

June 2016



CLINKS
RESPONSE

Clinks submission to the review of black, Asian and minority ethnic (BAME) representation in the Criminal Justice System

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working with offenders and their families. 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 voluntary sector members including the sector's largest providers as well as its smallest, and our wider national network reaches 4,000 voluntary sector contacts. We also manage the National Alliance for Arts in Criminal Justice, which is a coalition of 700 members who work across art forms in a range of custodial settings. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we are in contact with over 10,000 individuals and agencies with an interest in the Criminal Justice System (CJS) and the role of the voluntary sector in the resettlement and rehabilitation of offenders.

About this submission

Since April 2016 Clinks has been working with a number of national and local voluntary sector partners concerned with achieving positive outcomes for black, Asian and minority ethnic (BAME) people in the CJS to formulate this submission to the Lammy Review, not only in response to the questions posed by the formal consultation, but also to address the broader themes encompassed by the review. During June 2016, two events were held in London and Manchester to consult with voluntary sector organisations and their services users. These were facilitated by Clinks in partnership with Partners of Prisoners. In total 47 individuals participated in our consultation process, representing 20 organisations that reflected the diversity of the sector in terms of organisational size, location and remit. In addition to this, we consulted with staff from a number of statutory bodies such as local authorities, Community Rehabilitation Companies (CRCs) and the National Probation Service (NPS). Clinks would like to thank all our partner organisations, the event participants, and especially those with lived experience of the Criminal Justice System, for contributing the views that have shaped this submission.

Clinks jointly supported the Young Review alongside the Black Training and Enterprise Group (BTEG). Set up in 2013 and chaired by Baroness Lola Young of Hornsey this independent review investigated how outcomes could be improved for young black

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and Muslim men in the CJS. The review convened a task group comprising ex-offenders and representatives from the voluntary, statutory, private and academic sectors to advise and help shape recommendations for change. The Young Review report was published in December 2014, outlining how outcomes for young black and Muslim men in the CJS could be improved.¹ The Ministry of Justice (MoJ) and the National Offender Management Service (NOMS) accepted the recommendations in full. Clinks continues to support the Young Review and sit as a member of its Independent Advisory Group and its smaller internal steering group. Alongside this response we fully endorse the submission made by the Young Review team.

In 2008, Clinks and several organisations formed the Race for Justice Coalition to challenge the increasing overrepresentation of BAME men, women and young people in the CJS through building a sustainable coalition of voluntary sector organisations that support BAME people in the CJS. Race for Justice held three regional seminars and conducted some in-depth interviews with organisations, culminating in a report on ethnic minorities and the CJS. The report proposes a number of recommendations to support the BAME voluntary sector and local communities to help create a more equitable CJS.

Due to the focus of the work of our members, this response will look at prisons, resettlement and the youth justice system. It should be mentioned, however, that those we consulted with felt strongly that racial bias in other aspects of the system must be robustly addressed – most notably policing – if disproportionality is to end.

While there are clear disparities overall between outcomes for BAME and non-BAME people in contact with the CJS and in wider society, the term encompasses a huge range of diversity. The groups included in this term include ethnicities ranging from those with Black African and Caribbean heritage, those with a mixed ethnicity, foreign nationals, Travellers and Gypsies, to name just a few. Each of these groups and the individuals within them face specific and complex issues which need close attention, if disproportionality and discrimination in the CJS are to be addressed. For the purposes of this response, we use the term BAME to refer to all individuals identifying with ethnicities other than those encompassed in White British, highlighting the distinct experiences of different BAME groups where possible.

We have grouped the questions of the call for evidence into six sections to avoid repetition and ensure that the response provides clear answers to the questions posed by the review team. In order to provide a practical approach to addressing racial bias and inequality within the CJS, we have included examples of best practice throughout the response.

Summary of key recommendations

Developing and implementing an action plan for BAME equality in the CJS

- The MoJ and NOMS should work in partnership with the Home Office to develop a set of minimum standards and underlying principles in relation to BAME equality to be applied at all levels of the CJS. These should seek to take an active approach to racial bias and disproportionality and should be informed by the meaningful engagement of BAME voluntary sector organisations.
- The MoJ should develop an action plan to tackle racial bias and disproportionality in the CJS. This plan should be publicly available and should include information about strategic aims, measures to be put in place at each level of the CJS, and how the changes will be funded. The plan should commit to the meaningful engagement of the voluntary sector at both strategic and delivery level, paying particular attention to the need to work closely with small, local organisations with in-depth knowledge of BAME communities.
- The implementation of the Lammy Review's recommendations should be overseen by an independent advisory board, learning from the positive experience of the Young Review, which brings together key public, private, voluntary and academic representation. It should also provide structured and regular involvement of people with lived experience of the justice system.

Effective engagement and partnership with the voluntary sector

- We reiterate the recommendation made in our response to the Taylor Review for the government to reinvest in partnership work with the voluntary sector, to provide effective, joined up provision for children and young people in the community.
- Clinks supports the Young Review's recommendation that 'the emphasis should be on dedicated resources for community engagement and partnership working models, rather than commissioning.'
- The MoJ and NOMS, prisons, CRCs and the NPS should seek to develop strong and effective partnerships with voluntary sector organisations embedded in and representative of BAME communities.
- The MoJ and commissioners within the CJS should seek to develop meaningful engagement of the BAME voluntary sector at both a strategic and delivery level in order to ensure that commissioning structures are accessible to BAME voluntary sector organisations.
- The MoJ should work in partnership with Clinks in order to develop and deliver a capacity-building programme for BAME voluntary sector organisations working in the CJS.

Improving services for BAME people in the CJS

- The MoJ and individual prisons should consider developing communications tools to help reverse the isolation experienced by foreign national prisoners due to language barriers.
- Prison governors should take account of the specific population of their prison in order to ensure that services address the needs of distinct groups within it.



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- Recognising the importance of employment opportunities, Clinks supports the Young Review's recommendation that 'there should be a concerted effort to establish partnership with employers across all sectors to set up employment schemes for ex-offenders.' Furthermore, we emphasise the need for any employment scheme to be sensitive to and respond to the distinct needs of BAME people.
- The MoJ and individual prisons should explore ways to provide a more welcoming and less intimidating environment for those visiting family members in prison, with particular attention to the impact of security arrangements on the experiences of BAME families.
- All foreign nationals should be given equal access to support to resettle in the community and engage in the desistance process. Additional desistance needs such as immigration and employability support must be addressed to avoid disproportionality in reoffending rates.
- As previously recommended by Clinks and a number of women's organisations, the CJS should take a distinct, gender-specific approach to women, based on their unique needs and experiences. Participants felt that this approach must not only be anti-racist and rehabilitative, but also trauma-informed, seeking to acknowledge and respond to the high levels of trauma experienced by BAME women in prison.

Involving service users

- Clinks supports the Young Review's recommendation that 'individuals who understand the lived experience of young black and/or Muslim male offenders should play an integral part in the planning and delivery of programmes and interventions to support desistance.' This recommendation is also applicable to other BAME communities in prison.
- Clinks supports the NOMS Race Review (2008) recommendations for the increased consultation and involvement of prisoners and also highlights the role of prisoner race representatives in improving conditions for BAME prisoners.

Staff training and recruitment

- We reiterate the recommendation we made in our response to the Taylor Review that there is additional training for police and practitioners in the youth justice system to counteract institutional racism and stereotyping. It is crucial that the review team engages with the Taylor Review, and Clinks encourages them to do so.
- Clinks supports the Young Review's recommendation that 'training for prison officers should be reviewed so that the perceived and actual problems associated with cultural competence of staff are overcome.'
- Clinks reiterates the recommendation we made in the report 'Double Trouble' (2010) that cultural sensitivity training for all staff is crucial for the effective delivery of resettlement services that are relevant and accessible to BAME offenders.
- Clinks supports the Young Review's recommendation that independent providers under Transforming Rehabilitation examine the diversity of their staff and supply chain, and evaluate how their own policies reflect previous learning.
- There should be active recruitment of BAME people to all levels of the CJS.
- There should be active recruitment of people with lived experience of the CJS to all positions in the CJS.



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Improving data collection, monitoring and accountability

- The MoJ should develop national standards on the monitoring and publishing of outcomes for BAME people at all levels of the CJS.
- Clinks therefore supports a recommendation made by the Young Review that a standardised approach to data collection and monitoring should be developed by the MoJ, which should be utilised across the CJS.
- The MoJ should explore options for rigorous independent monitoring of decision-making throughout the CJS, and provide clear guidelines for how individuals and institutions found to be discriminating against BAME people will be held to account. The MoJ should also consider how voluntary and community organisations can be more involved in holding the CJS account to BAME communities.
- Impact assessments for all reforms to the CJS should be conducted and made publicly available. In addition to this, Clinks reiterates the recommendation made by the Young Review that NOMS publishes its Equality Strategy in order to a) provide transparency for all stakeholders and b) form the basis for action, to include a stringent overhaul of the approach to services for young black and/or Muslim men in the CJS.

Working with other review teams

- We encourage the Lammy Review team to engage with the Coates Review team as the recommendations are implemented to ensure that the needs of Gypsy, Traveller and Roma people are met.
- The Lammy Review should work closely with the Taylor Review team to ensure that the extreme disproportionality in youth custody is robustly addressed and that the needs of BAME children, who currently make up 44% of children in custody in England and Wales, are met.
- The Lammy Review should encourage the Home Office to lead a review into racial disproportionality in policing, or extend its terms of reference to include policing.

Lammy Review consultation questions

Below Clinks has answered questions posed by the Lammy review; where possible these have been grouped together to avoid duplication.

Review question: Is there anything else that you regard as important to the overrepresentation of BAME groups in the CJS that has not been covered in your answers so far? (Whenever possible please provide evidence, including links to publicly available content).

Recognising and tackling BAME inequality

BAME people are overrepresented at every stage of the CJS. They are more likely to be stopped by police, more likely to be arrested, less likely to be given a caution, less likely to get bail, more likely to be remanded to custody, more likely to be sentenced to prison and to receive a long sentence. Outcomes for BAME people after release from prison are less positive than those of non-BAME people, with BAME people more likely to be found to have breached the conditions of their licence or convicted of reoffending.

This disproportionality is caused in part by the multiple and cumulative disadvantage BAME people face throughout wider society. Poverty is up to twice as likely for those from BAME backgrounds as it is for white people, with poverty rates in 2014 at 34% for those from black backgrounds, and 37% for those from Asian backgrounds (compared to 19% for white people). BAME households are three times more likely than white households to become homeless², and those from BAME backgrounds (particularly black and Bangladeshi people) have the highest unemployment rates³.

Participants in our consultation events emphasised that fully addressing the causes of disproportionality in the CJS would need to start in the community, with a commitment to providing good quality services and positive opportunities to address the disadvantage faced by BAME people. While routes out of poverty, affordable housing, access to good schools, access to community services, and meaningful employment opportunities were all identified by participants as key needs in BAME communities, cuts to services and changes in tax and social security policies were seen to be deepening inequality in this area and preventing positive development. Research demonstrates that BAME households have experienced a larger than average decrease in household income due to recent changes in tax and social security policies⁴; at the same time, cuts to local authority funding and statutory services, and an increasingly pressurised economic climate for small voluntary sector organisations, have reduced the support available to BAME people in the community⁵.

Placing BAME equality at the heart of the Criminal Justice System

Participants strongly welcomed the government's focus on racial bias and disproportionality in the CJS and the opportunity to contribute to the Lammy Review. It was thought that the announcement of the review went some way to acknowledging the extent of this problem.

All participants in our consultation felt very strongly that the government must publicly recognise the existence of racism and discrimination in the CJS, and the impact this has on BAME communities. There was also a sense of disappointment and frustration at the lack of government action on racism and disproportionality in the CJS, despite the existence of extensive research, advocacy, campaigning and recommendations on the issue. Participants

emphasised that the publication of a report without an accompanying action plan to address the issue would further entrench feelings of distrust in BAME communities towards the CJS, and damage the potential for future progress in this area.

Due to the extent of disadvantage experienced by BAME communities and the widespread experience of overt and covert discrimination against BAME people throughout society, participants felt that a long-term, cross-governmental strategy which placed BAME equality at the heart of the CJS was needed to address the issues both within and outside of the CJS causing and contributing to racial bias and disproportionality. This strategy would need to outline the aims of the government, the principles underlying these, and a step-by-step approach to achieving them. As evidenced by research with BAME ex-offenders, it is vital that the approach taken is not just one which seeks to treat each person uniformly, but is anti-racist⁶ and culturally sensitive. An anti-racist approach would seek to actively counteract institutional racism and unconscious bias, and recognise and respond to the multiple and cumulative disadvantages faced by BAME people in wider society.

Participants stressed that the development and delivery of this strategy must be done in partnership with BAME communities, through the meaningful and sustained engagement of BAME voluntary sector organisations. Utilising the extensive expertise of voluntary organisations that work with and are representative of BAME communities will ensure that the needs of BAME people in contact with the CJS are thoroughly understood and that methods developed in response to these needs are evidence-based and effectively delivered.

It is also crucial to recognise that there has been extensive independent research at all levels of the CJS into the causes of racial bias and disproportionality. A number of governmental, departmental and independent reviews have also been conducted into the area; most notably, the Macpherson Inquiry, the Mubarek Inquiry, the NOMS Race Review and the Young Review. These have produced a range of recommendations for improvements throughout the CJS. This existing evidence should be utilised by the review team when developing recommendations.

Recommendations

- The Ministry of Justice and National Offender Management Service should work in partnership with the Home Office to develop a set of minimum standards and underlying principles in relation to BAME equality to be applied at all levels of the CJS. These should seek to take an active approach to racial bias and disproportionality and should be informed by the meaningful engagement of BAME voluntary sector organisations.
- The Ministry of Justice should develop an action plan to tackle racial bias and disproportionality in the CJS. This plan should be publicly available and should include information about strategic aims, measures to be put in place at each level of the CJS, and how the changes will be funded. The plan should commit to the meaningful engagement of the voluntary sector at both strategic and delivery level, paying particular attention to the need to work closely with small, local organisations with in-depth knowledge of BAME communities.
- The implementation of the Lammy Review's recommendations should be overseen by an independent advisory board, learning from the positive experience of the Young Review, which brings together key public, private, voluntary and academic representation. It should also provide structured and regular involvement of people with lived experience of the justice system.

- The Lammy Review should encourage policy-makers and commissioners to ensure that spending cuts do not disproportionately impact BAME offenders and other marginalised groups within the population in contact with the CJS.

Review question: According to official figures, young people from BAME backgrounds are more likely than average to be prosecuted. In your view, why is this?

Review question: What action, if any, do you believe should be taken in response to these higher prosecution rates?

In addition to providing our responses to the review questions on BAME overrepresentation in the CJS, we also endorse the submission made by the Transition to Adulthood Alliance, regarding 18 – 25 year olds.

Schools

The labelling of BAME young people in schools, particularly those from poorer areas, was highlighted as a significant issue in our consultation events. Participants gave instances of teachers taking a more disciplinary approach to BAME children, and unfairly placing BAME children in lower sets or entering them on lower exam tiers. As outlined in the Young Review, 'according to a report published by the Department for Education, black Caribbean pupils were nearly four times as likely to receive a permanent exclusion than the school population as a whole and were twice as likely to receive a fixed period of exclusion.' There is evidence to suggest that these experiences are one potential driver in these young people having contact with the CJS⁷.

Looked after children

BAME children are overrepresented in the care system⁸, a key pathway into the CJS. Lord Laming, in his recent review of the involvement of children in care in the CJS which was established by the Prison Reform Trust, found that looked after children are often criminalised through unnecessary contact with the police and a lack of appropriate support for their needs. BAME children in particular felt negatively stereotyped by the police and said that their cultural needs were not met by the care system. The report makes a number of recommendations, which we refer the review team to. These aim to ensure that the 'needs and characteristics of looked after children in minority groups are taken into account in protecting them from criminalisation.'

Prevention and diversion

All participants felt that resources should be concentrated in diversion for BAME children, to prevent involvement with the CJS. Although the number of young people in the Youth Justice System (YJS) has been falling, recent statistics published by the Youth Justice Board show that there remains significantly high numbers of young people from BAME communities, 20%, in the YJS.⁹

It is clear that BAME children are not accessing diversional opportunities at the same rate as non-BAME children. As the Clinks response to the Taylor Review suggests, 'BAME children are often excluded from diversionary opportunities such as referral orders and restorative approaches because they are misperceived as already being 'unmanageable' and beyond the reach of such initiatives, resulting in their rapid escalation through the youth justice system.'¹⁰ **We reiterate**



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the recommendation we made in our response to the Taylor Review that there is additional training for police and practitioners in the youth justice system to counteract institutional racism and stereotyping. It is crucial that the review team engages with the Taylor Review, and Clinks encourages them to do so.

As well as being a key barrier to BAME access to diversion in the CJS, policing was felt to be a significant factor pulling young people into the system. Participants stated that police targeted areas with high proportions of BAME residents and labelled young people from these areas as trouble makers at an early age. This led to more arrests for minor incidents in these areas, impacting BAME children's self-esteem and trust in authority figures; young people with experience of the CJS who were consulted for the Clinks response to the Taylor Review reported experiences of poor treatment and racial abuse from police officers. Some voluntary sector organisations suggested that police stereotyping also interfered with their work, with one organisation having been put under pressure from police to stop running positive activities for young people due to their beneficiaries being seen leaving the building in large groups at the end of the sessions.

Police use of gang labels in particular was seen to prevent opportunities for prevention and diversion for BAME young people. While participants acknowledged that gang violence was a problem in some areas, police were seen to label BAME young people as gang-affiliated without evidence, often subjecting them to further scrutiny and restrictions in movement and association, which therefore makes them more likely to have contact with the CJS. This is supported by research carried out by Manchester University⁴¹ which found huge disproportionality in police gang databases, with up to 89% of those listed being from BAME backgrounds, despite a significant proportion of these having no previous or recent convictions. The report highlights the impact of being labelled as gang-affiliated:

'[T]he stigmatic effect of the gang label, the inflation of risk and the imposition of punitive court disposals (disproportionate sentences and incapacitation strategies) can have a profound impact in curtailing the life opportunities and chances for many young BAME people...[T]he attribution of the label gang has significant implications for those who are so defined, not least in the new EGYV strategy (HM Government 2011) that recommends the doubling of sentences for proven gang members, for instance.'

This was echoed by participants, who suggested that young people were drawn into the CJS at a young age through being labelled as gang-affiliated, with one service user participant noting that, 'it's very hard to get off a gangs list once you're on it.'

Participants also felt that a decline in community services was having a severe impact on the ability of BAME communities to support individuals within it, particularly young people. They suggested that the lack of public space such as parks and community centres prevented the community from intervening in family or individual problems, putting extra pressure on already stretched statutory and voluntary services. As the Clinks response to the Taylor Review stresses, the most effective form of prevention and diversion from the CJS is holistic multi-agency support, providing positive opportunities for young people in a variety of community settings. **We reiterate the recommendation made in our response to the Taylor Review for government to reinvest in partnership work with the voluntary sector, to provide effective, joined up provision for children and young people in the community.**



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Good practice in this area is demonstrated by the Hideaway Youth Project provides prevention and diversion in Moss Side in Manchester, an area with a high proportion of low income and BAME families. The project provides a range of activities such as sports, arts and life skills, alongside support for issues such as substance misuse and sexual exploitation. It also provides practical and emotional support to children and young people at risk of involvement in the CJS. Hideaway aims to give young people a voice and supports them to volunteer in their local community.

Maslaha's All We Are project also works in the community to address the root causes of offending, specifically engaging young Muslim men from disadvantaged communities. The project is multi-layered, not only addressing the skills and behaviour of its beneficiaries but crucially working with service providers, statutory bodies and public bodies to explore failures to provide services appropriate to young people of all backgrounds. The project aims to influence policy and media narratives as well as the young people it works with¹².

Review question: BAME prisoners report a worse experience of prison than white prisoners. For example, BAME prisoners are less likely to report feeling safe in prison and more likely to report victimisation by staff. In your view, why is this?

Review question: What action, if any, do you believe should be taken in response to these differences in experience of prison across ethnic groups?

Review question: BAME and Muslim young offenders report more negative perceptions of their relationships with prison staff than white male young offenders. This includes a higher proportion reporting having been victimised by staff or restrained. In your view, what explains this?

Review question: What action, if any, do you believe should be taken in response to these reports from BAME and Muslim young offenders?

Review question: Adjudication for breaches of prison discipline is higher for mixed and black offenders than white and Asian offenders. In your view, why is this?

Staff training and recruitment

Prison staff attitudes and behaviour were raised as key issues, both in the literature on BAME experiences of prison and by Clinks' consultation participants. The Young Review found that prison staff regularly display negative attitudes towards BAME prisoners, based on stereotyped views of certain ethnicities. Young black men, for example, reported staff assumptions that they are part of a gang or dealing drugs, while Muslim prisoners report being suspected of terrorism and Islamic extremism.

This stereotyping and suspicion of BAME prisoners can lead prison officers to automatically treat BAME prisoners as problematic and as risks to security, playing a key part in the disproportionate levels of disciplinary action carried out against BAME prisoners. The Young Review found that BAME prisoners were more likely than white prisoners to be found guilty in prison adjudications and more likely to be on a basic regime under the Incentives and Earned Privileges (IEP) scheme. **Clinks supports the Young Review's recommendation that 'training for prison officers should be reviewed so that the perceived and actual problems associated with cultural competence**



of staff is overcome.'

The Young Review found that BAME prisoners did not have equal opportunities to participate in purposeful activity that would allow them to work towards enhanced status. As prisoners are automatically downgraded to a basic level while investigations are underway, many prisoners spoken to by the Young Review no longer pursued enhanced status as they perceived the barriers presented to them by staff suspicion as too great. **Clinks supports the Young Review's recommendation that 'the process for downgrading prisoners' status, particularly while an incident is under investigation, should be reviewed. Checks and balances are needed to ensure that status reviews are conducted fairly for all prisoners, but specifically for BAME prisoners in the context of continued discrimination and unequal outcomes for black and/or Muslim men'.**

Transparent decision making

The Prison Reform Trust's '*Punishment without Purpose*' report identifies problems in the procedure of downgrading a prisoner on the IEP scheme, highlighting the lack of transparency around status reviews, which can be conducted by a single member of staff without oversight.¹³ Participants in Clinks consultations also raised this lack of transparency in prison procedures, feeling that there seemed to be no clear process to securing certain jobs in prison, to be upgraded or downgraded on the IEP scheme, or to move to different categories of prison. This could mean that decision-making is down to staff discretion and therefore affected by conscious and unconscious bias against BAME prisoners.

The lack of transparency in these processes was demotivating to prisoners and increased mistrust between prisoners and staff through deepening perceptions of staff racism and discrimination. **Clinks therefore supports the Prison Reform Trust's recommendation that 'prison staff should receive updated guidance and training about how best to administer the IEP scheme clearly and fairly and in ways that help to maintain safety and decency'.** We would also encourage greater transparency with decision making in prisons, including greater service user involvement through the adoption of a prison council model, such as that developed by User Voice¹⁴.

Accessing opportunities that support rehabilitation

As well as preventing BAME prisoners from accessing rehabilitation opportunities such as jobs in prison, visits from family and access to courses and education, these negative experiences with prison staff have a significant impact on the willingness of BAME prisoners to engage with support services and rehabilitative programmes. Participants explained that many prisoners avoid active engagement with the prison regime and services, in order to protect themselves from discrimination and disciplinary action. Prison staff may misinterpret this as BAME prisoners taking a negative attitude and being unwilling to engage in rehabilitation. Participants thought it important to challenge this view and to recognise that BAME prisoners will often need extra support and information in order to engage with services.

Developing positive relationships

Ex-prisoner participants in Clinks' consultation who recalled positive experiences with prison staff emphasised the importance of building relationships between prisoners and staff, suggesting that staff were less likely to rely on stereotypes and assumptions once they got to know an individual. One ex-prisoner participant explained how a prison officer had recommended her for drug rehabilitation services after getting to know her and being concerned that she had relapsed.

Participants felt that this kind of positive relationship building was vital to counteract the lack of trust many BAME people develop towards staff and services, and should be at the core of the activity of prison staff.

A new approach to recruitment and staff training could increase the prevalence of qualities and skills to ensure better relations between prisoners and staff. Consultation participants suggested that prisons utilise the voluntary sector to provide training to prison staff on effective working with BAME groups. Geese Theatre Company, for example, offer training for staff in the police, probation and prison services to explore vulnerabilities among people in the CJS and ensure staff can work effectively with people from diverse communities¹⁵.

To continue the facilitation of such training programmes delivered by the voluntary sector, **Clinks reiterates the Young Review recommendation that 'the emphasis should be on dedicated resources for community engagement and partnership working models, rather than commissioning.'** This is especially important given the recently announced prison reform programme and the increased autonomy for prison governors.

Positive rehabilitative relationships can also be developed with other prisoners. While the benefits of mentoring in general will be explored in the next section, participants felt that peer mentoring was extremely important in counteracting isolation in prison and facilitating trust and engagement. Women participants who had spent time in prison noted that this often happened informally in women's prisons and was hugely beneficial for BAME prisoners' sense of safety and connection with others. St Giles Trust has developed a successful model for this to support foreign national prisoners, training foreign national prisoners to become qualified advice workers and provide immigration and resettlement advice to their peers¹⁶.

Support groups comprising individuals from a specific BAME background have also been known to reduce isolation and improve self-esteem for BAME prisoners; for example, a good practice guide to working with Gypsy and Traveller prisoners published by the Irish Chaplaincy discusses the positive impact of Traveller groups within prisons¹⁷. Voluntary sector organisations can facilitate and support the formation of these groups, making it essential that prisons work in partnership with these organisations, including those that exist outside of CRC supply chains.

Understanding faith

The report '*Young Muslims on Trial*', produced by Maslaha for the Transitions to Adulthood (T2A) alliance, documents difficulties faced by Muslim prisoners in obtaining prayer mats, having space to pray and wash, and experiencing discrimination and harassment from other prisoners when practicing Islam¹⁸. Practice of Islam is often viewed as a sign of radicalisation or extremism by staff; as '*Young Muslims on Trial*' notes, this is in opposition to the majority of Muslim prisoners, who view Islam as a positive factor in the desistance process¹⁹ and feel that religious practise could be utilised to encourage changes in attitudes and behaviour. Ex-prisoner participants at Clinks events echoed this sentiment about faith in general:

'When I went to prison, faith changed everything for me.'

'Faith holds you, it can guide you, wherever you're at, to keep you sane.'

Participants were also concerned about the lack of facilities for, and understanding of, faiths other than Christianity and Islam. Participants agreed that the ability to practice one's faith and/or culture was important in counteracting the isolation felt by many BAME prisoners and in

providing opportunities for positive activities and attitude and behaviour change. Some good practice in this area can be seen in HMP Styal, where BAME prisoners have access to canteen lists with culturally specific items, allowing them to stay connected to their culture and benefit from cultural or religious practices.

Barriers to accessing services

BAME people in prison consistently report lower awareness of rehabilitation and resettlement services, and are less likely to access the services they need. For example, while diagnoses of mental health problems are more prevalent in BAME communities BAME people are under-represented in prison mental health team caseloads²⁰.

Difficulty in accessing services is particularly pronounced for foreign national prisoners and those from Gypsy, Traveller and Roma (GTR) backgrounds. One of the biggest difficulties facing GTR people in prison and in contact with the CJS is a lack of literacy skills, with a report from 2014 finding that '65% of travellers in prison had problems with reading and writing (compared to 14% of prisoners)'.²¹ This has a severe impact on GTR prisoners' ability to engage with the prison regime. They are often not only unable to read information about support available, but also unable to engage in many education and development opportunities due to required literacy levels. The Shannon Trust Reading Plan is a particularly effective model of providing literacy education to GTR people, using a peer mentoring approach to allow one-to-one literacy tutoring; this is recommended by the Irish Prison Chaplaincy²².

While prison staff often assume that GTR prisoners are uninterested in education, research by the Irish Chaplaincy found that many GTR prisoners were keen to engage in education and training, particularly when geared towards vocational skills. The report recommends that literacy and numeracy should be offered at level 1 in all prisons and that staff should ensure that they communicate education and training opportunities to GTR prisoners verbally. It is also important that GTR prisoners are able to access a range of educational opportunities, including arts interventions that often act as a gateway into more 'formal education'. The recently published Coates Review into prison education highlights the need for a wide-ranging curriculum for all prisoners and pays particular attention to the distinct needs of equalities groups in terms of accessing these opportunities. **As the Coates Review does not explore the distinct needs of GTR prisoners explicitly, we encourage the Lammy Review team to engage with Coates Review team as the recommendations are implemented to ensure that the needs of this group are met.**

Access to education is also important for foreign nationals, who are often severely isolated in prison due to a lack of English language skills. This leaves them unable to understand the rules and regime of the prison and to access courses, many of which are only provided in English. While English lessons are provided in some prisons, there are often insufficient places. Some good practice in relation to this has been developed in Europe and could provide learning for England and Wales: Spanish prisons provide a 'Guide to Prison' translated into several languages, while the Norwegian prison service has developed a picture dictionary, designed to be used as a 'pointing book' to aid foreign national prisoners²³. **Clinks recommends that the Lammy Review considers developing similar communications tools to help reverse the isolation experienced by foreign national prisoners due to language barriers.**

A lack of immigration advice in prison adds to the vulnerability of foreign national prisoners, with uncertainty around possible deportation (with some facing the prospect of returning to a country they have little knowledge of or connection to due to leaving at a young age) leading to high

rates of self-harm. Many foreign nationals continue to be held in prison beyond the end of their sentences under immigration powers as they are unable to access phones or the internet to be able to progress their immigration case.

It is therefore essential that services are provided that respond to the specific needs of BAME prisoners and have a good understanding of BAME experiences and cultures, a point highlighted by the participants in our consultation events. Many participants suggested that BAME prisoners found it easier to engage with voluntary sector organisations in prison, particularly those from BAME communities and with practitioners from similar backgrounds. BAME prisoners are more likely to have confidence in these organisations and engage more positively with them due to their perceived independence from the formal Criminal Justice System.

Voluntary sector participants, however, reported difficulties in accessing prisons and some had experienced poor treatment by prison staff when working in prison. Security vetting procedures, inflexible prison regimes, and under-staffing are significant barriers for voluntary sector organisations providing services in prisons. To ensure that BAME prisoners are able to access the support they need, it is important that these barriers are overcome. Clinks' recent guide entitled '*The rehabilitative prison: good engagement with the voluntary sector*' gives five key ways for prisons to engage with the voluntary sector: making links with the voluntary sector, through mapping provision for example; knowing how the sector can fit and complement existing services; coordinating the sector, ideally through a named coordinator; communicating with the sector; and sharing skills.²⁴

When discussing BAME access to services in prison, participants drew attention to the variation in ethnic and cultural diversity in prisons, depending on the area. A prison with a high proportion of GTR prisoners, for example, is likely to need to provide more literacy support, while prisons with higher proportions of foreign nationals will need to provide translation services, English lessons and access to immigration advice. **Clinks recommends that prison governors should take account of the specific population of their prison in order to ensure that services address the needs of distinct groups within it.**

Arts interventions

Participants, including those who had been in prison, also discussed the importance of accessing the arts in prison and the community. Arts interventions and programmes were seen as particularly useful to help participants consider their behaviour and attitude. Rather than being aimed at solving a particular problem or meeting a predetermined outcome, the arts can be a way for BAME people in the CJS to take a more holistic view of their situation, allowing them to use creative methods to recognise patterns of thought and behaviour and begin to change these.

Arts interventions also have an important role to play in promoting diversity and addressing inequality, providing creative avenues towards a more inclusive prison environment. The National Alliance for Arts in Criminal Justice has 700 members, that deliver arts-based programmes to people in contact with the CJS. These programmes bring together people from a range of ethnic backgrounds and engages them in cultural activities. This not only reduces isolation for BAME prisoners, but also supports white prisoners to develop their attitudes towards BAME people; one beneficiary of Good Vibrations' music and art courses explained 'I'm now dealing with my racial/anti-Islamic issues and feel more comfortable with people of certain races.'²⁵

Synergy Theatre is currently developing a production of *A Raisin in the Sun*, a classic drama set in the 1950's which explores an African-American family's struggle with poverty, racism, and



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inner conflict including the temptation to engage in criminality as they strive for a better way of life. The play will be performed to prisoners in HMP Thameside, to prisoners' families and to the public. As well as developing the social and professional skills of participants, it offers both participants and audiences the opportunity to engage in a wider debate over moral responsibility and individual choice under social and economic pressure.

Service user involvement

Participants agreed that prisoners themselves were the most important source of information and expertise on addressing racial bias and disproportionality in prison, something that was also highlighted by the Young Review. As such, **Clinks supports the Young Review's recommendation that 'individuals who understand the lived experience of young black and/or Muslim male offenders should play an integral part in the planning and delivery of programmes and interventions to support desistance.'** This recommendation is also applicable to other BAME communities in prison.

We refer the review team to Clinks' guide to service user involvement and co-production which provides information and examples of how to involve service users in the design and delivery of services, in order to make services more effective and provide positive benefits for the service users involved including raising self-esteem and developing employability skills²⁶. Examples of how to do this include involving prisoners in meetings or staff training courses, or by developing forums for consultation with prisoners. The Care Quality Commission (CQC) provides a useful model for thorough and effective service user involvement. CQC inspections of prisons and youth custody involves consultation with those in custody, their families and voluntary organisations advocating for them, through a number of methods including focus groups, comment cards and one-to-one discussions. This ensures that the most pressing issues facing those using health and social care services in custody are understood and addressed. To ensure effective service user involvement can take place in a prison setting, it is important that the MoJ and NOMS are committed to the importance of service user involvement and that they emphasise this through communications with prison governors and new providers to ensure they correctly understand the policy enabling ex-service users to volunteer and work in prison and community settings, as recommended by the Young Review.

We support the NOMS Race Review (2008) recommendations for the increased consultation and involvement of prisoners and which also highlights the role of prisoner race representatives in improving conditions for BAME prisoners. Participants supported this development but raised concerns that, since the introduction of the 2010 Equality Act, these roles had become generalised in many prisons to Equality and Diversity representatives, diluting action on racial discrimination.

A key opportunity for increased service user involvement is the improvement of the complaints system in prison. Research has shown that BAME prisoners often feel unable to raise issues around racism and discrimination by staff and other prisoners. Research by the Prison Reform Trust²⁷ showed that two thirds of prisoners did not submit complaints when they experienced racism in prison, citing fears of repercussions, doubting that the complaint would be taken seriously and that it would be confidential. While improved procedures have improved the reporting of racist incidents in prison²⁸, BAME prisoners interviewed by the Prison reform Trust suggested that more measures were needed to ensure that racist incidents were properly recorded and dealt with in prison. **The report makes a number of recommendations including using race representatives to support the complaints procedure, and bringing independent groups into the prison to review and investigate serious incidents of racism. We believe these**

roles could usefully be undertaken by specialist BAME voluntary sector organisations.

Children and young people

Although the above issues are focused on adults in the CJS, it is important to recognise that negative experiences of prison, staff prejudice, and lack of access to appropriate services are also significant problems in youth custody. As the Clinks response to the Taylor review highlights, these experiences impact even more negatively on children and young people due to higher levels of vulnerability, damaging self-esteem, disrupting education and preventing the formation of a positive non-offending identity. **We recommend that the Lammy Review work closely with the Taylor Review team to ensure that the extreme disproportionality in youth custody is robustly addressed and that the needs of BAME children, who currently make up 44% of children in custody in England and Wales, are met²⁹.**

Review question: On average, black offenders are more likely to reoffend than other ethnic groups. White offenders are the group second-most likely to reoffend. In your view, what explains this?

Review question: What action do you believe should be taken in response to these different reoffending rates?

Review question: Figures show that black young offenders are more likely to reoffend than white young offenders. In your view, why is this the case?

Increased barriers to resettlement

Previous Clinks research³⁰ demonstrates that the rehabilitative and resettlement needs of all those in contact with the CJS are highly individualised, yet BAME people are likely to experience these needs more severely and are less likely to access the necessary support to address them, as the Clinks report '*Double Trouble*' outlines:

'Overall, then, some BAME groups are disproportionately disadvantaged in education, employment, housing and health. This continuing social and economic disadvantage among BAME communities is likely to compound BAME offenders' attempts to reintegrate into their communities when they are released from prison or whilst they are serving community sentences. The ways in which social disadvantages can combine to reinforce and mediate any impact of ethnicity has been described as amplification: an escalation of cumulative effects that rules out a simplistic one-to-one link between race and resettlement outcomes, such as accommodation, employment, or desistance.'³¹

As the Clinks report '*Lessons for Resettlement*' notes, 'The available evidence on racial discrimination across the CJS suggests that BAME offenders might not have equal access to resettlement advice and other support services, and that the provision they receive might be of poorer quality than that received by other offenders.'³² One explanation given by participants for the decreased quality of resettlement services for BAME people was a lack of cultural understanding from staff. '*Lessons for Resettlement*' highlights that resettlement practitioners were often unaware of culturally-specific aspects of resettlement such as differences in family relationships or cultural taboos around certain types of crime. Participants very much echoed the findings of this report that 'Being understood and feeling 'culturally comfortable' and safe provides a basis for clients to be responsive to resettlement support'.

It is important for practitioners to understand the impact of racism and disadvantage on the lives of BAME people. Lack of knowledge around the desistance process for BAME people can lead to resettlement practitioners making negative assumptions about BAME clients due to their seemingly slow progress. **Clinks reiterates the recommendation we made in the report *Double Trouble* that cultural sensitivity training for all staff is crucial for the effective delivery of resettlement services that are relevant and accessible to BAME offenders.**

Participants suggested that a significant factor in access to rehabilitation and resettlement services for BAME people is a lack of trust in the system due to accumulated negative experiences. As mentioned in the previous section, this can be countered with an emphasis on developing long-term, positive relationships between individuals in the CJS and the professionals working with them. Again, this was thought by participants to not only to encourage engagement and trust from service users, but also to reduce opportunities for bias in staff through focusing on the individual needs of the service user.

In particular, participants highlighted access to housing and employment as disproportionately difficult for BAME people.

Housing and geographical restrictions

Research on BAME people in the CJS has shown that the location of housing on resettlement is particularly important. Some BAME people prefer to be in certain areas due to proximity to cultural amenities such as shops, and a lower likelihood of racial abuse from others in the area. This need, though vital to support an individual's journey to desistance, is not always taken into consideration by resettlement workers, leaving BAME ex-offenders vulnerable to isolation and abuse³³. The Irish Chaplaincy publication '*Working with Gypsy and Traveller Offenders: A Thames Valley Probation Case Study*' documents this as a particular problem for GTR people, finding that resettlement workers often assume non-settled accommodation to be unsuitable. To address this issue we stress our earlier recommendation, highlighted by the Young Review, that 'training for prison officers should be reviewed so that the perceived and actual problems associated with cultural competence of staff is overcome,' and emphasise that this applies equally to resettlement staff in CRCs and the NPS.

Participants expressed significant concern over the impact of cuts to council and social housing, leading local authorities to raise their thresholds for providing housing. While this is a pressing issue for all ex-offenders, an increasing reliance by local authorities and services on the private sector to provide resettlement housing has particularly negative ramifications for BAME people. Research by the Runnymede Trust has shown that BAME people are still discriminated against in the private rented sector³⁴.

In addition to these barriers in the community, participants felt that the emphasis in probation services upon risk was detrimental to the resettlement process and presented significant barriers to rehabilitation. As with prison staff, it was thought that staff in probation relied on negative stereotypes when interacting with BAME ex-offenders, leading them to assume higher levels of risk for these people. Participants said that risk measures such as gang exclusion zones were unfairly used for BAME ex-offenders, particularly young black men, due to assumptions about ethnicity and risk. Probation officers were also perceived to view non-criminal relationships between young black men as 'gang ties', creating unnecessary restrictions on association between ex-offenders and their friends and family and damaging potentially rehabilitative relationships.



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One particular issue highlighted was the geographical restrictions put in place to counter assumed risk. Those labelled as high risk are often prevented from returning to their home communities and are resettled in new areas, away from friends and family. This not only damages potentially rehabilitative relationships and impacts upon partners and children, but can also create problems in the communities that high risk ex-offenders are sent to. One BAME consultation participant discussed the situation of her children's father, who was nearing the end of a prison sentence. Upon release he would be required to live in a bail hostel for one year, far from his home community. This would damage his ability to have a relationship with his children and to make use of his positive connections in his home community. Voluntary sector participants also raised this as a barrier to working with high risk ex-offenders, with some organisations unable to continue working with their service users once they are sent out of area.

Gang exclusion zones, issued primarily to BAME ex-offenders, also present significant difficulties. Participants highlighted that those subject to gang exclusion zones often slip through the net, as local authorities are unwilling to take responsibility for them, leaving voluntary organisations with the resource-heavy task of securing access to housing and services for the individual.

Employment

BAME people are discriminated against in employment, with employers less likely to employ someone from a BAME background³⁵ and racial harassment and abuse still prevalent in the workplace³⁶. This, combined with the well-documented difficulties for ex-offenders in finding employment, suggests that BAME people with a criminal record will often need extra support in finding employment opportunities on resettlement. With this in mind, the disproportionately low numbers of BAME people accessing opportunities for Release On Temporary Licence (ROTL) is concerning; BAME prisoners should be supported to utilise ROTL in order to develop skills and experience before their release.

The needs of BAME people in the CJS also demonstrate that employment support must be tailored to the needs of the individual. For example, many BAME people (particularly GTR people) find training in self-employment more useful as it allows them to work around employer discrimination and adapt their work to their own preferred way of living³⁷.

Recognising the importance of employment opportunities, Clinks supports the Young Review recommendation that 'there should be a concerted effort to establish partnership with employers across all sectors to set up employment schemes for ex-offenders.' Furthermore, we emphasise the need for any employment scheme to be sensitive and responsive to the unique needs of BAME people.

Impact of policing

It was also thought important to note that policing practices such as stop and search and gang labelling are very likely to distort reoffending rates for BAME people (especially black people). As a recent report notes,

'The relative reoffending rates of BAME offenders may be distorted by police practices in relation to BAME young men. The reported reoffending rate of black offenders from March 2011 was 27.5%, compared with 26.1% for white offenders. However, statistics published in the same year show that black persons were more likely to be stopped and searched, and that this group were arrested at a rate of 3.3 times (and people of dual heritage 2.3 times) higher than white people.'³⁸

We recommend that the Lammy Review encourages the Home Office to lead a review into racial disproportionality in policing, or to extend its own terms of reference to include policing.

Rehabilitative approach

A desistance-based approach, outlined in the Clinks publication *'Introducing Desistance'*³⁹, understands rehabilitation and resettlement as an individualised process and emphasises the importance of recognising and developing the strengths of the service user rather than focusing solely on an offence they have committed. This individualised, needs-based approach would ensure that the increased barriers to resettlement for BAME people are acknowledged and practically responded to, and allow resettlement staff to utilise existing rehabilitative and protective factors to their full potential (such as religious practice or cultural and community networks). As outlined by desistance research this approach would benefit all of those in contact with the CJS, as well as addressing racial bias and disproportionality.

While opportunities for developing rehabilitative relationships with practitioners at all levels of the CJS should be encouraged by the MoJ and NOMS, mentoring relationships with voluntary sector professionals or people with lived experience were often referenced as beneficial for rehabilitation and resettlement. Mentors are solely concerned with an individual's needs and development, rather than with discipline or security, and are viewed as independent of the formal CJS; these factors circumvent the barriers to engagement experienced by many BAME people and help to engender trust. Rather than being specifically focused on a programme or an activity, the role of mentors is to build a long-term relationship with an individual and to provide holistic support.

This approach counteracts racial bias and disproportionality in a number of ways:

- It is a long-term process based on the development of trust; this addresses the lack of trust felt by many BAME people due to poor experiences with the CJS, which often leads to a reluctance to share personal information or personally invest in a process of rehabilitative support.
- It is holistic, recognising the multiple and cumulative disadvantage experience by BAME people in the CJS and providing a single point of support to address a range of often interlinked needs.
- It is individualised, relying not on cultural stereotypes, but rather recognising the specific needs and skills of the individual engaging in a process of desistance.

Through the gate mentoring support was thought by participants to be vital in successful resettlement, and especially important for BAME people. This support would begin at least three months before release from prison and would involve regular visits in prison until the service user's release date, followed by ongoing support in the community. While participants acknowledged that the Transforming Rehabilitation agenda aimed to achieve this, their concerns echoed those highlighted in the National Audit Office (NAO) report into Transforming Rehabilitation⁴⁰, HM Inspectorate of Probation's (HMIP) review of Transforming Rehabilitation⁴¹, and Clinks' report *'Change and Challenge: the voluntary sector's role in Transforming Rehabilitation'*⁴². The Clinks report highlights a lack of transparency about what services are being delivered by CRCs and the NPS and raises concerns about the quality of services, whilst the NAO report and the HMIP report suggested that through the gate services were under-developed and in need of improvement.



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Participants felt that utilising voluntary sector expertise and delivery was key to providing high quality resettlement for BAME people in the CJS. BAME voluntary sector organisations are embedded in and representative of the BAME communities their service users come from, giving them unique knowledge of effective approaches to desistance with these individuals. These organisations are often more highly regarded than statutory services by BAME people in the CJS, improving engagement and outcomes. Participants thought that strong, extensive partnership between prisons, CRCs, the NPS and the BAME voluntary sector was the most effective way to improve rehabilitation and resettlement outcomes for BAME people.

Enabling family engagement

The importance of working with families to support resettlement and desistance has been well-documented⁴³ and participants shared the view that supporting the families of those involved with the CJS not only improves the chances of rehabilitation and resettlement, but also mitigates the disadvantage associated with having a family member in prison.

The Clinks report *'Engaging Families in the Resettlement Process'* shows that the financial impact of imprisonment is greater in BAME families, who are already much more likely than non-BAME families to be on a low income or in poverty. This can have a particularly detrimental effect upon women with a partner in prison as their partner is often the main earner in the family. BAME women are much more likely to be unemployed or work part-time, and often have to put development opportunities such as education and training on hold when a partner goes into prison. In some BAME communities, BAME women face stigma and isolation due to living alone.

Higher levels of poverty and financial difficulty also make it more difficult for BAME families to visit loved ones in prison due to the cost of travel and taking time off work. This negatively impacts family relationships, affecting an individual's chances of successful resettlement once released. **Clinks recommends that more financial support is provided for those visiting family members in prison in order to address the disproportionate impact of travel costs on BAME families.**

Participants who had been in prison and/or visited family members in prison expressed highly negative views of the visiting environment. They said they had felt under suspicion from prison officers due to being from a BAME background, and that the environment was intimidating and upsetting for their children. One black participant described her young child's hair being searched for contraband by a prison officer. Participants said that some prisoners refuse visits from their children due to the prison environment and a desire to protect them from a system they view as discriminatory. **Clinks recommends that ways to provide a more welcoming and less intimidating environment are explored, with particular attention to the impact of security arrangements on the experiences of BAME families.** Haldane prison in Norway, for example, gives prisoners and their family the opportunity to stay once a month in an onsite cottage, allowing healthy relationships to be developed within a 'home' environment⁴⁴.

Many voluntary organisations across the country work with families of BAME people involved in the CJS to provide a range of practical and emotional support to address these issues. Participants felt that prisons, CRCs and the NPS should value and utilise this work to improve the experience of BAME families involved in the CJS and aid the desistance process. Partners of Prisoners (POPS), for example, manage eleven visitor centres across the North West, providing a friendly environment to families before and after a prison visit. POPS' visitor centres act as a 'hub' enabling families to access emotional and practical support as well as a wide-range of

information and advice around the key issues that affect visiting families, including property issues, travel costs, identification documents and prisoner well-being⁴⁵.

Addressing the distinct rehabilitation and resettlement needs of foreign national prisoners

While most BAME offenders experience an increased severity of generalised resettlement needs, it is important to recognise the specific position of foreign national ex-offenders, who are largely excluded from accessing rehabilitation and resettlement services⁴⁶. Participants were concerned that foreign nationals in the CJS, despite being particularly vulnerable, did not have access to vital support around housing, employment and family contact, leaving many of them unable to engage in the desistance process. In addition to this, many foreign nationals are not entitled to benefits or permitted to work, presenting significant barriers to resettlement. **We recommend that all foreign nationals are given equal access to support to resettle in the community and engage in the desistance process. Additional desistance needs such as immigration and employability support must be addressed to avoid disproportionality in reoffending rates.**

Addressing the distinct rehabilitation and resettlement needs of women

While women comprise only 5% of the prison population, women from BAME backgrounds account for 28% of this group, representing over three times that of the general population⁴⁷. A Fawcett Society report on women in prison notes that BAME women are 'more likely to feel isolated in custody, less likely to seek help and face additional language and cultural barriers.'⁴⁸

Participants highlighted a lack of understanding among practitioners in prison and in the community of the causes of offending and resettlement needs for BAME women, leading to a lack of appropriate support. Additionally, and similarly to the male population, the difficulties facing women prisoners in general are often compounded for BAME women. The geographical distribution of women's prisons, for example, has a particular impact on BAME women due to BAME communities being concentrated in cities; this isolates the women from their communities and reduces their likelihood of receiving family visits⁴⁹.

The high levels of domestic violence experienced by BAME women were thought to be a key concern, with high levels of poverty and unemployment for BAME women meaning they are less able to exit violent relationships or to be able to financially support themselves after leaving. A reduction in women's services in the community, and particularly BAME women's services, has exacerbated this problem⁵⁰, leaving more BAME women in crisis and driving them towards the CJS.

Participants also noted high proportions of BAME women in prison due to drug-related offences who did not have a drug addiction (particularly foreign nationals). These women were often pressured into carrying drugs by abusive partners or family members and, while participants stressed that they needed specialist support to avoid returning to these relationships, the impact of imprisonment was seen to increase their vulnerability and make this more difficult.

As evidenced by research, participants also highlighted the impact of isolation due to cultural stigma for some BAME women, particularly those from a Muslim background. While discrimination and a lack of cultural understanding isolated them within the CJS, shame surrounding involvement in the CJS or seeking help for certain issues such as drug use can isolate these women from their communities. This leaves them without financial or emotional support and damages their prospects for resettlement.

As previously recommended by Clinks and a number of women's organisations, the CJS should take a distinct, gender-specific approach to women, based on their unique needs and experiences. Participants felt that this approach must not only be anti-racist and rehabilitative, but also trauma-informed, seeking to acknowledge and respond to the high levels of trauma experienced by BAME women in prison. A toolkit for women's community service providers, developed by Stephanie Covington and published by One Small Thing, describes trauma-informed work as based on five core values: safety; trustworthiness; choice; collaboration; and empowerment⁵¹. These values are particularly important for BAME women due to their increased experience of marginalisation both in the community and in the CJS; indeed, Stephanie Covington identifies experiencing racism as traumatic.

Review question: To what extent do you believe the ethnic diversity of staff working in the CJS, including lawyers, judges, and professionals working in prisons and offender management services, has a bearing on outcomes for BAME defendants/offenders?

Review question: If you regard the ethnic diversity of staff working in the CJS as important to outcomes for BAME defendants/offenders, what more could be done on this issue?

The lack of diversity in practitioners across the CJS, particularly prison officers, was thought to be highly problematic for achieving positive outcomes for BAME people. Participants felt that staff within prisons and other criminal justice agencies should reflect the people they work with in order to ensure an understanding of the experiences and cultures of BAME people. Non-BAME staff in prisons were perceived as being significantly more likely to hold negative attitudes towards BAME people and less willing to engage positively with equality and diversity training. Participants with first-hand and professional experience of prison said that prisons with higher proportions of BAME staff had more positive staff engagement with BAME prisoners; as these prisons are invariably located in cities, there was concern around the impact of building new prisons outside cities on staff diversity and attitudes towards BAME prisoners. **Clinks supports the Young Review's recommendation that independent providers under Transforming Rehabilitation examine the diversity of their staff and supply chain, and evaluate how their own policies reflect previous learning.**

While the voluntary sector was seen to be leading the way in staff diversity, particularly in frontline staff, there was also a feeling that voluntary sector organisations should also take steps to recruit a more diverse workforce at a senior level.

To ensure that staff reflect the population of people in the CJS, Clinks recommends that there is active recruitment of BAME people to all levels of the CJS. An example of best practice in recruiting a diverse workforce is by Geese Theatre Company, who implemented an equality action plan to ensure their staff and trustees more accurately reflected the service users they worked with. In order to do this they introduced new recruitment methods, including advertising roles on specific regional BAME platforms, ensuring interviews for jobs were at a variety of times and locations and placing less emphasis on written applications by meeting more candidates face-to-face to ensure they had the relevant interpersonal and communications skills. They now have a 45% BAME staff team and their board is 30% BAME. The organisation states that this change has significantly improved engagement and enables them to carry out both their theatre work and training workshops more effectively.



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The NHS has developed a proactive and wide-ranging approach to monitoring and improving the experience of BAME employees across the country, with its Workforce Race Equality Standard. All NHS organisations report on a range of indicators covering bullying and harassment, discrimination, and development opportunities; this data is then analysed to inform practical steps to improve conditions⁵².

Participants were strongly in favour of employing people with lived experience of the CJS at all levels of the system, suggesting that prisons and other CJS agencies should take a proactive approach to recruiting people with this experience. While some organisations worked to employ those with lived experience as paid staff or volunteers, some participants expressed frustration at prison vetting procedures which could prevent these members of staff working in prisons. **CLINKS recommends that there is active recruitment of people with lived experience of the CJS to all positions in the CJS.**

St Giles Trust is a leading employer of ex-offenders, with 44% of their staff having lived experience of the CJS. Their peer advisor programme allows individuals to begin training for employment-related qualifications while in prison and to access training and development opportunities after release. Employing those with lived experience of the CJS improves engagement with St Giles Trust's services and provides service users with role models for positive change. The Koestler Trust also actively employs ex-offenders. They provide information on how criminal convictions might affect a person's application in the initial job pack for each post advertised, and they offer a guaranteed interview, with feedback, to anyone who has been in prison or on a community sentence in the last two years and meets all the essential points in the job specification.

Review question: In your view, is the collection of data on BAME outcomes in the CJS sufficient and consistent? If not, what are the principle gaps? What might be done differently?

Lack of consistent and detailed data is a considerable barrier to a full understanding of differential outcomes for BAME and non-BAME people in the CJS. Many researchers have highlighted the problem of inconsistent data collection across the CJS, with different agencies collecting different information, and having different ethnicity categories. This makes it difficult to identify parts of the systems where racial bias is occurring and contributing to disproportionality.

Another issue highlighted by participants is a lack of disaggregation of existing data. Ministry of Justice data, for example, is currently only split into six categories: black, Asian, mixed, other, not known and white. This obscures the broad diversity within these categories and disparities between different groups. Data must be disaggregated to provide an understanding of the specific experiences of different ethnicity groups within the CJS. **CLINKS therefore supports the recommendation made by the Young Review that a standardised approach to data collection and monitoring should be developed by the MoJ, to be utilised across the CJS.**

Participants felt that monitoring of ethnicity should be improved at all levels of the CJS. Some BAME people, particularly people from a GTR background⁵³, are reluctant to disclose their ethnicity to CJS agencies for fear of discrimination. It was thought that staff in the CJS should take more time to explain to BAME people the importance of collecting the information and what it would be used for, as well as emphasising that the information would be kept confidential. This should be done in partnership with specialist voluntary sector organisations.

Review question: What more can be done to stimulate innovation and high performance from within the CJS where the treatment of BAME individuals is concerned?

Engagement and partnership with the voluntary sector

The voluntary sector's role in supporting BAME people in contact with the CJS is broad and varied. Not only do voluntary sector organisations deliver vital support services, they also provide advocacy for BAME people in the CJS, strategic and frontline support for statutory services, and awareness raising around racism and the needs of BAME people. Despite playing a vital role within the CJS, BAME voluntary organisations are generally very small, with low levels of income. For this reason, BAME organisations are particularly financially vulnerable and have been significantly impacted by increasing economic pressure in the voluntary sector⁵⁴, leading to a reduction in services for BAME people at a time when needs are increasing.

Participants felt strongly that the government's effort to address racial bias and disproportionality within the CJS must utilise the knowledge and expertise of the voluntary sector organisations embedded within BAME communities and with in-depth knowledge of the experiences and cultures of BAME groups. Engagement of these organisations at a strategic as well as a delivery level is essential to ensure that the needs of BAME people and the organisations supporting them are addressed on a systemic level, as well as by frontline services. This call for evidence is one key way through which the Lammy Review team has enabled organisations to engage with the review process, and it is important that the review team continues to work to engage with the voluntary sector, especially those who are small and community-based. **Clinks recommends that the MoJ and NOMS, prisons, CRCs and the NPS seek to develop strong and effective partnerships with voluntary sector organisations embedded in and representative of BAME communities.**

BAME voluntary sector organisations working in the CJS face a number of barriers in the current commissioning environment, contributing to their financial vulnerability and low levels of resources compared to larger organisations. A report on BAME voluntary sector organisations found that, 'average funding for BAME organisations is around half the average, and surveys of BAME groups indicate they are experiencing more rapid reductions in their funds than mainstream charities.'⁵⁵

Participants said that the move towards contract delivery in place of grant funding has had a negative impact on BAME voluntary organisations. Being small organisations, they lack the capacity and resources to bid for large contracts, and are unable to cover the upfront costs some contracts require⁵⁶. In addition to this, research with BAME organisations in Croydon indicated that some BAME organisations are reluctant to bid for contract work due to concerns that this will lead to them being viewed as part of the system and affect their legitimacy with service users⁵⁷.

The shift towards evidence-based commissioning and payment by results is also extremely problematic for BAME organisations. In addition to the difficulties faced by small organisations engaging in these commissioning processes, as detailed in Clinks' 'State of the Sector' reports⁵⁸, BAME organisations are confronted with the additional problem of achieving and evidencing outcomes on an un-level playing field. An outcome of reducing reoffending, for example, is harder to achieve for an organisation working with BAME service users, due to the increased barriers to resettlement experienced by BAME people. As a recent Clinks and BTEG report, 'How can the commissioning process improve outcomes for BAME offenders?', notes,



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'The relative reoffending rates of BAME offenders may be distorted by police practices in relation to BAME young men. The reported reoffending rate of black offenders from March 2011 was 27.5%, compared with 26.1% for white offenders. However, statistics published in the same year show that black persons were more likely to be stopped and searched, and that this group were arrested at a rate of 3.3 times (and people of dual heritage 2.3 times) higher than white people.'⁵⁹

BAME organisations can also struggle to provide strong data to evidence their approach, due to a lack of research into effective approaches with BAME groups. An emphasis on evidence-based commissioning, therefore, can exclude BAME voluntary organisations from accessing funding.⁶⁰ Similarly, participants from organisations working outside of the formal CJS, but achieving related outcomes such as providing young people at risk of CJS involvement with positive opportunities, spoke of their frustration with evidencing the prevention of crime to commissioners. These participants felt that preventative work was not sufficiently valued and that large amounts of money were wasted through intervening only at crisis point, where outcomes could be more easily measured. **Clinks recommends that the MoJ and commissioners within the CJS seek to develop the meaningful engagement of the BAME voluntary sector on both a strategic and delivery level in order to ensure that commissioning structures are accessible to BAME voluntary sector organisations.**

Participants were particularly concerned about the impact of Transforming Rehabilitation on BAME voluntary sector organisations and their ability to provide support to BAME people in contact with the CJS. Many felt that small voluntary sector organisations were excluded from the process because of difficulties in communicating with CRCs and the large-scale nature of contracts. Participants who had been offered CRC contracts found that the payment offered was significantly below what they required to deliver a good quality service. Participants also felt that CRCs had no incentives to work with BAME organisations, as achieving positive outcomes for BAME people was not specifically identified as an outcome for them. **Clinks recommends that specific targets for the equality of outcomes for BAME people working with CRCs are set and monitored by the MoJ. The MoJ and NOMS, prisons, CRCs and the NPS should also review current commissioning practices to ensure they encourage partnership and engagement with BAME voluntary sector organisations.**

Research with BAME organisations has highlighted the impact of the Single Equality Act on funding, with many BAME organisations suggesting that commissioners are now less willing to fund specialised work with specific BAME groups⁶¹.

Participants highlighted a severe lack of capacity within the BAME voluntary sector to engage with policy-making, as well as a lack of knowledge around the impact of current decision-making. This lack of capacity means that, beyond local communities, the BAME voluntary sector does not have an effective voice with which to contribute to important policy debates and strategic discussions⁶². The Third Sector Research Centre also identified a lack of capacity in relation to bid-writing and strategic skills. It is clear that, if the CJS is to benefit from the invaluable expertise and best practice of the BAME voluntary sector, a capacity building programme is necessary. **Clinks recommends that the MoJ works in partnership with Clinks in order to develop and deliver a capacity-building programme for BAME voluntary sector organisations working in the CJS.**

Accountability

There was a strong feeling among participants that progress would not be made on the issue of racial bias and disproportionality without robust systems of individual and institutional accountability. Rigorous monitoring of decision-making throughout the CJS was thought to be required, with clear consequences for individuals and institutions found to be discriminating against BAME groups. Participants suggested that monitoring of institutions and services should be carried out by voluntary and community organisations, in order to ensure independent analysis.

Accountability mechanisms must challenge both individual and institutional bias in order to impact upon disproportionality. Individuals found to be exhibiting conscious or unconscious bias should be either subject to disciplinary proceedings or provided with training, while institutions with unequal outcomes for BAME and non-BAME people should be required to make changes in their practices to improve this. A useful example of this is practiced by Kent Police, who set up a 'reasonable grounds' panel made up of police staff and members of the community to monitor stop and search decisions. Through this programme, police officers found to be using stop and search powers disproportionately against BAME people had their powers stripped until they had apologised to the victims of their unfair stop and searches and completed further training. Participants thought that similar schemes should be introduced to hold staff in prisons and other CJS agencies to account for their decisions.

Clinks recommends that the MoJ explores options for rigorous independent monitoring of decision-making throughout the CJS, and provides clear guidelines for how individuals and institutions found to be discriminating against BAME will be held to account. The MoJ should also consider how voluntary and community organisations can be more involved in holding the CJS account to BAME communities.

Transparency in decision-making must play a key part in ensuring accountability. For example, the Young Review identified a lack of transparency in prison security reports, with no opportunity for prisoners to challenge the information within them. Participants thought that independent monitors should be given access to these, in order to compare like for like cases to discern any discrimination against BAME people. Participants also felt strongly that impact assessments conducted for changes in the CJS should be published, so that the effects of CJS developments on BAME equality could be properly monitored. **Clinks recommends that impact assessments for all reforms to the CJS should be conducted and made publicly available. In addition to this, Clinks reiterates the recommendation made by the Young Review that NOMS publishes its Equality Strategy in order to a) provide transparency for all stakeholders and b) form the basis for action to include a stringent overhaul of the approach to services for young black and/or Muslim men in the CJS.**

As well as collecting data on the ethnicity of prisoners, prisons should monitor and publish information on a range of outcomes for prisoners, disaggregated by ethnicity, including disciplinary procedures, employment within prison, educational outcomes, progress through the categorisation system, and Release On Temporary Licence. Prisons demonstrating disproportionate outcomes in any of these areas should be offered support from voluntary sector organisations with expertise in BAME equality.

Similarly, CRCs and the NPS should be required to monitor and publish information on a range of outcomes for clients, disaggregated by ethnicity, including housing, employment, education and mental health. Companies and area teams demonstrating disproportionate outcomes in any of these areas should be offered support from voluntary sector organisations with expertise in BAME equality. **Clinks recommends that the MoJ develops national standards on the monitoring and publishing of outcomes for BAME people at all levels of the CJS.**



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Consistency in standards

Participants suggested that, while some prisons demonstrated good practice, this was largely dependent on the governor and senior management team of the prison. Similarly, the NOMS Race Review⁶³ notes that examples of good practice in prisons were localised, with a lack of basic standards across the estate. There was also concern that the disparities between CRCs and NPS areas could emerge without sufficient regulation. Participants felt strongly that a set of standards on racial bias and disproportionality should be put in place and monitored to ensure that all CJS agencies and institutions are held to account on this issue.

Next steps

Clinks and its partners have welcomed the opportunity to consult with voluntary sector organisations to inform this detailed submission to the Lammy Review ahead of its final report, which is due for publication in spring 2017. We hope these insights will prove helpful to the review and that its proposals for reform of the youth justice system will take full account of the issues highlighted for consideration.

We now await the final report and stand ready to disseminate its key findings to voluntary sector organisations working with BAME people in contact with the CJS, and to seek views on its recommendations. In the meantime we would welcome any further contributions of views from the voluntary sector and other stakeholders. We would also be very happy to contribute further to the Lammy Review in any way we can, including facilitating contact with our respective members or with BAME people who have experience of services.

For further contact about this submission, please email oonagh.ryder@clinks.org

Organisations that participated in Clinks' consultation

4DE Consultancy
Advocacy Training Council
Black Training and Enterprise Group
Caring for Ex-Offenders
Cheshire and Greater Manchester Community Rehabilitation Company
Clean Break
Community Change Foundation
Enthusiasm
Fathers Against Violence
Geese Theatre
Haringey Council
Hibiscus Initiatives
Irish Prison Chaplaincy
Leap Confronting Conflict
London Voluntary Service Council
Manchester Active Voices
National Probation Service (North West Division)
Noh Budget Films
Partners of Prisoners
Prison Reform Trust
Race Equality Foundation
St Mungo's Broadway
The Hideaway Youth Project
Way 4ward

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CLINKS

Clinks supports, represents and campaigns for the voluntary sector working with offenders. Clinks aims to ensure the sector and all those with whom they work, are informed and engaged in order to transform the lives of offenders.

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