



## **COMMUNITY JUSTICE FILES 28**

*Edited by Nick Flynn, De Montfort University*

### **Remand Prisoners: A Thematic Review, August 2012**

To accord with the longstanding principle that unconvicted prisoners are treated as innocent until proven guilty in a court of law, legally binding entitlements for remand prisoners are set out in The Prison Rules 1999. Yet, following inspections and surveys at 33 local prisons (published between January 2009 and June 2011), as well as interviews and focus groups with remand prisoners and staff at five local prisons, HM Inspectorate of Prisons has found that unconvicted prisoners are held in worse conditions, have a poorer regime, and receive less support than sentenced prisoners. Assessed against four primary tests of a 'healthy prison': safety, respect, purposeful activity and resettlement, inter alia, the report found that:

- Remand prisoners are at a heightened risk of self-harm and suicide. 40 per cent of prisoners who reported an emotional well-being or mental health problem had not received any help.
- Four out of the five heads of resettlement were not aware of the right of unconvicted prisoners to see their own GP.
- 47 per cent of remand prisoners reported difficulties in receiving bail information; and 45 per cent found it difficult to contact their solicitors. Prisoners undergoing a trial described staff as unaware and insensitive to their needs.
- Remand prisoners were found to be sharing cells with convicted prisoners without being asked for their consent. Some prisoners felt staff were not able to distinguish remand from sentenced prisoners.
- Remand prisoners were restricted from exercising their right to wear their own clothes
- 40 per cent of unconvicted prisoners reported they were not involved in any activities. The inspection reports found limited opportunities and a lack of priority for remand prisoners to engage in work and education activities.

- Remand prisoners had very little awareness of support services in prison. Only 33 per cent of unconvicted prisoners reported they had been asked if they needed help maintaining housing while on remand. It was found that some housing services would not work with unsentenced prisoners. Three of the five heads of resettlement who were interviewed had no awareness of prisoners' rights to received support for maintaining their business interests.

The report recommends that:

*...a comprehensive review of strategies and policies for remand prisoners should take place to ensure their treatment and conditions is consistent with their unconvicted and unsentenced status...*

Thematic report by HM Inspectorate of Prisons: *Remand prisoners, a thematic review* (published August 2012) can be found at:

<http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/remand-thematic.pdf>

### **Facing Up To Offending: Use of Restorative Justice in the Criminal Justice System, September 2012**

A joint review of restorative justice (RJ) practices across the criminal justice system has been published by HM Inspectorate of Constabulary, HM Inspectorate of Probation, HM Crown Prosecution Service Inspectorate, and HM Inspectorate of Prisons. Comprised of an inspection of police forces, probation trusts, youth offending teams and prisons in six criminal justice areas, as well as interviews with staff, victims and offenders, the aim of the review was to assess the take up and implementation of RJ practices in different agencies. Although good practice was commended, and overall the benefits of using RJ were acknowledged by victims, offenders, practitioners and the public, the report found widespread inconsistency and a lack of understanding of the principles of RJ across the agencies surveyed. The key findings were as follows:

**Police:** There has been an increase in the use of RJ approaches by the police from 0.5 to 12 per cent of all case disposals between 2008 and 2011, principally as an informal resolution. However, there was wide variation in training across forces, and how informal resolution schemes were implemented, including offences covered and offender eligibility. Of 66 cases surveyed, 14 were found to have arrived at an inappropriate resolution. In addition, some forces were not clear about the legal status of informal resolutions, and some criminal justice partners also expressed concerns that the police use of informal resolutions was not subject to external scrutiny.

**Youth Offending Teams:** RJ approaches were well established

**Probation Trusts:** RJ approaches varied considerably and were sporadic. Whereas some Trusts had demonstrated the value of RJ to victims and offenders; in others there was a

lack of clarity about what should be delivered and how. For instance concern was expressed that the cost of delivering RJ was not reflected in national costing models.

**Prisons:** As with Probation Trusts, restorative justice approaches were sporadic. A reason for this was that staff did not always recognize the purpose or value of RJ. For example, often they did not understand the differences between RJ and other victim awareness programmes.

Overall, the report recommended that:

*...further work needs to be done by all agencies to create consistent opportunities for both victims and offenders to participate in RJ approaches. This will be achieved through collaboration between the criminal justice agencies rather than working in silos.*

*Facing Up To Offending: Use of restorative justice in the criminal justice system.* A joint thematic inspection by HMIC, HMI Probation, HMI Prisons and the HMCPSI (published September 2012) can be found at: <http://www.hmic.gov.uk/media/facing-up-to-offending-20120918.pdf>

## **Out in the Open: What Victims Really Think About Community Sentencing**

Research jointly commissioned by Make Justice Work and Victim Support has found that recent victims of crime tend to be no more punitive than the general public. Based on a focus group with victims of crime and a nationwide opinion poll of victims of low level offences, the report reveals that victims have only slightly less confidence in the criminal justice system than non-victims (61 compared to 56 per cent), and that overall both victims and the wider public have a strong belief in punishment and public protection, but not to the exclusion of rehabilitation and reform. Moreover, while both victims and non-victims support community sentences in principle, they express doubts about them in practice. In particular, they are sceptical about restorative justice, Community Payback and electronic tagging. Overall, there is concern that offenders do not take community sentences seriously and they do not effectively punish or deter. To rectify this, a series of recommendations are made:

- A general awareness campaign to tackle common misconceptions about community sentences
- A greater emphasis placed on explaining to victims of crime what community sentences involve and the consequences to offenders if they fail to comply
- Victims to be made more aware of victim personal statements: their right to give one, and their opportunities to do so. VPSs also to be used more effectively within the criminal justice process.

- More onus placed on repairing physical damage as part of restorative justice.
- More opportunities for victims to be informed about how they can be involved in the nomination of Community Payback activities
- Victims to be made aware of Intensive Community Punishments intended to be demanding, robust and punitive with a strong emphasis on employment and training.

Out in the Open: What victims really think about community sentencing. Report jointly commissioned by Make Justice Work and Victim Support (published September 2012) can be found at:

<http://www.victimsupport.org/About-us/News/2012/09/~media/Files/Publications/ResearchReports/MJW%20and%20VS%20report%20-%20FINAL>

### **Changes to Criminal Records and Barring Arrangements**

The Protection of Freedoms Act 2012, some of the provisions of which came into effect on 10 September 2012, has enacted changes to the way that criminal records are disclosed to organisations who engage people to work with vulnerable groups. These include:

- A scaling back of regulated activity to focus on work which involves close and unsupervised contact with vulnerable groups including children. The activity being taken out will still be eligible for enhanced Criminal Records Bureau (CRB) checks, but not for barred list checks. This will reduce the nine million people currently covered by regulated activity to five million.
- The repeal of controlled activity categories covering people who might have less contact with vulnerable groups than people in regulated activity. Such people may still be eligible for a CRB check.
- Registration and continuous monitoring of anyone who wants to work with vulnerable groups will not be introduced.
- Anyone under the age of 16 will no longer be able to apply for a CRB check.

Future changes to be enacted after December 2012 includes the incorporation of the CRB's and the Independent Safeguarding Authorities functions into a new Disclosure and Barring Service. A leaflet explaining the changes can be found at: <http://www.homeoffice.gov.uk/publications/crime/disclosure-and-barring/>