

The Corston Report and the government's response: The implications for women prisoners with mental health problems

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Introduction

In March 2007, Baroness Corston delivered her report on women in the criminal justice system, 'The Report by Baroness Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System' (Home Office 2007). The Review had been commissioned by the Government in 2005 in the aftermath of the deaths of six women at HMP Styal, all of which occurred within a 13-month period. Corston made 43 recommendations for changes to the current provision for women in the criminal justice system, and she concluded that:

"It is timely to bring about a radical change in the way we treat women throughout the whole of the criminal justice system and this must include not just those who offend but also those at risk of offending. This will require a radical new approach, treating women both holistically and individually – a woman-centred approach.

"I have concluded that there needs to be a fundamental re-thinking about the way in which services for this group of vulnerable women, particularly for mental health and substance misuse in the community are provided and accessed; there needs to be an extension of the network of women's community centres to support women who offend or are at risk of offending and to direct young women out of pathways that lead into crime."

In spring 2007, meanwhile, the Sainsbury Centre for Mental Health began a year-long project examining the continuity of mental health care and the resettlement needs of remand and sentenced prisoners due for release: the Continuity of Care project.

The Continuity of Care project

This major Sainsbury Centre research project aims to interview prisoners due for release, track them into the community and interview them again two weeks and six months following release. It explores the prisoners' views about continuity of care, resettlement needs and their engagement with professionals. In combination with focus groups and interviews conducted with prison staff and a range of community staff involved with released prisoners including probation and community mental health teams, the project will also present an understanding of the accessibility and flexibility of services for released prisoners. The project will be completed and the findings will be published during 2008 (for more information, see www.scmh.org.uk).

In December 2007, the Government published its response to the Corston report (Home Office 2007ii). By this time the Sainsbury Centre had interviewed 27 female prisoners in a private women's prison. Three of these women had been interviewed a second time in the

community following release with information obtained from family and community agencies about a further seven, while four are known to already be back in prison. Those interviews, and the facts set out below, inform our analysis of the Government's response to the Corston report. While the number of women involved so far in our study is small, their experiences offer an important insight into the implications of policy on the lives of the people most directly affected by it.

Women in prison

The number of women in prison has reached a record high in recent months. On October 31st 2007, the prison population stood at 81,812, of whom 4,409 were women (Ministry of Justice 2007ii). Although women represent a small proportion of the prison population, this is because they break the law far less often than men.

While women represent only 5% of the prison population, the number of women held in custody in England and Wales has risen dramatically by 65% from 2,675 in 1997 (Home Office 2000). The Ministry of Justice forecasts that the number of women in custody could rise again by more than 20% by 2014, to a total of 5,400 (Ministry of Justice 2007iii). There are currently 17 women prisons. These are categorised as closed, open or semi-open. Among these are 7 mother and baby units, and one prison serves as an intermediate custody centre.

Just over 19% of the women in prison are foreign nationals compared to about 12% in the male estate. Some 30% of women prisoners come from minority ethnic groups, in comparison to around 24% of male prisoners.

Women prisoners are more likely to be guilty of theft and fraud and less likely to be involved in crimes of violence or criminal damage than men. More than one-third of women in custody have no previous convictions, double the proportion among men.

The female prison population can be said to represent a myriad of every form of social exclusion and deprivation. Up to 80% of women in prison have diagnosable mental health problems, with 66% having symptoms of common mental health conditions (eg anxiety, poor sleeping). The comparable figure in the community is less than 20%. Proportionately more women than men kill themselves in prison – unlike in the community – and five times more self-harm. Since 2003, approximately 30% of female prisoners have self-injured each year (compared to 6% of males).

Up to 50% of women in prison report having experienced physical, emotional or sexual abuse. Around 55% of women in prison have a child under 16, 33% a child under 5 and 20% are lone parents. 18,000 children lose a mother each year because their mother has been sent to prison, and because women's prisons are few and far between, they are often held far away from their families.

Mental ill health in prison

In 2002, a government report found high levels of social exclusion and mental ill health among prisoners in England and Wales (Social Exclusion Unit 2002). The report found that many prisoners experienced a lifetime of social exclusion, and it was estimated that mental health problems affected around 70% of the prison population. As many, if not more, were found to have alcohol or drug abuse problems.

The report noted that prison may cause an offender's mental and physical health to deteriorate further, that life and thinking skills will be eroded, and that prisoners will be introduced, or have a greater access to, drugs.

In October 2007, HM Inspectorate of Prisons carried out its own thematic review of mental health in prisons. It concluded:

“Two findings stand out starkly from this report. The first is that there are still too many gaps in provision and too much unmet and sometimes unrecognised need in prisons. The second, equally important, is that the need will always remain greater than the capacity, unless mental health and community services outside prison are improved and people are appropriately directed to them: before, instead of, and after custody. Those are the two parallel tracks that must be followed if the initial gains are to be built on...”

“Unless those gaps are filled, mentally ill people will continue to fall through them, and into our overcrowded, increasingly pressurised prisons” (HMIP 2007, p. 5, 7).

In addition, on 1 January 2008, the Government announced that there had been 92 self-inflicted deaths in prisons in England and Wales in 2007: an increase from 67 in 2006. The Ministry of Justice noted that:

“The prison population hit an all-time high during 2007 and contains a high proportion of very vulnerable individuals. There are around 130,000 prisoners going through the prison system each year and on any one day prisons keep safe over 1,500 people assessed as at particular risk. Over 100 prisoners were resuscitated during 2007 after serious self-harm incidents. Many hundreds more have been helped by the care and timely interventions of staff” (Ministry of Justice 2008).

The Government's response to the Corston report

This section looks at the Government's response to the key recommendations of the report and the implications of the chosen approach for the mental health of women in the criminal justice system.

I. A distinct approach for women

Baroness Corston's report is centred on proposals for a distinct approach for women, most significantly that:

"The Government should announce within six months a clear strategy to replace existing women's prisons with suitable, geographically dispersed, small, multi-functional custodial centres within 10 years."

In reply, the Government stated that it had no plans for an overhaul of this kind in this timescale, but that:

"Further work will need to be undertaken to consider whether small custodial centres would be the most appropriate and effective way forward for women sentenced to custody. However, the Government accepts in principle the underlying intent that custodial provision in the women's estate must be configured appropriately to meet women's needs."

The Carter Review, also delivered in December 2007, (Carter of Coles, Lord, 2007) noted that:

"The Government should continue to develop a strategy that deals with the specific needs of women and suggests that in the future consideration could be given to reconfiguring some of the smaller prison sites to accommodate female offenders, allowing for a different approach appropriate to their needs."

The majority of women in prison have complex needs such as drug addiction, self-harming and mental ill health. Women prisoners often have short sentences, dependent children, and high levels of social exclusion. Women's prisons are also spread far and wide, and few women are located close to their home or family.

The need for a distinct approach for women with "suitable, geographically dispersed, small, multi-functional custodial centres" is supported by the early findings of the Sainsbury Centre's Continuity of Care project. Our research has found that a lack of support in the past had been one of the reasons that women re-offend, that there is inadequate health care provision, both in the community and in prison, for women with complex needs.

Research conducted by Oxford University in 2006 into the health of women in prison has found that:

'Were it not for certain health issues – such as drugs or mental illness – many of the women may not have ended up in prison in the first place... It became clear that for many of these women, their prior health status was directly linked to their offending. There was theft to finance chronic addiction, and offences directly linked to mental health problems. There is a challenge to improve healthcare

in prison and address some of the issues raised by the interviews with women...However, the bigger, yet largely unrecognised, challenge is addressing these women's health issues in the community, both before and after prison' (Oxford University, 2006).

However, the announcement in the Carter Review that three new 'Titan Prisons', each holding 2,500 prisoners, are to be built by 2014, suggests that the government is more interested in larger institutions, not smaller centres (Carter of Coles, Lord, 2007), although it is not yet clear as to the extent to which the Titan prisons will be used to hold female prisoners.

A recent paper on 'The Economic Case for and Against Prison', which found that rather than building and using more prisons:

'Alternative interventions could more effectively meet one of the statutory purposes of prison – to reduce re-offending – while also reducing taxpayer costs and, in the case of community-based interventions, alleviating strain on prison capacity' (Matrix Knowledge Group 2007, p. 15).

2. Minimise the use of prison for women

Corston called for the use of prison for women to be kept to a minimum, in the rare cases where the individual was judged to be a serious and dangerous offender. She called for a better and more widespread use of community sentences with less stringent breach terms, and stated that:

"Problems that lead to offending - drug addiction, unemployment, unsuitable accommodation, debt - are all far more likely to be resolved through casework, support and treatment than by being incarcerated in prison. The vast majority of women offenders are not dangerous. Because most women do not commit crime there is no deterrence value and the cost to society is enormous, not simply the cost of keeping women in prison (each prison place represents a capital investment of about £77k annually) but also the indirect cost of family disruption, damage to children and substitute care, lost employment and subsequent mental health problems. The continued use of prison for women appears to offer no advantages at huge financial and social cost."

The Government accepted this recommendation 'in principle', but stated that:

"Deciding what sentences are appropriate for women offenders is rightly entirely a matter for the courts but the Government agrees that more must be done to ensure that custody is only used for those women who really need to be there."

However, the Government has made a commitment to promote better and increased use of community sentences as an alternative to custody:

"Action to maximise the use of the community order by re-emphasising to the courts how intensive packages of requirement on a community order, together with supportive interventions and services, can be more effective in responding to women's needs and reducing re-offending."

In addition it announced that work would begin soon to promote community sentences as an alternative to prison for women offenders. On 27 December 2007, the Ministry of Justice advocated the use of community sentences as a viable alternative to prison.

It stated that:

“Over six million hours of compulsory unpaid work has been carried out by offenders who have received a community order in England and Wales this year. This is the equivalent of £33 million that has benefited local communities across the country... Community punishments are hard work, restrict liberty, but crucially encourage rehabilitation and reduce re-offending. It is physical work for the offenders but also has tremendous benefits for the community.” (Ministry of Justice 2007).

The most recent figures show that community sentences are more successful in terms of reducing reoffending than short prison sentences. Home Office evidence found that offenders who commenced a community sentence had much lower reoffending rates (51%) than those leaving prison after a sentence of twelve months or less (73%) (Home Office 2007iii).

The majority of women in prison are serving short custodial sentences, although many are in prison on remand awaiting trial or sentencing. While the average prison sentence for women is just over nine months, many are in prison for a matter of weeks, sometimes days.

The end of custody licence (ECL) introduced by the Government on 19 June 2007 meant that prisoners serving between four weeks and four years would be released on licence for the last 18 days of their sentence, which for many has significantly shortened the length of time spent in prison. Our research has found that ECL is often chaotic, and prisoners and staff are poorly informed about when prisoners were eligible for early release. Some prisoners or prison staff learned that a release is happening until the day before or even that same day, allowing little or no time for a structured and organised discharge.

Short sentences often do not allow time for resettlement or sentencing plans to be formulated and conducted, nor for detox to be completed or education programmes to commence. However, a short sentence is often enough time for women to lose their benefits, their home, and often their children, and to exacerbate the spiral of decline towards further offending and social exclusion.

The Continuity of Care project has found a great deal of evidence that many women are gaining nothing, and losing a great deal, from short prison sentences. This problem is frustrating for both prisoners and prisons given that viable, better-suited and well-structured community sentences are available (see MHTR box below).

It is also clear that unstable accommodation is a major contributor to involvement in the criminal justice system this is an important point. The Continuity of Care project found that in many cases housing support is provided, but does not reach everyone. The prison housing officer had managed to interview many of the prisoners about their accommodation needs, yet two of the women were sleeping homeless and outside following release.

Instead of a short custodial sentence, for many women a community sentence would be far more beneficial, both to the public and to them. Community sentences allow for a creative package of requirements, which can last for up to three years, to be drawn up.

Requirements can include unpaid work in the community, electronic curfews, drugs, alcohol and mental health treatment, and supervision by probation. In addition, if an offender serves a sentence of less than 12 months in custody they receive no probation support or supervision at all once they have been released (Seymour and Rutherford 2008).

3. Women held in custody on remand

Corston expressed deep concern with the number of women held in custody on remand:

“Two-thirds of the women who go to prison do so on remand and more than half of them do not go on to receive a custodial sentence, with one in five acquitted... The practice of sending a woman to prison as a ‘place of safety’ or ‘for her own good’ is appalling and must stop. Nor should sentencers use prison as a means of accessing services, such as detoxification, for women. Provision must be made more readily available in the community.”

The Government accepted that:

“More must be done to ensure that the courts only use custody for serious or violent offenders who present a risk to the public. Action will be taken to ensure that sentencers are better informed about community provision for women and how it can address their needs more effectively than custody.”

However, it only partially accepted Corston’s recommendation that women unlikely to receive a custodial sentence should not be remanded in custody. The Government replied that:

“It would not be appropriate to amend the Bail Act to the effect that custodial remands should never be used in cases where it is unlikely to lead to a custodial sentence.”

Screening for mental health problems can be particularly difficult for remand prisoners. The HM Inspectorate of Prisons thematic report into the mental health of prisoners noted that:

“It is important to note that prisoners on remand can be received into prison several times during their remand period. Because of population pressures, they may be returned after a court appearance to a different prison from the one they left, often after several hours’ delay. With the national prison population at record levels, some prisoners may have been locked out in police cells at critical times for their health and wellbeing, with variable clinical input. For those with mental health problems and drug or alcohol dependency, these disruptions make it very hard for them to achieve continuity of medical care. Many prisoners arrive late in the day, especially women and young adults who usually have longer journeys, and this puts their reception screening under particular pressure” (HMIP 2007, p. 29).

4. Change conditions for women prisoners

Another key recommendation by Corston was for immediate changes to conditions for women prisoners, such as more hygienic cells and to minimise the use of strip-searching:

“Where women are imprisoned, the conditions available to them must be clean and hygienic with improvements to sanitation arrangements addressed as a matter of urgency.”

The Government accepted this recommendation, and pledged that Gender Specific Standards would soon be introduced to include specifications that women should ‘ideally have a shower in their room’, should be able to change their bedding weekly and have access to basic toiletries.

The Continuity of Care project findings support Corston's deep concerns about the hygiene and cleanliness problems in women's prisons. Even though the evidence we collected was through interviews with women in a relatively new, private prison, many of the women we interviewed expressed very negative views of the state of the personal hygiene facilities. Concerns were also raised about levels of privacy for women, contributing to them feeling a severe loss of dignity.

5. Visible leadership and a strategic approach

Corston also called for a visible leadership and a strategic approach from government, including a parliamentarian to become a Champion for women in the criminal justice system. Other recommendations at a strategic level included:

“The immediate establishment of an Inter-Departmental Ministerial Group for women who offend or are at risk of offending to govern a new Commission and to drive forward the Commission's agenda within their individual departments.”

The Government replied that, while it agreed to this idea in principle, it would not establish a new Group or Commission, nor a parliamentary Champion for women in the criminal justice system, but that:

“The existing Inter-Ministerial Group (IMG) on Reducing Re-offending will provide governance to drive forward the Government's Response to the Corston Report. It will be responsible for issues relating to the management of, and services for, women offenders and provide oversight of progress towards delivering the commitments in the Government's Response, resolving cross-departmental issues at ministerial level where necessary.”

The Corston report's mental health recommendations

The Corston report's health recommendations focused mainly on mental illness and drug addiction, two of the biggest issues affecting women in prison. It noted that:

“Women in custody are more than five times likely to have a mental health concern than women in the general population, with 78% exhibiting some level of psychological disturbance when measured on reception into prison, compared with a figure of 15% for the general adult female population. 58% of women had used drugs daily in the six months before prison and 75% of women prisoners had taken an illicit drug in those six months. Crack cocaine, heroin, cannabis and benzodiazepines were the most widely used drugs...

“Prisons are being asked to do the impossible; the fact is that many women in prison have been failed by society including the NHS long before they arrived at the prison gates and many are simply too ill for prison to be an appropriate location for them. Prison is being used to contain those for whom there is no proper provision outside prison, or who have already been excluded from society. And of course prisons are being asked to do this on the cheap. It is also clear that mental health services in the community are failing to adequately address the mental health needs of women.”

The Continuity of Care project has found that depression among women in prison is widespread. Many prisoners described feeling depressed and anxious. A number of prisoners were prescribed anti depressants but never followed up by a GP. Those prisoners who received counselling in prison found it beneficial.

Corston's key mental health-related recommendations were:

I. All magistrates' courts, police stations, prisons and probation offices should have access to a court diversion/criminal justice liaison and diversion scheme in order to provide timely psychiatric assessment for women offenders suspected of having a mental disorder. These schemes should be integrated into mainstream services and have access to mental health care provision. Funding for the creation and maintenance of schemes should be ring-fenced.

This was partially accepted by the government. The Government replied that the forthcoming Offender Health Strategy will address court diversion schemes, and that guidance on these schemes is to be produced shortly.

An international review of diversion from the Criminal Justice System

This Sainsbury Centre research project is currently reviewing the evidence of best practice for diversion. It began a 12 month research project in October 2007, reviewing the models of diversion that are in place internationally. This will enable the identification of diversion systems that are in use in developed countries, to examine evidence of the effectiveness of those systems, and to assess the appropriateness of adapting them for use in the UK.

A literature review and a consultation, including a video conference, are being conducted, and the review will also identify gaps in the evidence base from which we will design a research and development programme.

Early findings have shown that appropriate diversion and treatment outside prison can lead to better outcomes, both in terms of improving health and reducing reoffending.

2. Sentencers must be able to access timely psychiatric court reports and fail to remand in custody/sentence if not available.

This recommendation was accepted in part by the Government, which noted that:

“A pilot agreement for timely reports and diversion schemes is currently being undertaken in two regions, and will be evaluated next year.”

In addition, Corston advised that the Department of Health (DH) at the highest level should reconfirm its commitment to implement the Women’s Mental Health Strategy and the action it signed up to in respect the Women’s Offending Reduction Programme (WORP). The Women’s Mental Health Strategy has been in place since 2002 and aims to guide mental health services to provide for the specific needs of women. These guidance documents recognised the fundamental need for a women-centred and gender-appropriate approach to mental health services, and emphasised the need for cultural and systemic change to support a ‘mainstreaming’ process (see DH 2002).

The Government accepted this recommendation, and also noted that:

“Part of the work on the Women Offenders Health...will include consideration of whether the mental health needs of women offenders could be best addressed through making more use of the Mental Health Treatment Requirements as part of a community order, or if a different approach would be more effective.”

A Sainsbury Centre paper on MHTRs, published in January 2008, noted that a key reason for the low use of MHTRs is that timely psychiatric court reports are often not readily available, and courts find that they are often expensive and difficult to commission. Non-custodial alternatives with a mental health treatment component, such as the MHTR, must be supported by commissioners and criminal justice agencies should work more closely with health and social care staff to ensure that these interventions are successful (Seymour and Rutherford 2008).

The Mental Health Treatment Requirement Project

In January 2008, the Sainsbury Centre began a 12-month research project examining the use and effectiveness of the Mental Health Treatment Requirement (MHTR). This is one of twelve requirements available to sentencers when constructing a Community Order or Suspended Sentence Order as a community-based alternative to custody. The MHTR has so far been used infrequently, with just 725 issued in 2006.

Early indications are that the use of Service Level Agreements (SLAs), as in the DH pilots, may prove a constructive way forward to increasing the use of community sentences, particularly those that include a mental health component.

3. There must be investment in rigorous training and ongoing support and supervision for all those charged with meeting the complex needs of women.

This training should include gender awareness and how community sentences can meet the needs of female offenders. It should be extended to include all staff within the criminal justice system in contact with women, particularly those who make sentencing and bail decisions.

This was accepted by the Government:

“A new training programme for all Offender Management staff is currently under development. All staff working in the criminal justice system under the Offender Management model will have consistent basic training in working with women offenders.”

The Continuity of Care project has found that there are long waiting times to see healthcare staff, and prisoners felt that the delays were unacceptable. Some prisoners were unhappy with the speed with which they began detox programmes and the lack of healthcare support when they were detoxing. Many prisoners described a positive relationship with their CARAT (counselling, assessment, referral advice, throughcare: for prisoners with drug and alcohol problems) workers. But several prisoners felt that a community-based alternative with support for drugs and mental health problems would have been far more effective than a short prison sentence with low levels of care or support.

4. The NHS should provide health care in police custody suites.

In busy areas, this will require a 24-hour presence and ideally be a registered mental health worker.

The Government accepted this recommendation in part, stating that:

“Rather than prescribe the precise level of cover and professional qualifications of staff, the Department of Health would prefer that these are commissioned depending on local need”. However, “The Department of Health has made £5 million available to provide alternative ‘places of

safety' for those who are arrested and suspected of having a mental illness... [and] is funding a pilot of a service to provide a form of in-reach to local custody suites. Guidance to be published later this year will incorporate the lessons learned."

5. The management and care of self-harming women should be led by the NHS, either in an NHS resource or shared multi-disciplinary care in prison.

The Government accepted this in part, but replied that:

"It is accepted that women in custody who self-injure is a significant and complex area and needs much more work and attention. This cannot be solely led by the NHS or the Prison Service, but has to be a true working partnership approach."

The Continuity of Care project has found that it would not necessarily be beneficial for women in prison who self-harm, or for prisoners in general, to be managed by staff solely led by NHS staff. Rather, well-resourced, multi-disciplinary teams appear to be the most effective and successful. In fact, some prisoners expressed their gratitude to prison officers for being there to provide more informal and ad hoc support, when official mental health staff were unavailable or too busy with those more severely in need. Interviews with prisoners suggested that prison officers are an important source of emotional support in prison, both in general and more specifically regarding self harm.

Conclusion

Baroness Corston made 43 recommendations in her report, nearly all of which were supported either in full or in part by the Government. These should help to improve the support women prisoners receive for mental health problems in the criminal justice system.

However, a lack of commitment to restructure the female prison estate from the large institutions that are few and far between to smaller, local, urban units providing for complex needs and vulnerable women, is a concern.

The overcrowding crisis continues to be exacerbated by far too many women being remanded in custody or given short sentences, which is rarely of benefit to anyone. Short sentences for women are often hugely disruptive and damaging, and very costly to the public compared to comparatively effective, inexpensive, and holistic community-based alternatives.

Very few women prisoners need to be in custody, but almost all of those who are in prison need a great deal of support for their highly complex, socially and financially deprived lives.

Until this support is available in the community, sentencers and the public will not have the confidence in community-based sentences available under the current legislation, which can provide the viable and successful alternatives to prison, reduce reoffending and improve the well-being, health and opportunities of these super-excluded women.

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