

Tackling Double Disadvantage Action Plan: 'One year on' Progress Report

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“I’m very surprised to realise that even in the UK, racism still exists, and you must face it.”

Bella, migrant woman with experience of trafficking and the criminal justice system, supported by Hibiscus Initiativesⁱ

Introduction

The context for this report

Too often ignored, Black, Asian, minoritised and migrant women face the ‘double disadvantage’ of gender inequality and racism when they encounter the criminal justice system. Some face a ‘triple disadvantage’ where they also encounter a lack of understanding of their faith and religious needs, including Islamophobia experienced by Muslim women. Interaction between criminal justice and immigration processes, and gaps in support, leave migrant women locked out of opportunities for diversion and community solutions, creating trauma, confusion and hopelessness. Further protected characteristics such as age and disability are often overlooked.

It is widely understood that most women in contact with the criminal justice system are themselves victims of gender-based violence, including domestic abuse, exploitation and trafficking, and are likely to experience wider multiple disadvantage such as poverty, mental health needs and harmful substance use. Yet the intersectional discrimination experienced by racially minoritised and migrant women in these circumstances is not yet well understood or effectively addressed. In many cases, these are the same women that should benefit from laws and policies aimed at protecting victims of modern slavery and human trafficking, and violence against women and girls (VAWG). However hostile immigration laws and policies, and institutional racism and sexism, create barriers to support and routes into unjust criminalisation and imprisonment.

The Government aims to implement a trauma-informed and gender-informed approach to all women in contact with the criminal justice system, to divert them from the criminal justice system and into support wherever possible. They aim to reduce women’s imprisonment and increase the use of community solutions, to improve women’s treatment in prison and to improve their outcomes on release.ⁱ Yet, as the Ministry of Justice (MoJ) data set out in the Annex starkly demonstrates, racially minoritised and migrant women experience unequal treatment and outcomes in each of these areas.

The Tackling Double Disadvantage Action Plan and progress report

The Tackling Double Disadvantage [10-point Action Plan](#), published in January 2022, set out recommendations to achieve equal treatment and outcomes for racially minoritised and migrant women in contact with the criminal justice system.ⁱⁱ It was informed by consultation with policy makers, criminal justice practitioners and women with relevant lived experience, with the aim of encouraging Government and criminal justice agencies to implement reforms.

Since then, we have worked with policy makers and practitioners to press for implementation of these proposals, supporting women with lived experience to contribute to policy and practice development by sharing their experiences and insights. We have seen evidence of some activity to try and address the challenges identified in the Action Plan. However this has been limited and piecemeal, lacking an overarching strategic approach, and with no evidence so far of improvements in outcomes for women.

In some respects the picture has worsened, with new evidence of systemic racism and sexism in the police, and police-perpetrated VAWG. This appears to have led to a collapse in women and girls’ trust in the police, particularly amongst those who are racially minoritised.² Government rhetoric about ‘illegal migrants’ threatens to increase existing hostile attitudes and behaviour towards migrants both within and outside the criminal justice system, while measures implemented through the Nationality and Borders Act and proposed through the Illegal Migration Bill limit the rights of migrant and trafficked women and widen the net of criminalisation.

Early this year we held discussions with women with lived experience and senior leaders from central government and criminal justice agencies, to review progress and identify future priorities. This progress report shares the learning from these discussions and our research.

ⁱ All names of women with lived experience have been changed to preserve anonymity.

ⁱⁱ The [Tackling Double Disadvantage](#) partners are [Hibiscus Initiatives](#), [Agenda Alliance](#), [Women in Prison](#), [Zahid Mubarek Trust](#), [Muslim Women in Prison Project](#) and [Criminal Justice Alliance](#).

Executive summary

Over a year since publication of the Action Plan, racially minoritised and migrant women face disparities in their experiences and outcomes throughout the criminal justice process. The following recent data, drawn from the official MoJ statistics contained in the Annex, indicate the scale of the challenge:

- Women from 'minority ethnic'ⁱⁱⁱ groups are overrepresented at every stage of the criminal justice system.
- Black women are twice as likely as white women to be arrested.
- Sixteen per cent of the women's prison population are recorded as being from a non-white background.
- Foreign national women accounted for 10% of the female prison population in 2020/21. Some are known to have been coerced or trafficked into offending.
- Of all girls prosecuted in 2021, one-quarter were from 'minority ethnic' groups. For young women it was nearly one-fifth (19%), and for other women more than one in ten (13%).
- Black and Asian female defendants are more likely than white female defendants to be remanded in custody at both the Crown Court and Magistrates' Court.
- Black, Asian and 'minority ethnic' women are more likely to receive a custodial sentence in the Crown Court than white women.
- Women from a white ethnic background are more likely to receive approval from a Mother and Baby Unit (MBU) Board than women from an 'ethnic minority' (excluding white minorities) background.

Women taking part in focus groups over the last year have described pervasive racism in the criminal justice system, lack of recognition of their faith as part of their identity, poor interpreting and a culture of disbelief in response to their lived experiences. Practitioners and policy leads have outlined areas of progress and ongoing challenges, including limited resources and a lack of strategic, cross-government working. The increasingly hostile environment for migrants creates further challenges and sharpens already conflicting priorities within government and statutory agencies. The collapse in women and girls' trust in the police - particularly amongst those who are racially minoritised - with evidence of systemic racism and sexism, and police-perpetrated VAWG, points to the need for systemic change.

In order to achieve progress, we are calling on senior leaders to give higher priority to ending intersectional discrimination and inequality for Black, Asian, minoritised and migrant women in the criminal justice system, fostering a strategic, cross-government approach to achieve culture change and systems change. This should include a focus on impact and a commitment to transparency and accountability, to avoid a fragmented or 'tick box' approach. The work must centre the expertise of women with relevant lived experience and voluntary and specialist sector organisations, supported by adequate, sustainable and accessible funding.

Without these measures, it will not be possible to ensure racially minoritised and migrant women have equal access to opportunities for diversion away from the criminal justice system and into support at the earliest possible stage, to end disproportionate use of remand and custodial sentencing, and to tackle discrimination and inequality experienced by racially minoritised and migrant women in prison and following release.

ⁱⁱⁱ The Tackling Double Disadvantage partnership aims to use language that challenges and does not contribute to racist ideas, actions and policies. We use the terms 'Black, Asian and minoritised women' or 'racially minoritised women' and we aim to be more specific where we can. Where we are referring to data collected by others using different terminology, we use that terminology in quotation marks in order to ensure accuracy.

Why the Action Plan remains important – women’s voices

The Tackling Double Disadvantage partnership held a roundtable with senior policy makers and practitioners in March 2023 at which women with relevant lived experience explained why the Action Plan is still important:

“The Double Disadvantage action plan is important as things need to change for us.”

Jasmina

Hibiscus Initiatives

Hibiscus Initiatives held two focus groups at their specialist women’s centre in London in January and February 2023. A total of 12 women took part, who had experience of the criminal justice system or immigration detention, or both. At least half of the women had experience of the criminal justice system within the last two years, while for others it was longer ago. The discussion highlighted disparities in the treatment received by Black, Asian, minoritised and migrant women. The women described racism as being pervasive throughout the criminal justice system, leading to feelings of shame, isolation, and resentment. They described having little information about their rights during criminal proceedings, lack of confidence in their legal representation, and not being believed when they disclosed experiences of trafficking and exploitation.

“When you encounter the criminal justice system, you feel ashamed by your race and colour because you are never taken seriously. That leads to isolation, resentment, and guilt.”

Millicent

Some women shared experiences of being treated differently in prison because they were Black, including having their mental health needs treated less seriously and not having access to toiletries like Afro hair products. This is reflected in a survey by the Criminal Justice Alliance and Independent Monitoring Boards (IMB) of over 260 Black, Asian, minoritised and migrant women in prison, 45% of whom described their treatment in prison as poor or very poor.³ Some women described the mental distress

This echoed discussions with women that have been held over the last year by three of the Tackling Double Disadvantage partners – Hibiscus Initiatives, Zahid Mubarek Trust and Muslim Women in Prison project, all of which are specialist organisations supporting racially minoritised and migrant women in contact with the criminal justice system.

they had experienced and witnessed in other Black women in prison. Distress was particularly acute when on remand, due to the uncertainty of their case. Some racially minoritised women felt they were sentenced more harshly due to their ethnicity.

“Sentences are longer for Black women compared to white women for the same crime, especially if the crime is related to fraud, physical altercation, and drugs.”

Lin

One woman explained that she had been held 105 days beyond the end of her sentence for immigration reasons and was unable to receive compensation because she could not open a bank account due to her immigration status.

Discussing the changes they believed were still needed to the criminal justice and immigration systems, the women explained that they simply wanted to be treated fairly and like human beings, to be believed and to be taken seriously.

“I hope to receive fair treatment from the police and staff members when we face them.”

“I expect people who deal with cases, judges and lawyers, to consider our case with more seriousness.”

Carla

Some pointed to the need for staff to have knowledge and understanding of diversity and to be compassionate, and for there to be accountability where racism occurs. One

woman noted that it was not enough for individual staff members to be kind, but that this needed to be matched by the culture of institutions. Others commented that the workforce needed to be more diverse. The women emphasised the need for clear information about their rights in a language they understand, and to have fully qualified interpreters, particularly during court proceedings.

“Sometimes, interpreters are still studying and don’t have a good command of the language you speak. That creates confusion in the mind of the judge. I realised later that I was incarcerated because my interpreter did not explain the context of my situation.”
Tami

The women identified improvements in staff training, workforce diversity, institutional cultures and accountability as key to achieving progress.

Muslim Women in Prison (MWIP)

MWIP is a specialist community-led project for Muslim women in contact with the criminal justice system. The project supports women in prison and in the community, through an integrated community resettlement hub, with a strong user voice and influence group. Over the last year, MWIP have supported women with lived experience to give presentations to criminal justice practitioners, highlighting the challenges they have faced. In prison this has included feeling isolated, being a ‘minority within a minority’ and unfamiliarity with how the prison system works. Women described experiences of racism and Islamophobia which they felt were compounded by lack of officer diversity. After release women were fearful of what would happen to them and were sometimes rejected by their family or community, experiencing further isolation and stigmatisation.

As part of the Double Disadvantage programme, MWIP held community-based consultation workshops with Muslim women prison leavers about their experience of inequalities in the criminal justice system and the effectiveness of the process for challenging these including through Discrimination Incident Reporting Forms (DIRFs).

The women explained that although there was ‘some’ understanding of the impact of racism within the criminal justice system, staff failed to understand their faith identity and its relevance and importance to their well-being.

In some cases, South Asian women particularly felt targeted and remarked that very often the colour of their skin is taken as indicative of their faith identity being Muslim, whether or not this is the case. They felt this brought into play negative tropes around Muslims and Islam, resulting in unprovoked

Islamophobic comments, hate remarks, marginalisation of South Asian women and being ‘othered’. There was a strong feeling that this was also indicative of what was happening in wider society but very little was being done to address this. This was further compounded by the lack of Muslim officer representation.

Muslim women also felt reluctant to report their mistreatment for fear of further victimisation and ostracism. As one of the participants, Hina said:

“The system does not work for Muslims. From the very start we women are in a losing battle. We are discriminated on the colour of our skin, we get shunned because of our faith and we are told to just put up with it because apparently, we are all terrorists anyway, so we deserve it. We literally are the bottom of the barrel.”

The group also expressed a lack of confidence in the DIRF process, citing fear, perceptions of officer bias and fear of retaliation as barriers to disclosure and making complaints. One woman remarked:

“When they see an Asian name come through as an app or DIRF you go to the bottom of the list anyway or they conveniently lose your app; that happened to me so many times. There’s no point in even trying.”

One of the group members was previously an Equality Representative in prison and spoke positively about how she was able to advocate for other women and make a positive difference. Following this focus group, women were supported to work with a neighbouring women’s prison to review and improve their DIRF process both in terms of clarity of system, transparency, accountability and external scrutiny.

Zahid Mubarek Trust (ZMT)

ZMT is working in some women's prisons to provide independent scrutiny of DIRFs, to consult with women and to support staff to improve their response to racially minoritised and migrant women. ZMT held a discussion with 15 racially minoritised and migrant women in prison in October 2022 about their treatment and experiences in custody, which included the following themes:

- Some women had been affected negatively by the response to their different cultural needs
- Some women felt that discrimination arose because of a lack of cultural competence among staff, for instance, inappropriate comments or 'banter' by staff or other women not being appropriately challenged by staff
- Some women had limited understanding of equalities policies and processes, including the DIRF process and the role of Equalities Representatives, with many women not having received an Equalities Induction

- Some women lacked confidence in the DIRF process, with some being afraid to complain due to concerns of confidentiality and fear of victimisation by staff or other women
- Most women felt there were little or no opportunities to voice their views, suggestions and grievances on equalities issues in prison.

One woman explained how women in prison could be seen as allies by staff, not dangerous 'others' in achieving a safer and fairer system:

“The trust I've lost in the system, will take long to repair but I am willing to try if I see positive actions. I know it is a long process, but every long journey starts with small actions. The prison staff need to realise that we want them to succeed, we want them to do their job best they can do. We are not here to see them fail us, fail themselves.”

Barriers to progress

Our roundtable in March 2023 was attended by over thirty practitioners and policy makers, including senior leaders in the Police, Crown Prosecution Service (CPS), HM Prisons and Probation Service (HMPPS), Ministry of Justice (MoJ), Home Office (HO), Magistrates' Association (MA) and Association of Police and Crime Commissioners (APCC). Participants outlined areas of progress which are described in the Action Plan Progress Tracker below. They also highlighted challenges, including the following:

- **Limited resources and capacity:** This was cited as the main barrier to progress. Facilitating close joint work with voluntary and specialist sector organisations, and funding this adequately, can help address this and ensure progress is made despite the inevitable challenges.
- **Lack of effective cross-departmental work in government:** This was identified as vital but difficult to achieve. In the absence of formal arrangements to assist cross-departmental work in this area, current approaches can rely on individual initiatives or relationships which are lost when people change roles.

- **Challenges in collection and analysis of disaggregated data:** This was acknowledged to be crucial to stimulate changes to policy and practice to tackle disproportionality, but challenging – sometimes due to the perceived sensitivity of the data.
- **Barriers to engagement with women with lived experience:** Input from women with lived experience was considered key, but some found it challenging to gain as much as they would like, as they rely heavily on organisations that work with women (who are themselves under-resourced).

Action Plan

Progress Tracker

Below we summarise the Action Plan, the lead agencies responsible for implementing each recommendation and our understanding of progress to date. We have included quotes from the women taking part in Hibiscus' focus groups. The full Action Plan can be read [here](#). The glossary below explains the acronyms used.

We have used a rating system to indicate where there has been 'no progress' or 'some progress'. We have indicated 'some progress' in areas where there has been some activity to try and address recommendations in the

Action Plan. We acknowledge these efforts to achieve change, and the dedication shown by frontline practitioners in highly challenging circumstances. However, there remain concerns that many activities are at an early stage and limited in scope, that they are piecemeal rather than strategic, that they are often not sustainably funded even in the medium term, and that it is not always clear how impact will be monitored. Our overarching concern remains the lack of a cross-government commitment, strategy or coordination to achieve systems change and culture change.

Overarching strategy

No progress

Lead agencies: MoJ | HO | HMPPS

Action

We called on the Ministry of Justice (MoJ) and Home Office (HO) to develop a cross-governmental strategy to address the inequalities faced by Black, Asian, minoritised and migrant women, applying the Action Plan and embracing the ambitions of the [Female Offender Strategy \(2018\)](#) and the [Concordat on women in or at risk of contact with the Criminal Justice System \(2020\)](#).

Progress identified

The Government's [Female Offender Strategy Delivery Plan \(2023\)](#) refers to Black, Asian, minoritised and migrant women, but there are no measurable objectives for improving outcomes for these women nor any cross-government strategy. The MoJ's Race Action Programme (RAP) leads operational efforts to tackle racial discrimination and disproportionality across HMPPS but does not include any overarching strategy for addressing women's intersectional needs.

Next steps

- (a) The Female Offender Strategy Delivery Plan should be supplemented by measurable objectives for improving outcomes for Black, Asian, minoritised and migrant women.
- (b) The RAP should include developing an overarching strategy for addressing women's intersectional needs.
- (c) HMPPS' forthcoming revised Women's Policy Framework must reflect the need for an intersectional approach to supporting racially minoritised and migrant women in its core principles and summarise the practical means of doing so in its operational guidance.
- (d) HMPPS' forthcoming Young Adult Women Strategy must provide a comprehensive policy framework to respond to the needs of Black, Asian, minoritised and migrant young women at all stages of the criminal justice system, with an explicit focus on reducing the stark inequalities in this age group.

1. Training

Some progress

Lead agencies: MoJ | HO | PCCs | CoP | NPCC | CPS | HMCTS | HMPPS | MA | Judicial College

Action

We called for criminal justice staff to be trained on culture, ethnicity, race, faith, gender and anti-racism to meet the multiple and intersecting needs of Black, Asian, minoritised and migrant women. Training to be delivered by specialist organisations, with state funding, working with women with lived experience to co-design and co-facilitate all elements.

“The [prison] officers were very racist, and they do not like Black people. They do not help us because we are Black. They were pushing me and treating me badly to the point I wanted to kill myself.”

Ama

Progress identified

Most criminal justice agencies deliver some form of equalities training to their staff, however there is limited focus on intersectional discrimination and no evidence of the impact of training on behaviour and outcomes.

The MoJ are developing online cultural competency training and operational guidance for staff working with racially minoritised and migrant women in prisons and the community. It is not known how the training is being developed or how women and specialist organisations are to be involved. The operational guidance is being drafted in consultation with a voluntary sector organisation and women with lived experience.

Some intersectional training has been developed and implemented by HMPPS in partnership with specialist organisations, including ZMT and Hibiscus. Some HMPPS staff receive inhouse training on working with foreign nationals, but this is not gender-specific.

Next steps

- (a) All agencies should ensure that equalities training focuses on the intersectional discrimination experienced by racially minoritised and migrant women and supports implementation of the Public Sector Equality Duty.
- (b) Training for staff on cultural competency should be prioritised and delivered in person, rather than online, to ensure effective engagement and learning.
- (c) Training should be subject to evaluation to measure its impact on behaviour change, culture change and treatment of women in the justice system, and improved accordingly.
- (d) All agencies should work to overcome barriers to co-designing and co-delivering training and enable women with convictions to take part as peer trainers and cultural mediators, including in prison (see Action 3).

2. Language and cultural competency

Some progress

Lead agencies: MoJ | HO

Action

We called for practical resources and guides to be developed for frontline criminal justice staff to give to Black, Asian, minoritised and migrant women who face language barriers and require support, providing information about their rights in different languages and in easy-to-read formats; and for women's access to cultural mediation, translation, professional interpreting (by a female interpreter if requested) and international calls to be ensured, as well as religious items and menstrual products.

“If you don't know your rights, then you don't know how to advocate or fight for them. We cannot understand or read all the information they provide to us.”

Meena

Progress identified

The MoJ's Female Offenders from Ethnic Minorities policy group (FOME) is consulting on draft guidance for women in the justice system on what they should expect at each stage from arrest to sentencing.

FOME is working to make interpretation and translation services more accessible to staff and is providing input into a new contract specification for interpretation services to ensure the needs of women are considered.

HMPPS' Foreign National Offender (FNO) Information Hub^{iv} and Coordination Hub^v and FOME are working together to share best practice and provide information and guidance for staff and service users.

Further information is needed to understand how the progress is being measured for the above activities. There does not appear to have been any progress in other aspects of this Action.

Next steps

- (a) FOME should ensure the content and delivery of the guidance for women in the justice system is tailored to meet the needs of Black, Asian, minoritised and migrant women, in consultation with women with relevant lived experience and other experts. The guidance should be translated into different languages and easy-to-read formats.
- (b) More information is needed about the work being done to improve interpretation and translation services; this work should be done in partnership with women with lived experience and specialist organisations.
- (c) Work to improve the response to racially minoritised and migrant women, as set out in the remainder of this Action, should be undertaken by all criminal justice agencies (not only HMPPS) using a strategic, trauma-informed, gender-informed and culturally competent approach, involving women with relevant lived experience and specialist organisations.

^{iv}The HMPPS FNO Information Hub provides information, advice and guidance for prison staff on immigration processes and removal mechanisms. A primary purpose of the hub appears to be encouraging compliance with deportation. It is not clear how this is balanced with supporting migrant women to exercise their rights within criminal justice and immigration processes.

^vThe FNO Coordination Hub has developed FNO Special Points of Contact (SPOCs) within all Probation Regions, informed by specific e-learning and continuing professional development.

3. HMPPS to recruit women with lived experience to become peer mentors and cultural mediators

Some progress

Lead agencies: MoJ | HMPPS

Action

We called for Black, Asian, minoritised and migrant women with lived experience of the criminal justice system to be recruited to become peer mentors and cultural mediators across the criminal justice system.

Progress identified

We understand that HMPPS has put some training in place for women with relevant lived experience to become peer mentors, but more information is needed about this – including the extent to which racially minoritised and migrant women are involved, the nature of the training and support provided, and the women’s roles. We are not aware of any progress in recruiting cultural mediators. Roundtable participants highlighted barriers to

recruiting women with lived experience to act in these roles, including getting clearance for women with convictions to enter prisons. This is increasingly becoming a barrier in probation settings as well.

Next steps

- (a) HMPPS and MoJ should adopt a strategic approach to accelerating the recruitment of women with relevant lived experience to these roles in prison and probation settings.
- (b) This must include improving their communication with external agencies and carrying out an urgent review of vetting policies and processes with specialist organisations and women with lived experience, to update and improve objectivity and transparency.

4. Data

Some progress

Lead agencies: MoJ

Action

We called on the MoJ to publish their data report on *Women in the Criminal Justice System* annually. This report should also identify and analyse in greater depth the key racial disparities in women’s experiences, including level and type of contact with, and experiences within, the criminal justice system.

Progress identified

The MoJ has commissioned a literature review to improve understanding of the underlying causes of disparities for ethnic minority and foreign national women which will be used to develop gender-specific policy proposals.

The MoJ held a data workshop in June 2022 to consider the *Women and Criminal Justice System* report (WCJS) 2021, discuss limitations around the data available and propose improvements. In November 2022, an interactive data dashboard was published alongside the WCJS 2021.⁴ The MoJ acknowledged that barriers to disaggregated data across all areas of the justice system include data being unreliable or not centrally recorded. Some of these challenges were highlighted in the 2022

inspection of HMP Eastwood Park, in which inspectors noted:⁵ “HMPPS IT systems were not being used to generate data on protected characteristics, which could then have been analysed and used as the basis for action and as a way of measuring outcomes. There were action plans, but they were not driving improvement.” (para 4.81)

Next steps

- Roundtable participants agreed robust data is vital to enable an evidence-based approach to implementing reforms to policy and practice.
- (a) Improvements are needed in the MoJ’s collection, recording and publication of data to allow for intersectional analysis of protected characteristics including age, gender, ethnicity, migrant status, trafficked status and religion.
 - (b) This is needed not only to track progress in achieving equality, but also to inform equality impact assessments and joint strategic needs assessments which support the planning of service provision in the statutory and voluntary sectors.

5. Diversion and reducing imprisonment

Some progress

Lead agencies: MoJ | HO | Police | CPS | HMPPS | Judicial College | MA

Action

We called on the MoJ and HO to ensure equal access to diversion and out of court disposals and end the disproportionate use of custodial sentencing and remands.

Progress identified

Roundtable participants commented that early-stage diversion should be prioritised, including a focus on CPS charging decisions as well as police diversion at the point of arrest. Frontline services reported anecdotally that it is even harder for Black, Asian, minoritised and migrant women to access these disposals than it is for white women. Efforts to address this are hampered by lack of adequate and sustainable funding.

The NPCC are developing a police tactical toolkit which will share examples of current practice in police diversion and work towards a more consistent, evidence-based approach to diversion. It is not yet clear what focus this will have on women's experience of intersectional discrimination.

Recent research commissioned by the CPS showed racial disparities in prosecuting decisions but did not include a focus on women and girls. The CPS aim to strengthen their approach to addressing intersectional discrimination in charging decisions and are planning to consult on their response to women suspects and defendants.

HMPPS is undertaking pilots in Ipswich and Cardiff to address disproportionality in use of remand for 'minority ethnic' groups and migrant women. Roundtable participants identified a lack of resources, particularly in relation to housing and community support, as barriers to success.

The MoJ is reviewing its work on remand, in light of the Female Offender Strategy Delivery Plan and the Government Response to the Justice Select Committee inquiry into the role of adult custodial remand in the criminal justice system.⁶

One roundtable participant commented that magistrates would welcome more information and training to ensure best practice to avoid disproportionality in verdicts and sentencing.

Next steps

More work is needed to investigate and address this area of inequality, and to ensure evidence is collected on what is working for women with lived experience. This must include addressing racism and sexism in the police, and police-perpetrated violence against women and girls, and making it 'business as usual' for the police to take a gender-informed, trauma-informed and culturally competent approach.

- (a) Data on out of court disposals and the ethnicity, age and religion of women accessing these disposals should be centrally collated and routinely published.
- (b) Police decisions on arrest and charge, and CPS charging decisions, should be routinely scrutinised to identify and address any intersectional discrimination.
- (c) Work to increase diversion at the point of arrest and diversion from court, and to reduce the use of imprisonment, must be accompanied by adequate, sustainable funding which is accessible to small, specialist organisations working to support women and contribute to practice development.
- (d) This should include the MoJ and HO exploring wider roll out of deferred prosecution schemes, given their potential to address disparities in use of out of court disposals linked to the requirement to admit guilt.⁷
- (e) Staff training and guidance aimed at systems change and culture change must be developed for all decision makers, including the police, CPS, judges and magistrates, co-produced and co-delivered with women with relevant lived experience and specialist organisations, in order to achieve a trauma-informed, gender-informed, culturally informed and intersectional approach.
- (f) MoJ should publish the evaluation of the court-based Bail Information Service sites (including specific data on supporting Black Asian minoritised and migrant women) and work with the community and voluntary sector to identify opportunities for specialist organisations and peer workers to be involved in wider delivery.

6. Migrant women's treatment

No progress

Lead agencies: MoJ | HO | HMPPS | HMI Prisons | HMI Probation

Action

We called for gaps in support for Black, Asian, minoritised and migrant women with insecure immigration status to be addressed, including through a thematic review by HMI Probation; consultation with women with lived experience; involvement of specialist organisations to support women; measures to mitigate the potential impact of provisions in the Nationality and Borders Act which threaten to increase the risk of criminalisation and vulnerability to exploitation for migrant women who are victims of trafficking, modern slavery or domestic abuse, or at least to monitor that impact; and ending information-sharing between police and immigration control to reduce migrant women's vulnerability to abuse and criminalisation.

Progress identified

There are some examples of joint work between prisons and specialist organisations to support migrant women and train staff to respond to their needs. The forthcoming MoJ guidance for women may help to inform migrant women about their rights (see Action 2).

Good practice was identified by inspectors at HMP Eastwood Park in October 2022, who found that the prison's 11 foreign national prisoners received better support than inspectors had seen in other prisons, commenting:⁸ *"The equality officer was well informed about their issues and checked in with each of them regularly. Contact with immigration authorities was good and a staff member from the immigration enforcement department visited the prison on request to meet individual prisoners."* (para 4.85)

By contrast, inspectors at HMP & YO1 Bronzefield in January and February 2022 found that the prison's 118 foreign national women (24% of the total population in that prison) were significantly more negative than British nationals about having a member of staff they could turn to (43% compared to 84%), with several telling inspectors they found it difficult to get even very basic help.⁹

Semi-specialists focused on foreign nationals (FNO SPOCs) have been introduced by HMPPS in all probation regions, but with no gender-specific focus. One roundtable

participant commented that there is a lack of knowledge about what is available for foreign nationals, who should have equal access to the same services as everyone else wherever possible. Roundtable participants noted that improving the response to migrant women is impossible without effective multi-agency work and highly challenging even where this is in place.

Recent government rhetoric about 'illegal migrants' and proposals in the Illegal Migration Bill increase the likelihood of hostile treatment, unequal outcomes and criminalisation for migrant women. The Victims and Prisoners Bill contains no measures to end the sharing of victims' and witnesses' data between the police and the Home Office for immigration enforcement purposes despite a recommendation from the Justice Select Committee to that effect.¹⁰

We are not aware of progress in relation to any other aspects of this action.

Next steps

More work is needed to investigate and address this area of inequality, and to ensure evidence is collected on what is working for women with lived experience. This must include addressing racism and sexism in the police, and police-perpetrated violence against women and girls, and making it 'business as usual' for the police to take a gender-informed, trauma-informed and culturally competent approach.

- (a) A shift in government rhetoric, law and policy is required to address the recommendations set out in this Action and summarised above, in order to protect racially minoritised and migrant women from unjust criminalisation and ensure their fair treatment within the criminal justice system – recognising that these women are likely to be victims of VAWG, trafficking and exploitation.
- (b) This must include introducing a firewall to end the sharing of victims' and witnesses' data between the police and the Home Office for immigration enforcement purposes, as recommended by the Justice Select Committee.

- (c) This work requires a strategic approach, with principled cross-government leadership, aimed at ensuring these women's needs are understood and met; that they are able to participate in proceedings against them; that they have equal access to diversion from the criminal justice system and from custody; and that they have equal access to support services.
- (d) Tackling racism and unequal treatment of migrant women requires a recognition of the potential for intersectional discrimination from women's first point of contact with the criminal justice system and must be addressed systemically, including through staff training co-produced and co-delivered with women with relevant lived experience and specialist organisations, in order to achieve a trauma-informed, gender-informed, culturally competent and intersectional approach.

7. Strengthen scrutiny

Some progress

Lead agencies: MoJ | HO | IMB | PPO | HMI Prisons | HMI Probation

Action

We called for improvements in the effectiveness of external scrutiny bodies to identify and challenge direct and indirect race, sex, and religious discrimination.

“I witnessed a lady from Nigeria being handcuffed simply because she was vocal about her needs and rights.”

Maud

“I have been called a terrorist sympathiser on the Wing before, asked why I wear a bin liner [referring to body covering] I was told it's ‘my lot’ that go round bombing everything. The officers heard it, but they never do anything about it.”

Rabia, Muslim woman

Progress identified

The IMB has made progress towards improving its effectiveness to monitor equality and diversity issues. The process for board members to escalate matters of concern to ministers and HMPPS, including on equality and diversity, is being revised to allow more frequent reports. Following publication of *Towards Race Equality* by the CJA and the IMB,¹¹ the IMB has updated their website, begun to review and update equality and diversity training materials and increase their visibility and accessibility in prisons, and launched a national recruitment campaign aiming to increase membership diversity.

Joint work between ZMT and some women's prisons is helping to ensure independent scrutiny of DIRFs. Inspectors at HMP Eastwood Park in October 2022 noted that the involvement of ZMT, including through focus groups for racially minoritised women and staff, had led to some practical improvements.¹² Inspectors noted, however, that focus groups are not held regularly, discrimination was still frequently reported, and equality officers were often deployed to other duties.

Next steps

- (a) Independent scrutiny of DIRFs should be standardised across all women's prisons.
- (b) The Prisons and Probation Ombudsman (PPO) should introduce an escalation mechanism when repeat recommendations related to poor outcomes for this group of women are not met by individual prisons.
- (c) HMI Prisons should explore options for a thematic inspection looking at the experiences of Black, Asian, minoritised and migrant women in prison, as they have done recently for Black men.¹³

8. Effective participation in court proceedings

Some progress

Lead agencies: MoJ | HO | HMPPS | NPCC | CoP | Judicial College | MA | HMCTS

Action

We called for action to be taken to ensure Black, Asian, minoritised and migrant women's individual circumstances are properly taken into consideration in court.

“We are still human beings even with a language barrier, and a bit of explanation will help us cope with the situation.”

Alicia

Progress identified

Women and 'ethnic minority' service users are included as priority cohorts in the MoJ's Pre-Sentence Report pilot which aims to improve the quality of information presented to court. However, further work is needed to build the knowledge and expertise of all those involved in court proceedings. Joint work is underway with HMPPS and the CPS to ensure women have a Bail Information Report and that pre-sentence reports can then be pre-populated.

Next steps

- (a) Women should have access to a fully qualified female interpreter when needed and independent support from voluntary and specialist sector organisations to enable them to participate effectively.
- (b) Bail Information Reports should identify the distinct circumstances and needs of racially minoritised and migrant women.
- (c) Where necessary expert evidence should be heard on cultural factors relevant to the alleged offence.
- (d) Data on the ethnicity, age and religion of women accessing problem-solving courts should be published and analysed to ensure equality of access.

9. Fund specialist services

Some progress

Lead agencies: MoJ | HO | HMPPS | PCCs

Action

We called for funding and commissioning mechanisms and procedures to be made accessible to small and medium-sized, voluntary and specialist sector organisations to deliver specialist support for this group in all parts of the criminal justice system.

Progress identified

HMPPS has launched new probation grant funding with the first round focusing on organisations delivering services to support racially minoritised people on probation.

MoJ has launched three-year grant funding for women's services during this year, including bespoke provision for marginalised women. HMPPS are trying to make these processes more flexible and inclusive.

Despite these initiatives, funding for voluntary and specialist sector organisations remains piecemeal, inadequate and short term, and commissioning mechanisms remain cumbersome and inaccessible to many specialist organisations

Next steps

Many roundtable participants agreed that specialist organisations are critical to supporting women at all stages of the criminal justice process and to improving the response to women by criminal justice agencies.

- (a) Services for women in contact with the justice system should be co-designed by women with relevant lived experience and specialist organisations.
- (b) A stable and accessible grant funding model should be introduced to enable specialist organisations to provide consistent support for racially minoritised and migrant women throughout the criminal justice system.

10. Strengthen family relationships

Some progress

Lead agencies: MoJ | HO | HMPPS | NPCC | CoP | Judicial College | MA | HMCTS

Action

Address issues identified in the Farmer Review around strengthening family, children, and community relationships in prison for Black, Asian, minoritised and migrant women, meeting their specific needs around contact, mediation and risk.

“Sometimes family don’t want anything to do with you, especially when they think that you have shamed and dishonoured them. That needs a lot of time and support to work through and often you might not even have the chance of going back because it’s too risky.”

Salma, Muslim woman

Progress identified

The cultural competency training being delivered by the MoJ for staff (see Action 1) will look at the impacts of culture, faith and sustaining family relationships for racially minoritised and migrant women.

Next steps

- (a) Further information is needed about the planned training, including how women and specialist organisations will be involved in its design and delivery.
- (b) The MoJ should set out measures to address disparities such as unequal access to MBUs.
- (c) MoJ and HMPPS should develop bespoke support programmes in prison and the community, including working more closely with specialist community services to support women’s transitions, family mediation, and relocation.

Conclusions and recommendations

Progress to date and barriers to change

Despite the best efforts of many practitioners, limited progress is being made towards achieving equal treatment and outcomes for Black, Asian, minoritised and migrant women in contact with the criminal justice system. In some respects, matters have got worse following recent legislation affecting migrants and the collapse in women and girls' trust in the police.

Whilst there has been activity in some areas to address inequalities, to date there has been little focus on intersectional discrimination and a lack of evaluation of impact. Most of the activity has been within HMPPS and not other parts of the criminal justice system. Forthcoming work such as HMPPS' cultural competency training and guidance, the MoJ's evidence review and the police tactical toolkit present important opportunities to be taken and built on throughout the criminal justice system. This must include the involvement of women and specialist services in the development and delivery of training and practice development, with adequate, sustainable and accessible funding, as part of a strategic approach to embed culture change and systems change.

Women with relevant lived experience have highlighted the need for improvements in staff training, workforce diversity, institutional cultures and accountability. Practitioners and policy makers identify limited resources and capacity as the main barrier to progress, as well as ineffective cross-departmental work in Government, challenges in collection and analysis of disaggregated data, and barriers to engagement with women with lived experience. Conflicting priorities within Government present a further barrier to progress, particularly in light of recent and proposed legislation which create an ever more hostile environment for migrant women who are victims of abuse and exploitation, limiting their rights and amplifying the risk of their criminalisation. Evidence of racism and sexism in the police, and police-perpetrated VAWG, requires a strategic response to achieve culture change.

Achieving equality

Ensuring racially minoritised and migrant women benefit equally from the Government's Female Offender Strategy and Delivery Plan means achieving the following shared aims:

- **Ensuring equal access to early-stage diversion:** Ensure racially minoritised and migrant women have equal access to opportunities for diversion away from the criminal justice system and into support at the earliest possible stage, including those who are victims of gender-based violence and exploitation (such as human trafficking and modern slavery).
- **Ending disproportionate imprisonment:** End the disproportionate use of remand and custodial sentencing for racially minoritised and migrant women, including through innovative approaches such as the women's problem-solving court and improved access to safe housing and community support.
- **Ending inequality in prison:** Tackle racism and inequality for racially minoritised and migrant women in prison, including by facilitating access for lived experience trainers and voluntary and specialist sector organisations, with stronger independent scrutiny.

Next steps to achieve change

Given the challenges faced throughout the criminal justice system, which we have outlined in this report, these aims simply will not be achieved without strong leadership at the highest level and a relentless focus on impact and accountability. In order to overcome the barriers identified and achieve progress, we are calling on senior leaders to:

- Give higher priority to this agenda and foster a strategic, cross-government approach to achieve culture change and systems change. This should focus on impact (to avoid a fragmented or 'tick box' approach), with shared aims and a shared toolkit of methods to achieve them. This work should be coordinated in cross-government forums to ensure effective joint work.
- Centre the expertise of women and voluntary and specialist sector organisations in policy and practice development and in the training of criminal justice practitioners, accelerating the establishment of lived experience roles in the workforce.
- Establish adequate, sustainable and accessible funding models for specialist services to support women and contribute to policy and practice development.
- Prioritise transparency in relation to disaggregated data and equalities policies, setting this as an expectation on Government departments in order to facilitate an evidence-led approach and ensure accountability.

What next for the Tackling Double Disadvantage partnership?

The Tackling Double Disadvantage partner organisations will continue to work towards reforms in policy and practice by providing a platform for the voices of women with lived experience, by encouraging government and statutory agencies and others to implement reforms, and by informing parliamentary and public debate on the intersectional inequalities experienced by Black, Asian, minoritised and migrant women in contact with the criminal justice system. We hope this progress report will help to inform and stimulate work by all agencies with an interest in this area.

We would like to thank the women with relevant lived experience, policy makers and practitioners who have contributed to our work over the last year, and our funders, Barrow Cadbury Trust and Lloyds Bank Foundation.



Glossary

APCC	Association of Police and Crime Commissioners
CoP	College of Policing
CPS	Crown Prosecution Service
DIRF	Discrimination Incident Reporting Form
FOME	Female Offenders from Ethnic Minorities policy group (MoJ)
HMCTS	HM Courts and Tribunals Service
HMI Prisons	HM Inspectorate of Prisons
HMI Probation	HM Inspectorate of Probation
HMCTS	HM Courts and Tribunals Service
HMPPS	HM Prisons and Probation Service
HO	Home Office
IMB	Independent Monitoring Boards
MA	Magistrates' Association
MBU	Mother and Baby Unit
MoJ	Ministry of Justice
MWIP	Muslim Women in Prison Project
NPCC	National Police Chiefs Council
PCCs	Police and Crime Commissioners
PPO	Prisons and Probation Ombudsman
RAP	Race Action Programme (MoJ)
VAWG	Violence against women and girls
ZMT	Zahid Mubarek Trust

For more information or to provide feedback on this report, contact: info@hibiscus.org.uk

Tackling Double Disadvantage partnership, 2023

Data on women in contact with the criminal justice system

All women

Women make up only 4% of the prison population.¹⁴ Women were sent to prison on 4,932 occasions in the year to March 2022 – either on remand or to serve a sentence.¹⁵

Most women are imprisoned on short sentences, and most are imprisoned for non-violent offences.¹⁶

At least 57% of women in prison and under community supervision are victims of domestic abuse.¹⁷ The true figure is likely to be much higher because of barriers to women disclosing abuse.¹⁸

63% of girls and young women (16–24) serving sentences in the community have experienced rape or domestic abuse in an intimate partner relationship.¹⁹

Rates of self-harm in women's prisons have risen by 20% in the last decade.²⁰

An estimated 17,000 children experience their mother's imprisonment each year.²¹ 600 pregnant women, on average, are held in prison each year.²²

Black, Asian, minoritised and migrant women

Overrepresentation at all stages of the criminal justice system

Women and girls from 'ethnic minority' groups are overrepresented at all stages of the criminal justice system, especially amongst younger age groups.²³

Proportion of prison population

16% of the women's prison population are recorded as being from 'an ethnic background other than white' (this includes Black/Black British, Asian/Asian British, Mixed and 'other ethnic group').²⁴

Gypsy and Traveller women account for approximately 6% of the prison population (though the true number is likely to be higher) but an estimated 0.7–1% of the general population.²⁵

Nearly one in ten women in prison (9%) are foreign nationals.²⁶ Some are known to have been coerced or trafficked into offending.²⁷

Disparities in arrest and prosecution

Black women are twice as likely as white women to be arrested (6 per 1,000 and 3 per 1,000 respectively).²⁸ Of all girls prosecuted in 2021, 25% were from 'minority ethnic groups'. This proportion decreases for young women (19%), and again for older women (13%).²⁹

Disparities in remand

In 2021, 30% of female Black defendants were remanded in custody at Crown Court – this was higher compared to female Asian defendants (28%) and female white defendants (26%).³⁰

At Magistrates' Court, female Asian and Black defendants were more likely to be remanded in custody (both 10%), compared to white women (7%).³¹

Foreign national women make up a significant and increasing proportion of remand admissions.³²

Disparities in sentencing

Black, Asian and 'minority ethnic' women are disproportionately more likely to be committed for trial at the Crown Court, and more likely to receive a custodial sentence at the Crown Court than white women.³³

Disparities in experiences of prison

Black, Asian and 'minority ethnic' women face racial and religious discrimination from staff and other prisoners, and report feeling less safe in prison.³⁴

In the 12 months to March 2022, 72% of women from a white ethnic background received approval from a Mother Baby Unit (MBU) Board, compared to only 63% of women from an 'ethnic minority' (excluding white minorities) background.³⁵

End notes

- ¹ [MoJ \(2023\) Female Offender Strategy Delivery Plan 2022 to 2025](#)
- ² [Casey, L. \(2023\) Baroness Casey Review: Final Report – An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service.](#) On trust, see also: [Crest Advisory \(2022\) Forgotten voices: Policing, stop and search and the perspectives of Black children](#) which found that ‘Black girls had the lowest level of trust in the police among all children; only a third of Black girls trusted the police compared to 43 per cent who actively distrusted the police.’ (p.19), cited in [Children’s Commissioner \(2023\) Strip search of children in England and Wales – analysis by the Children’s Commissioner for England.](#) On police-perpetrated VAWG and response to VAWG, see also [Centre for Women’s Justice \(2022\) CWJ briefing on police perpetrated domestic abuse super-complaint outcome;](#) and [HMIFRCS \(2021\) Police response to violence against women and girls: Final Inspection Report](#)
- ³ [Criminal Justice Alliance and Independent Monitoring Boards \(2022\) Towards Race Equality](#)
- ⁴ [Ministry of Justice \(2022\) Women and the criminal justice system 2021](#)
- ⁵ [Report on an unannounced inspection of HMP/YOI Eastwood Park by HM Chief Inspector of Prisons 17-28 October 2022](#)
- ⁶ [House of Commons Justice Committee \(2023\) The role of adult custodial remand in the criminal justice system: Government Response to the Committee’s Seventh Report](#)
- ⁷ [Transform Justice \(2022\) Deflect and divert: a common sense approach to dealing with low level crime](#)
- ⁸ [Report on an unannounced inspection of HMP/YOI Eastwood Park by HM Chief Inspector of Prisons 17-28 October 2022](#)
- ⁹ [HMI Prisons \(2022\) Report on an unannounced inspection of HMP & YOI Bronzefield by HM Chief Inspector of Prisons 24 January and 31 January – 4 February 2022](#)
- ¹⁰ [House of Commons Justice Committee \(2022\) Pre-legislative scrutiny of the draft Victims Bill: Second Report of Session 2022-23, Recommendation 22](#)
- ¹¹ [Criminal Justice Alliance and Independent Monitoring Boards \(2022\) Towards Race Equality](#)
- ¹² [Report on an unannounced inspection of HMP/YOI Eastwood Park by HM Chief Inspector of Prisons 17-28 October 2022](#)
- ¹³ [HMI Prisons \(2022\) The experiences of adult black male prisoners and prison staff](#)
- ¹⁴ [Ministry of Justice \(2022\) Population and capacity briefing for Friday 7 January 2022](#)
- ¹⁵ Table 2.1. Ministry of Justice (2022) [Offender management statistics quarterly: January to March 2022](#), cited in [Prison Reform Trust \(2022\) Why focus on reducing women’s imprisonment?](#)
- ¹⁶ [Prison Reform Trust \(2021\) Why focus on reducing women’s imprisonment in England and Wales?](#)
- ¹⁷ [Ministry of Justice \(2018\) Female Offender Strategy](#)
- ¹⁸ [Gelsthorpe, L., Sharpe, G., and Roberts, J. \(2007\) Provision for Women offenders in the community; Centre for Women’s Justice \(2021\) Women who kill: how the state criminalises women we might otherwise be burying](#)
- ¹⁹ [Wong, K. et al. \(2017\) T2A Final Process Evaluation Report, Policy Evaluation Research Unit](#)
- ²⁰ [Ministry of Justice \(2021\) ‘Self-harm in prison custody 2004 to 2020’ Safety in Custody quarterly: update to December 2020](#)
- ²¹ [Kincaid, S., Roberts, M. & Kane, E. \(2019\) Children of Prisoners: Fixing a broken system](#)
- ²² [Birth Companions \(2016\) Birth Charter for women in prisons in England and Wales](#)
- ²³ [Ministry of Justice \(2022\) Women and the criminal justice system 2021](#)
- ²⁴ [Ministry of Justice \(2022\) Offender management statistics quarterly: January to March 2022, Table 1.4.,](#) cited in [Prison Reform Trust \(2022\) Why focus on reducing women’s imprisonment?](#)
- ²⁵ [The Traveller Movement \(2021\) Gypsy, Roma and Traveller women in prison,](#) cited in [Prison Reform Trust \(2022\) Why focus on reducing women’s imprisonment?](#)
- ²⁶ [Ministry of Justice \(2022\) Offender Management Statistics Quarterly: January to March 2022, Table 1.7](#)
- ²⁷ [Hales, L., & Gelsthorpe, L. \(2012\) The criminalisation of migrant women,](#) cited in [Prison Reform Trust \(2022\) Why focus on reducing women’s imprisonment?](#)
- ²⁸ [Gov.uk \(2022\) Ethnicity facts and figures: arrests, para.7 ‘By ethnicity and sex’](#)
- ²⁹ [Ministry of Justice \(2022\) Women and the criminal justice system 2021](#)
- ³⁰ [Ministry of Justice \(2022\) Remands: Crown Court data tool,](#) Criminal Justice System Statistics Quarterly, December 2021’
- ³¹ [Ministry of Justice \(2022\) Remands: Magistrates’ Court data tool,](#) Criminal Justice System Statistics Quarterly, December 2021

³² [Robson, M. \(2020\) A suspect population? An examination of bail decision making for foreign national women in criminal courts in England and Wales](#) See also: [Prison Reform Trust \(2018\) Still no way out: foreign national women and trafficked women in the criminal justice system](#)

³³ [Uhrig, N. \(2016\) Black, Asian and minority ethnic disproportionality in the criminal justice system in England and Wales, cited in Prison Reform Trust \(2022\) Why focus on reducing women's imprisonment?](#)

³⁴ [Women in Prison & Agenda \(2017\) "Double disadvantage": The experiences of Black, Asian and minority ethnic women in the criminal justice system; and Prison Reform Trust \(2017\) Counted Out: Black, Asian and minority ethnic women in the criminal justice system, cited in Prison Reform Trust \(2022\) Why focus on reducing women's imprisonment?](#)

³⁵ [Ministry of Justice \(2022\) HMPPS Offender Equalities Annual Report 2021/22](#)

