only able to access shared accommodation which can pose issues due to the lack of space and privacy (particularly for young adult women with histories of trauma and poor mental health), as well as introducing new risks associated with living with others.<sup>52</sup>

Resettlement into the community is made much more difficult with effective partnership working between prisons and community-based organisations. During the pandemic, voluntary sector organisations reported that information on women and girls' release from prison was not shared early enough by MoJ and HMPPS for organisations to be able to arrange Through-The-Gate support for women in the community.<sup>53</sup> Research by Clinks found that during the pandemic, people being released without their basic needs being met, for example being given a mobile phone to be contactable.<sup>54</sup> This puts women at greater risk of homelessness, substance misuse, destitution and abuse by perpetrators.

Black and minoritised women also face distinct challenges in resettlement on release from prison, such as racial discrimination, stigma, isolation, cultural differences, language barriers and uncertainty about their future related to insecure immigration status and having No Recourse to Public Funds. A report by HM Inspectorate of Prisons found a third of Black and minoritised prisoners interviewed felt that their ethnicity had a significant impact on their experience of rehabilitation and release planning, but almost no staff identified this to be an issue.<sup>55</sup>

### **What more could be done?**

- To deliver a Whole System Approach, including effective resettlement support, sentencers, probation, police and prison workers must improve communications and partnership working with community-based

organisations offering Though-The-Gate support, such as women’s centres and specialist ‘by and for’ services.

- MoJ should develop, in consultation with the Advisory Board for Female Offenders (ABFO), a clear action plan to support and monitor the implementation of the remaining commitments from the Female Offenders Strategy.
- The National Concordat<sup>56</sup> represents a key opportunity for delivering effective partnerships to address the multiple and complex needs of women in contact with the criminal justice system, through which all signatories must play their role in delivering change. MoJ should report quarterly on the progress implementing the National Concordat to ABFO, to ensure more effective monitoring of progress.

## **8. What factors contribute to the high levels of self-harm in the female estate?**

## **9. Does the custodial estate offer a trauma-informed environment for females? (a trauma informed environment, being that which is about putting experience, behaviours and needs first, and creating a safer, healing environment that aims to reduce and prevent trauma and re-traumatising an individual). Could more be done? If so, what?**

The high-levels of self-harm in women and girls’ custodial estates are driven by a number of factors, and compounded by the fact that prison environments are often risky and re-traumatising, and do not provide adequate trauma-informed support for women and girls with complex needs.

Mental health problems, often a result of trauma, are far more prevalent among women and girls in custody than in the male prison population or in the general population. This in part explains why women in custody are much more likely to self-harm than men.<sup>ix</sup>

Women and girls’ poor mental health is exacerbated by the inherently traumatising environment of prisons. Within the custodial environment, daily acts associated with imprisonment can act as triggers to re-traumatisation, including restraint, being handcuffed, isolation, being searched, loud noises and the smell of disinfectant.<sup>57</sup>

### **A woman on a prison-based trauma programme<sup>58</sup>**

*“If an animal bites and keeps whining, there is something wrong with that animal. That should be translated into people: if someone who is usually in a happy mood is being destructive, moody or unhappy, it isn’t simply that this person has an attitude; something is going to be wrong. Staff who have been trained in trauma-informed approaches are recognising that now and it’s making all the difference...”*

<b>What are the factors driving high levels of self-harm and poor mental</b>	<b>What more could be done to reduce levels of self-harm and move towards</b>
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<sup>ix</sup> In the last 12 months, the rate of self-harm incidents per 1,000 prisoners increased by 13% in women’s prisons, where in men’s prisons rates decreased (by 13%). [Ministry of Justice (2021) [Safety in custody quarterly: update to December 2020](#)] This inequality is mirrored in the youth estate, where the rate of self-harm was 179.9 incidents per 100 children in custody amongst girls, compared to 17.0 for boys. [Ministry of Justice (2021) [Safety in the children and young people secure estate: update to December 2020](#)]

health?	a trauma-informed environment?
<p><b>History of trauma:</b> The majority of women and girls in the criminal justice system face extensive histories of abuse, violence and trauma, often combined with serious mental ill-health, substance misuse, poverty, and homelessness.<sup>59</sup></p>	<p><b>Routine enquiry</b> should take place within the first few days upon reception to custody to establish whether women and girls in custody have experiences of violence, abuse and trauma. Staff must be trained to make these enquiries sensitively and respond appropriately with pathways to support.</p> <p><b>Support programmes</b> for women and girls around key issues they may be facing in their lives, such as domestic abuse and trauma.<sup>x</sup></p>
<p><b>Intervention is not early enough and support is not long-term:</b> In many cases, women and girls do not receive any help until they reach crisis points. In some cases, many women who have already been in crisis in prison reported that they did not feel adequately supported.<sup>60</sup></p> <p><i>“...There are constant interruptions which is annoying. You just get started on a course then you have to stop. There is no consistency...”<sup>61</sup></i></p>	<p><b>Early interventions by prison staff</b> to prevent women and girls from reaching crisis points. There should be regular reviews and assessments of women and girls’ changing needs, and lower thresholds for mental health support.</p> <p><b>Increased staff capacity</b> to reduce caseloads and enable women and girls to have more tailored, specialist support.</p>
<p><b>Social isolation:</b> For women and girls in custody, who are disproportionately likely to have experienced violence and abuse and have complex mental health conditions, segregation and isolation can be distressing and re-traumatising. During Covid-19, women identified as needing either to medically isolate or shield were not permitted to socialise with others, exacerbating the isolation they experienced.</p>	<p><b>Trauma-informed peer support</b> in secure settings, which is proven to improve women and girls’ wellbeing - increasing social connection, feeling less lonely and isolated, feeling more able to talk about their mental health, and increased self-esteem, confidence and skills building.<sup>62</sup></p> <p><i>“...Peers being facilitators makes it better. We all share similar experiences so can relate...”<sup>63</sup></i></p> <p><b>System coordinators</b> to facilitate contact with external support, such as women’s centres and specialist ‘by and</p>

<sup>x</sup> For example, Agenda and Centre for Mental Health visited was a women’s prison attempting to apply a trauma-informed intervention. Female prisoners could voluntarily participate in a programme to help them address and cope with their past traumas, and women we spoke to who had taken part were very positive about its benefits. For more information, see: Agenda and Centre for Mental Health (2019) [A Sense of Safety: Trauma-informed approaches for women.](#)

	for' services.
<p><b>Re-traumatising practices:</b> Restraint, including face-down, is used alarmingly often on women and girls in secure settings, particularly girls.<sup>64</sup> This is an especially re-traumatising practice for women and girls who have survived abuse and sexual violence.</p> <p>Women and girls in custody are often forced to relive their trauma by having <b>re-tell their story</b> over and over again with multiple professionals.</p>	<p><b>The use of face-down restraint to be ended</b> and other forms of physical restraint used only as a last resort.<sup>xi</sup> All use of force to be recorded, including the reason it was used.</p> <p><b>Increased use of de-escalation</b> techniques to avoid any use of force by staff.</p> <p><b>Clear and safe information recording and sharing</b> about experiences of violence and abuse and related issues should be consistently implemented across the criminal justice system, to avoid the re-traumatisation of story telling.</p>
<p><b>Use of remand and recall:</b> Women, and particularly girls, are unnecessarily spending time in custody. Between 2015-19, the use of remand in custody in the women's estate has steadily increased.<sup>65</sup> Black and minoritised girls are disproportionately represented in the remand population and in Secure Training Centres.<sup>66</sup> Research by Prison Reform Trust shows that between 2015-2017, in line with changes to the probation service, the use of recall of women increased by 27%.<sup>67</sup></p>	<p><b>Investment in women's centres and gender-specialist services</b> which are proven to reduce re-offending, be cost-effective, and improve women and girls' wellbeing.<sup>68</sup></p> <p><b>Investment in integrated public services</b>, particularly welfare, education and children and adult's social care, which can prevent women and girls from being drawn into the criminal justice system in the first place.</p> <p><b>Courts to have bail information services that are proactive</b>, rather than women having to wait until prison to receive this information.</p>
<p><b>Staff are not properly trained in trauma and gender-informed responses:</b> Staff often lack understanding of self-harm and trauma, and label women and girls self-harming as 'attention-seeking' behaviour.</p>	<p><b>Trauma-informed specialist training for staff about women and girls' mental health and self-harm</b> challenging stigma and myths that exclude women and girls from getting the support they need.</p>

<sup>xi</sup> In line with the updated [Criteria for assessing the treatment of and conditions for women in prison by HM Inspectorate of Prisons](#), which notes that the use of force and restraint must only be used "when absolutely necessary and as a measure of last resort. The force or restraint used must be the minimum necessary and for the shortest possible time." The criteria also makes clear the requirement that Use of force documentation is completed promptly and the data is monitored to understand and act on emerging patterns and evidence of disproportionality for protected and minority characteristics.

<p><b>Racism and discrimination:</b> As well as racism driving Black and minoritised women and girls’ poor mental health, institutional racism can compound unequal health outcomes.<sup>xii</sup> The mental health of Black and minoritised women is often treated as a discipline and control issue in custody, rather than as something that require treatment and care.</p>	<p><b>Effective specialist training for staff on race equality</b>, to challenge unconscious biases.</p> <p><b>Prison Equalities leads should have tackling inequalities as their sole responsibility</b> so they can give equality issues full attention, rather than covering such a broad remit, including other important areas like safer custody.</p>
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### 11. What support does the female adult estate offer to girls transitioning from the youth custodial estate?

Upon turning 18, young women in contact with the criminal justice system who transition into adult services face an arbitrary cliff-edge in support, a lack of understanding and recognition of their needs, and more punitive responses to their vulnerabilities. There is little recognition of the need for a distinct age- and gender-specific approach for young women to address the - sometimes escalating - risks they face at this time in their lives. These include increased vulnerability to criminal and sexual exploitation as support from statutory services falls away, and barriers accessing effective mental health support and suitable accommodation.<sup>69</sup>

For young adult women facing additional forms of disadvantage and discrimination – including Black and minoritised young women, and young women with experience of care – this increased vulnerability to harm and likelihood of being overlooked is exacerbated.

Navigating a destabilising lack of continuity in the criminal justice system and arbitrary cliff-edges in support as many services reduce or drop-off all at once, young women in transition are at risk of ‘falling through the gaps’ as they undergo multiple transitions across a range of systems and services, without tailored support to meet their needs.

#### What more could be done?

- The MoJ to integrate an age-informed response to young adult women within the Female Offender Strategy, with cross-departmental responsibilities and long-term funding for age- and gender-specific support; and to update the National Concordat to reflect the specific needs of young adult women, highlighting vulnerabilities arising around transitions at 18.

<sup>xii</sup> Agenda and Women in Prison spoke to Black and minoritised women about their experiences in the criminal justice system. Women reported feeling discriminated against in the courts and in prison.

*–“I find here if you are black and you've got mental health issues you are going to segregation [general agreement] because you are a danger. But if you are white or you've got mental health issues you are on the wing – or you are in [in-reach mental health support service] and it's ok so when they kick off and have their little mood swings, she's got issues, it's OK...but a black person with mental health issues you go to segregation.”*

*–“For a white person it's mental health and for a black person it's classed as anger management issues.”*

For more information, please see Agenda and Women in Prison (2017) [Double Disadvantage: The experiences of Black, Asian and Minority Ethnic women in the criminal justice system.](#)

- The MoJ to amend legislation to ensure young women charged with a criminal offence allegedly committed under the age of 18 are subject to the jurisdiction of the youth court, and to youth sentencing provisions. The ‘relevant date’ should also be amended for rehabilitation periods of those who turn 18 between committing an offence and conviction, so that the corresponding date is when the offence was committed.
- Youth Offending Teams (YOTs) to have greater flexibility and funding to continue working with young women beyond the age of 18 based on individual needs, either retaining supervision of young women in their service post-18, or working closely in partnership with probation services to maintain a relationship with young women in a supportive role. YOT decisions to retain supervision of young women post-18 should be monitored and publicly reported on, disaggregated by ethnicity.
- For the full list of recommendations for improving young women’s experiences of transitions, please see Agenda and Alliance for Youth Justice (2021) [FALLING THROUGH THE GAPS Young women transitioning to the adult justice system](#).

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<sup>1</sup> Agenda (2016) [Hidden Hurt](#)

<sup>2</sup> Lankelly Chase (2020) [Gender Matters](#)

<sup>3</sup> Home Office (2007) [The Corston Report](#)

<sup>4</sup> Prison Reform Trust (2017) [There’s a reason we’re in trouble” Domestic abuse as a driver to women’s offending](#)

<sup>5</sup> Women In Prison, [Key Facts](#)

<sup>6</sup> Bateman, T. and Hazel, N. (2014) [Resettlement of girls and young women: research report](#)

<sup>7</sup> Howard League for Penal Reform (2021) [Arresting the entry of women into the criminal justice system](#)

<sup>8</sup> Agenda and Alliance for Youth Justice (2020) [Young Women’s Justice Project: Literature Review](#)

<sup>9</sup> Ministry of Justice (2012) [Prisoners’ childhood and family backgrounds](#)

<sup>10</sup> Broadhurst, K. & Mason, C. (2017) [Birth Parents and the Collateral Consequences of Court-ordered Child Removal: Towards a Comprehensive Framework](#)

<sup>11</sup> Ministry of Justice (2020) [Women in the Criminal Justice System 2019](#)

<sup>12</sup> Ministry of Justice (2021) [Women in the CJS: Local Data Tool](#)

<sup>13</sup> Ministry of Justice (2021) [Extra funding for organisations that steer women away from crime](#)

<sup>14</sup> Ministry of Justice (2020) Table 4.1: [Prison population by age group](#)

<sup>15</sup> Ministry of Justice (2021) [Extra funding for organisations that steer women away from crime](#)

<sup>16</sup> Woman’s Hour (2021) [Women on nature, Prisons Minister Alex Chalk, We Are Lady Parts, How infertility diagnoses impact relationships.](#)

<sup>17</sup> Ministry of Justice (2020) [Women in the Criminal Justice System 2019](#)

<sup>18</sup> Ministry of Justice (2020) [Women in the Criminal Justice System 2019](#)

<sup>19</sup> Agenda and Women in Prison (2017) [Double Disadvantage: The experiences of Black, Asian and Minority Ethnic women in the criminal justice system](#)

<sup>20</sup> Broadhurst, K. & Mason, C. (2017) [Birth Parents and the Collateral Consequences of Court-ordered Child Removal: Towards a Comprehensive Framework](#)

<sup>21</sup> Women’s Budget Group (2020) [The Case for Sustainable Funding for Women’s Centres](#)

<sup>22</sup> Ministry of Justice (2021) [Women in the CJS: Local Data Tool](#)

<sup>23</sup> Ministry of Justice (2020) [Table 2.5a, Offender management statistics quarterly, Prison receptions April 2019 - March 2020](#)

<sup>24</sup> Ministry of Justice (2020) [Women in the Criminal Justice System 2019](#)

<sup>25</sup> *ibid.*

<sup>26</sup> *ibid.*

<sup>27</sup> For example, see Anawim (2014), [Custody Pilot Project](#)

<sup>28</sup> Hedderman, C. and Jolliffe, D. (2015) [The Impact of Prison for Women on the Edge: Paying the Price for Wrong Decisions](#)

<sup>29</sup> Agenda (2020) [Briefing: Women and girls in contact with the criminal justice system](#)

<sup>30</sup> Goodfellow, P. (2019) [Outnumbered, locked up and over-looked? The use of penal custody for girls in England & Wales](#)

<sup>31</sup> Centre for Welfare Reform (2011) [Women at the Centre](#)

<sup>32</sup> Women’s Budget Group (2020) [The Case for Sustainable Funding for Women’s Centres](#)

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- <sup>33</sup> *ibid.*
- <sup>34</sup> *ibid.*
- <sup>35</sup> Agenda and Alliance for Youth Justice (2020) [Young Women's Justice Project: Literature Review](#)
- <sup>36</sup> Prison Reform Trust (2021) [Female Offender Strategy PRT Matrix](#)
- <sup>37</sup> One Small Thing (2020) [Hope Street Brochure](#)
- <sup>38</sup> Joint Committee on Human Rights (2021) [Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill](#)
- <sup>39</sup> Prison Reform Trust (2018) [What about me?](#)
- <sup>40</sup> Caddle, D. & Crisp, D. (1997) Imprisoned women and mothers
- <sup>41</sup> Caddle, D and Crisp, D. (1997) Mothers in Prison
- <sup>42</sup> Women in Prison (2021) Women in Prison's response to the Justice Select Committee's inquiry into women in prison
- <sup>43</sup> Ministry of Justice (2021) [Extra funding for organisations that steer women away from crime](#)
- <sup>44</sup> HM Chief Inspector of Prisons (2020) [Report on short scrutiny visits to Prisons holding women by HM Chief Inspector of Prisons](#)
- <sup>45</sup> HM Chief Inspector of Prisons (2021) [Report on a scrutiny visit to HMP & YOI Peterborough \(women\)](#)
- <sup>46</sup> HM Chief Inspector of Prisons (2021) [Report on a scrutiny visit to HMP & YOI Peterborough \(women\)](#)
- <sup>47</sup> The high proportion of women on short sentences means there is little opportunity for treatment and rehabilitation, with the government recently acknowledging there is "not enough confidence in the quality of these services"(Ministry of Justice (2020) [A Smarter Approach to Sentencing](#))
- <sup>48</sup> HM Chief Inspector of Prisons (2020) [Report on short scrutiny visits to Prisons holding women by HM Chief Inspector of Prisons](#)
- <sup>49</sup> As quote in Russell Webster (2021) [One Woman's Fight For All Women In The Criminal Justice System](#)
- <sup>50</sup> Prison Reform Trust, London Prisons Mission, Prison Reform Trust, the Church of St Martins (2020) [Safe Homes For Women Leaving Prison](#)
- <sup>51</sup> Ministry of Justice (2019) Community Performance Quarterly, update to March 2019, Offender Employment Circumstance table (April 2017 to March 2019), London: MoJ
- <sup>52</sup> Agenda and Alliance for Youth Justice (2020) [Young Women's Justice Project: Literature Review](#)
- <sup>53</sup> Agenda (2020) [Written Evidence from Agenda for the Women and Equalities Select Committee Inquiry into Coronavirus and the impact on people with protected characteristics](#)
- <sup>54</sup> Clinks (2020) [The impact of Covid-19 on the voluntary sector working in criminal justice](#)
- <sup>55</sup> HM Inspectorate of Prisons (2020) [Minority ethnic prisoners' experiences of rehabilitation and release planning](#)
- <sup>56</sup> Ministry of Justice (2020) [The Concordat on Women in or at risk of contact with the Criminal Justice System](#)
- <sup>57</sup> Agenda and Centre for Mental Health (2019) [A Sense of Safety: Trauma-informed approaches for women](#)
- <sup>58</sup> Agenda and Centre for Mental Health (2019) [A Sense of Safety: Trauma-informed approaches for women](#)
- <sup>59</sup> Ministry of Justice (2007) [The Corston Report](#)
- <sup>60</sup> HM Chief Inspector of Prisons (2021) [Report on a scrutiny visit to HMP & YOI Peterborough \(women\)](#)
- <sup>61</sup> Agenda and Centre for Mental Health (2019) [A Sense of Safety: Trauma-informed approaches for women](#)
- <sup>62</sup> Agenda and Mind (2020) [Women Side by Side programme Policy report](#)
- <sup>63</sup> Agenda and Centre for Mental Health (2019) [A Sense of Safety: Trauma-informed approaches for women](#)
- <sup>64</sup> Youth Justice Board and Ministry of Justice (2020) [Youth Justice Statistics 2018/19 – England and Wales](#)
- <sup>65</sup> Ministry of Justice (2021) [Women in the CJS: Local Data Tool](#)
- <sup>66</sup> Agenda (2021) [Falling Through the Gaps](#)
- <sup>67</sup> Prison Reform Trust (2019) [Broken Trust: The rising numbers of women recalled to prison](#)
- <sup>68</sup> Agenda (2020) [Briefing: Women and girls in contact with the criminal justice system](#)
- <sup>69</sup> Agenda and Alliance for Youth Justice (2021) [FALLING THROUGH THE GAPS Young women transitioning to the adult justice system.](#)