

December 2017



CLINKS  
RESPONSE

# Clinks submission to the Justice Committee inquiry into the prison population

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## About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of offenders and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, working in prisons and community settings, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 15,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

For more information see [www.clinks.org](http://www.clinks.org)

## About this response

Clinks welcomes this inquiry into the prison population. We have undertaken a significant amount of prison focused work recently, including:

- Clinks' response to the Prison Safety and Reform white paper <sup>1</sup>
- Clinks response to the Justice Committee inquiry on prison reform <sup>2</sup>
- Justice Committee sub-inquiry on governor empowerment and prison performance <sup>3</sup>
- Clinks response to Her Majesty's Inspectorate of Prisons public consultation on new Expectations for adult male prisons <sup>4</sup>
- Prison reform and the voluntary sector <sup>5</sup>
- The rehabilitative prison: What does 'good' look like?<sup>6</sup>
- Our submission to the Coates Review of prison education<sup>7</sup>
- Clinks' joint report with the Prison Reform Trust, The role of the voluntary and private sector in providing opportunities for rehabilitation for people on temporary release<sup>8</sup>
- The rehabilitative prison: good engagement with the voluntary sector<sup>9</sup>
- A pilot voluntary sector coordinator project, run by Clinks in three south west prisons. <sup>10</sup>

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supporting voluntary organisations that  
work with offenders and their families

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We have used extensive evidence to complete this submission, including from our active support for the voluntary sector's work with women in prison or at risk of entering custody<sup>11</sup>, intensive support for voluntary organisations working with prisoners' families<sup>12</sup>, and support for arts-based work with prisoners<sup>13</sup>. We have also drawn on the evidence gathered through our annual state of the sector survey<sup>14</sup>, which maps trends and feedback from voluntary organisations across England and Wales.

Our response focuses on the impact that the make up and size of the prison population has on safe and effectively managed prisons, with a particular emphasis on the implications for voluntary sector organisations working in prisons and their ability to deliver effective rehabilitation and resettlement services.

## Executive summary

1. For the Ministry of Justice to adequately develop an effective response to the current prison crisis there needs to be sufficient opportunity for the voluntary sector to offer their expertise in in the development of reform.
2. Our members tell us that many people end up in prison as a result of failures in other public services. They raised concerns about welfare reforms, the availability of mental health services, and difficulties finding suitable accommodation. The Ministry of Justice will need to work across government departments to find solutions.
3. The prison population at its current level provides little or no flexibility for the system to prioritise rehabilitation.
4. Our members have told us that overcrowding and staff shortages are having a negative impact on prisoner's ability to access the services they need.
5. Voluntary organisations report being unable to access prisons and prisoners, which limits their impact and puts their funding at risk. Some charitable funders may choose to disinvest in prison based work if the activities they fund cannot be delivered because of the current challenges and pressures.
6. A lack of access to rehabilitative services and purposeful activity may have a cyclical impact, leading to increased boredom and frustration which can lead to violence, self-harm and drug use, which in turn leads to further lockdown and an exacerbation of the current difficulties.
7. The Ministry of Justice needs to consider how it will ensure that the important role played by the voluntary sector is not lost. We would urge the Justice Select Committee to recommend that the sector is fully involved in the development and delivery of prison reforms.
8. The main driver for an increase in the prison population is that more people are being sentenced to custody. The Ministry of Justice should give greater consideration to how we divert people from the justice system by better addressing their needs in the community.
9. The recruitment of an additional 2500 officers is not enough to address the current challenges and there is a need for significant workforce development alongside additional officers in order to ensure that they can meet the complex needs of prisoners and support their rehabilitation.



## **What is the current and projected make up of the (sentenced and un-sentenced) prison population in England and Wales up to 2022?**

Despite falling crime rates our prison system is struggling under the pressure of an increasing population and ageing infrastructure. Clinks believes that prison has a place in the system, reserved for the most serious of crimes and the protection of the public, but the vast majority of our prison population is held for non-violent crimes.

Imprisonment represents the greatest cost in the criminal justice system. Over the last two decades there has been a significant increase in prison numbers and over the last ten years increases in use of long prison sentences. This is coupled with the use of suspended prison sentences as opposed to community sentences which can result in someone being sent to prison if conditions are breached. There is also an indication that an increase in recalls to custody after release is contributing to a rise in the prison population.

We direct the committee to the Prison Reform Trust's annual Bromley Briefings<sup>15</sup> which provides detailed information highlighting both the numbers of people in prison and the range of significant and complex needs presented by people in prison. For instance:

- With prison sentences getting longer, people are growing old behind bars. People aged 60 and over are the fastest growing age group in the prison estate. There are now nearly triple the number there were 14 years ago.
- Increasing numbers of people in prison don't know if, or when, they might be released. Indeterminate sentences account for 15% of the sentenced prison population, up from 9% in 1993.
- 20–30% of people in prison have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.
- 53% of women in prison reported experiencing emotional, physical or sexual abuse as a child, compared to 27% of men.
- 25% of women and 15% of men in prison reported symptoms indicative of psychosis.
- 36% of prisoners are estimated to have a physical or mental disability.
- Foreign National Prisoners currently make up 12% of the prison population and can be kept in prison beyond their release date under immigration powers. 427 people were still held in prison at the end of June 2016 under immigration powers, despite having completed their custodial sentence.

The money spent on prison places for these people would often be better used for services in the community which genuinely meet their needs and support rehabilitation. These include mental health services, drugs and alcohol support, quality housing and getting people a job. The best way to reduce re-offending and make communities safer is to increase the use of early intervention, prevention and alternatives to custody- getting people the right support as early as possible.



## **What has led to the current size and make up of the prison population?**

As outlined by the committee itself in the inquiry's terms of reference the increase in prison population has not been driven by a rise in crime. Instead over the past two decades we have seen harsher sentencing overall, a dramatic increase in the use of indeterminate sentences and longer determinate sentences, and a significantly more risk averse approach to decisions associated with discretionary release and recall of long term prisoners. As a result more of the people committing crime are being sent to prison, and for longer, than previously was the case.

As pointed out by the Prison Reform Trust in their representation to the autumn budget<sup>16</sup> these developments have frequently been prompted by political and public pressure often in reaction to individual cases or incidences. In response politicians have taken decisions which prioritise immediate public confidence in the system over implications for long term population growth.

There has been a 24% decrease in the number of community sentences in England and Wales over the past ten years, with much of the decline occurring since 2011.<sup>17</sup> Alongside this nearly half (47%) of all people entering prison under sentence in the year to June 2016 are serving a sentence of six months or less. This is despite the fact that short prison sentences are less effective than community sentences at reducing reoffending<sup>18</sup>. Although the use of short prison sentences remains high it has in fact declined alongside the decline in the use of community sentences although at a slower rate. During this time we have also seen an increase in the use of suspended sentences which can result in imprisonment if their conditions are not met. Research by the Centre for Justice Innovation has highlighted that the relationship between the use of community sentences and the prison population is complex and warrants further investigation<sup>19</sup>.

The use of recall has increased significantly and this is a particular driver of the women's prison population whose offending is often the result of multiple and complex needs, abusive relationships and past trauma. This restructure of the probation system has seen a sharp increase in recall rates for women. A recent Prison Reform Trust report found that the number of women recalled to custody after their release has risen by 68% in England and Wales since 2014, partially as a result of the introduction of post-custody supervision for people serving sentences shorter than 12 months<sup>20</sup>. This sharp increase requires urgent attention.

Successive governments have failed to address the over representation of black, Asian and minority ethnic (BAME) people in contact with our criminal justice system. This is despite successive reviews and reports including the Young Review into improving outcomes for young black and Muslim men published in 2014<sup>21</sup> and the National Offender Management Service (now Her Majesty's Prison and Probation Service's) conducted Race Review<sup>22</sup> in 2008 in follow up to the recommendations of the Commission for Race Equality that responded to the murder of Zahid Mubarek by his cellmate in 2000.



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Most recently David Lammy's review<sup>23</sup> into the treatment of and outcomes for black and minority ethnic people in the criminal justice system highlights the significant effect of disproportionality. If the proportion of prisoners from BAME backgrounds reflected that of the general population there would be 9000 fewer prisoners – the equivalent of 12 average sized prisons. In addition to this Foreign National Prisoners who currently make up 12% of the prison population can be kept in prison beyond their release date under immigration powers. 427 people were still held in prison at the end of June 2016 under immigration powers, despite having completed their custodial sentence<sup>24</sup>.

In the youth estate the success of the Youth Justice Board's strategy to reduce the number of young people has been a success. However it has not sufficiently reduced the number of BAME children entering the system and as a result disproportionality has increased. Clinks suggest that a specific strategy is required in both the adult and children's systems to address disproportionate numbers and unequal outcomes for BAME people. Clinks have published a briefing on the Lammy review's recommendations and how we think Ministry of Justice should take these forward<sup>25</sup>.

Research by the Howard League<sup>26</sup> has found that children in care are criminalised at much higher rates than other children. Given that 24% of men and 31% of women in prison have spent time in care<sup>27</sup> addressing this over criminalisation may go some way towards reducing the pipeline of people into the prison system.

Many people in the prison system are vulnerable individuals with a range of complex needs. Clinks' state of the sector report<sup>28</sup> highlights the negative impact of recent welfare reform, which many organisations gave as a reason for what they saw as an increase in the complexity and urgency of support needs amongst their client group. These reforms, and the retraction of public services in other areas, was seen to be pushing more people into crisis. This trend, combined with a greater tendency to send people to prison, could also be having an impact on the prison population.

### **What is the Ministry of Justice's existing strategy for managing safely and effectively the prison population?**

There have been indications over the last few governments that there is a desire to reform and improve our prison estate. Responding in large part to rising levels of disturbances, violence, suicides, self-harm, and complexities caused by the introduction of New Psychoactive Substances (formerly known as legal highs).

We welcomed the former prime minister, David Cameron's, speech of February 2016, in which he presented a radical new vision to make prisons "places of positivity and reform ... places of care, not just punishment; where the environment is one conducive to rehabilitation and mending lives." <sup>29</sup>

This was followed in September and October 2016 by an unexpected and sharp increase in the prison population and serious prison disturbances. In



response the Prison Safety and Reform white paper<sup>30</sup>, published in November 2016, rightly recognised that safety is of critical importance, not only for the wellbeing of staff and prisoners, but also to maintain a productive atmosphere of order and purposeful normality. Safety is a key issue for all who work in or visit prisons, including voluntary sector staff and volunteers, family members, health and education workers, probation officers and many others. All of these can only function well and effectively in a safe and calm environment.

The White Paper also outlined the beginning of a significant prison reform programme with plans to develop ten new strategies in relation to controlled substances within prison, women, mental health, education, employment, radicalism and extremism, staff corruption, staff capability, resourcing and the building of new prisons. Despite the Prison and Courts Bill falling at the dissolution of parliament prior to the 2017 general election, the Secretary of State for Justice, David Lidington, has said that work continues to progress the reforms outlined in the white paper<sup>31</sup>.

The Ministry of Justice has engaged with the voluntary sector via the Advisory Board for female offenders in the ongoing development of the women's strategy. However it is important to note that despite ongoing feedback from the sector that the most effective way to address women's offending is via a properly resourced community based strategy, the Ministry of Justice has stated its intention to build further women's prisons.

On other strategies there has been far less dialogue, or open consultation. For the Ministry of Justice to adequately develop an effective response the current prison crisis and to be held accountable in doing so there needs to be a greater level of transparency and inclusivity to provide sufficient opportunity for the voluntary sector to offer their expertise in the development of these strategies. Structures such as the Reducing Reoffending Third Sector Advisory group<sup>32</sup>, for which Clinks provides the secretariat, could be utilised to work with the Ministry of Justice and Her Majesty's Prison and Probation Service's to identify priorities and agree an appropriate engagement, involvement and consultation timetable for the voluntary sector.

In addition to the ten strategies outlined by the white paper, we require an over arching vision for how the criminal justice system as a whole can support individuals to change their lives. The white paper's focus on decentralisation and increased partnership working between prison governors and other local services, working towards a whole systems approach across the local criminal justice infrastructure is welcome. However it is very operational in nature and lacks an underpinning philosophy and approach that will support and enable reform. The word 'rehabilitation' is used very sparingly, and 'desistance' only twice in the prison reform white paper.

David Lidington has expressed desire to see the prison population<sup>33</sup> reduced but action to achieve this must now follow and a focus upon reducing reoffending is clearly not enough, given that that isn't what is driving the growing population. This could be achieved through a reform strategy that recognises



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the opportunity to link prison reform with a review of sentencing alongside the development of cross-governmental strategies to strengthen community services and support the increased use and effectiveness of non-custodial sentences.

### **What are the implications of the likely rise in the population for the resources required to manage prisons safely and effectively?**

The voluntary sector has a long history of working in prisons and delivering a wide and diverse range of services to prisoners and their families. These include running visitors' centres, delivering arts activities, providing confidential emotional support or mental health services, supporting prisoners with drug and alcohol issues, providing educational activities, and preparing people for release with support to find employment or accommodation.

The current prison population, overcrowding and related issues of increased violence, drug use and the movement of prisoners around the estate presents significant challenges for these organisations and the delivery of their services including:

- Increased and more complex prisoner needs
- Access to services
- Coordination of services

#### **Increased and more complex service user need**

As well as a greater number of people in the prison system, many of those are vulnerable individuals. Clinks' state of the sector survey told us that many voluntary organisations think the needs of their service users are becoming more complex and more immediate.<sup>34</sup> One of the reasons they highlight for this is changes to the welfare system, with one survey respondent stating, "Each time the benefit system changes – our service users' needs become more complex as we need to help them fit into a system not designed for them". Our members have said that changes to benefit entitlement have caused some people to have incredibly high levels of anxiety due to medical assessments, and others are struggling to keep out of poverty and maintain stable accommodation. The effect of these changes combined with a greater tendency to send people to prison may mean that many people are ending up in prison as a result of the failure of other public services to meet their needs.

Overcrowding means that people are held in prisons significant distances from their homes with serious implications for maintaining family ties. This can increase their vulnerability and have a negative impact on their desistance from crime. The prison population at its current level provides little or no flexibility for the system to prioritise rehabilitation and instead decisions are often made based purely on security and capacity considerations.





## Access to services

Our members have told us that overcrowding and staff shortages are having a substantial impact on prisoners being able to access the services they need due to:

- prisons being on lock down and activities and interventions therefore not being able to take place

***“We have seen prisoners struggle in prison, and the impact of lockdowns has meant we can’t always deliver sessions.”***

- staff shortages meaning that staff are not available to unlock prisoners and bring them to the places in the prison where activities are being held

***“We are struggling to work in prisons due to frequent lockdowns or staff not being able to unlock prisoners. It’s very difficult”***

Voluntary sector organisations are often funded to deliver their services by funders outside of the criminal justice system. Their funding agreements will often include targets, such as the number of sessions delivered or the number of participants. Paid staff are unable to deliver services, or can only do so in limited ways, and other organisations will struggle to keep eager volunteers engaged and motivated. Being unable to access prisons and prisoners puts the funding of individual services and organisations at risk. There is also a possibility that some charitable funders may choose to disinvest in prison based work if funded activities cannot be delivered because of the current challenges and pressures. This risks the loss of significant expertise, good will, added value and investment in our criminal justice services.

## Coordination of services

The current pressures on the system also have implications for how services are coordinated within and across the prisons. HM Inspectorate of Prison and Probation have both raised concerns regarding through the gate services and our members have told us that it is increasingly difficult to ensure services are joined up and appropriately sequenced because there is no one within the prison with an adequate overview of all the available interventions and services. This lack of access to rehabilitative interventions and services and purposeful activity has a cyclical impact, leading to increased boredom and frustration which can in turn lead to violence, self-harm and drug use, which in turn leads to further lockdown and an exacerbation of the issue.

Despite these challenges the voluntary sector is showing characteristic resilience and innovation in response to these challenges. For instance many organisations are adapting their interventions and activities so that individuals can undertake them in cell.

***“Because there is more time spent in cell we need to adapt our messages to encourage working in cell rather than art rooms”***

While such innovative responses to the current challenges may mitigate some of the immediate issues they do not tackle the root cause, nor is it the voluntary sectors responsibility alone to do so. The Ministry of Justice





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needs to consider, as part of its prison reform strategy, how it will ensure that the important role played by the voluntary sector to meet the needs of prisoners is not lost. The voluntary sector was not mentioned once in the Prison Reform white paper, so we would urge the Justice Select Committee to recommend that the sector is fully involved as reforms progress.

Clinks' 'voluntary sector coordinator' project provides a potential model for greater involvement of the voluntary sector at a local level. Clinks worked with three prisons in the South West<sup>35</sup> to provide single points of contact for the sector and a model of coordination (based on the Clinks guide: The Rehabilitative Prison – Good engagement with the voluntary sector<sup>36</sup>) to support better operational and strategic engagement in a specific prison. The project has shown that a small investment in this kind of joined up partnership working can have a significant impact. It has proven to be a successful vehicle for delivering outcomes for the key stakeholders, including:

- raised awareness amongst prisoners of available support and access routes
- identification of gaps in services and sourcing organisations to fill them including for diverse groups of prisoners
- improved skills in safer custody for voluntary sector staff and volunteers working in prisons.

### **What impact does reducing reoffending by existing prisoners and those under the supervision of probation services have on the size and make up of the prison population?**

Our response to the committee's inquiry into Transforming Rehabilitation raises a number of concerns regarding the delivery of probation services and their connectivity with the prison estate and the adequate provision of rehabilitative services.

The reoffending rate has remained more or less stable, although stubbornly high, for the last ten years, while numbers in prison has risen. Therefore the main driver for an increase in the prison population is that more people are being given prison sentences.

Increased recall as a result of the changes in probation services, as outlined above does appear to have some impact as does the over representation of certain groups.

As we have outlined there is a need for the Ministry of Justice to give greater consideration to how we better address the needs of people entering the criminal justice system in order to divert people from custody.



## **What is Her Majesty's Prison and Probation Service's current capacity to manage safely and effectively the prison population?**

The Ministry of Justice is in the process of recruiting an additional 2,500 prison officers but this alone has limitations in its ability to address the safety concerns precipitated by the overcrowding and staff shortages in our prisons. As stated by Michael Spurr when giving evidence to the committee on 29 November 2016<sup>37</sup> Her Majesty's Prison and Probation Service would need to recruit 8,000 prison officers over the next two years in order to achieve a net gain of 2,500 officers.

There is a need for significant workforce development within the prison service. Recruitment of new staff does not address the skills and expertise lost along with experienced staff or the need for additional training to meet the complex needs of the prison population. As outlined in the Clinks publication 'The rehabilitative prison: what does good look like?', there is not just a need for more officers but for officers who have the time, capacity and appropriate skills to develop meaningful relationships with prisoners which supports their rehabilitation and for this to be seen as a key part of the role. As part of this and as outlined in the Young Review and echoed by the Lammy Review officers require training that addresses perceived and actual concerns regarding cultural competence.

Finally, as stated throughout this response the voluntary sector makes a significant contribution in supporting prisons to fulfil their rehabilitative functions and thus effectively manage the prison population. However the current operational challenges to working in prisons makes this increasingly difficult. We urge the committee to recommend that The Ministry of Justice must consider the work of the voluntary sector in its prison reform programme and draw on the sector's knowledge and expertise in taking this forward.



# CLINKS

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## End notes

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