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# Understanding Dual Contact for Women

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CENTRE FOR CRIME  
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## About the author

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# Why we need to consider the intersections between the criminal justice and children's social care systems

There is currently a great deal of focus on addressing the state of the criminal justice system here in England and Wales, and in particular the prison system. This focus is welcome, and vital, particularly as it includes significant consideration of the specific and different needs of women in the system.

In September 2024, Justice Secretary Shabana Mahmood announced the formation of the Women's Justice Board, after stating that 'prison isn't working' for women. The Women's Justice Board is tasked with overseeing a reduction in the female prison population, as well as addressing support for women in the community. Speaking in response to the Independent Sentencing Review (ISR) published in May 2025, Mahmood also said she is "particularly keen to ensure that pregnant women and mothers of young children are not anywhere near our female prison estate in future" (HC Deb., 2025).

Across the road in Westminster, the Department for Education has spelled out its commitment to ensuring children can stay safely within their families, rather than entering the care system.

These two commitments go hand in hand when we consider the degree to which mothers' contact with the criminal justice system intersects with children's social care involvement. This overlap is significant, but has been largely neglected for many reasons, including big gaps in the data picture. That needs to change. If it does, then we have a real opportunity to deliver on efforts to reduce women's contact with the criminal justice system and to help families stay together, safely.

In their recent report, *Breaking out of the Justice Loop*, co-authors Naomi Delap and Liz Hogarth (2025) emphasise the need to look beyond the justice system in seeking to address the drivers of women's offending, and towards ending the cycle of harm experienced by mothers and their children.

## Understanding dual contact

Pregnant women and mothers may come into contact with children's social care services at any point in their criminal justice involvement: at the point of police intervention; during criminal trial; on bail; while serving a community or a custodial sentence; when applying to have their child with them in a prison Mother and Baby Unit (MBU); or while under probation supervision after release from prison. The involvement of children's social care may be focused on early help; exploring kinship care arrangements or foster care; child protection proceedings; and/ or maintaining contact with children already in local authority care.

Evidence shows that the first 1001 days, from conception to a child's second birthday, lays the foundations for children's long-term development, health and wellbeing (Parent Infant Foundation, n.d.). This is a period of uniquely rapid growth, when babies' brains, their sense of self, and their understanding of the world, are shaped by their experiences and environments. The science shows that children need nurturing care to achieve their full potential. This includes conditions that promote health, nutrition, safety and security, responsive caregiving, and the conditions for early learning. By providing the right support in this early period, children are put on a positive developmental trajectory, helping equip them for the future. But if babies have a difficult start, it can have a significant impact on many aspects of their development, leading to an increased risk of a wide range of poor physical and mental health, social, educational and economic outcomes.

It is crucial that all systems – including criminal justice and children's social care – are able to recognise and appropriately respond to the needs of women and their babies in this critical period. However, with both the Criminal Justice System (CJS) and social care systems experiencing huge strain and often lacking meaningful commitment to a gender-specific, trauma-informed and multi-disciplinary approach, the prospect of coordinated care focused on these needs, and supporting families to stay together, seems a long way off at the moment. The tragic death of baby Aisha Cleary, who was born and died in her mother's prison cell in HMP Bronzefield in 2019, illustrates just how far we have to go in addressing dual contact. Aisha's teenage mother had contact with social care services throughout her own childhood and as she transitioned into young adulthood. Her unborn baby was subject to local authority plans for removal at birth; plans that had a huge impact on an already traumatised young woman, and which led to a reluctance to engage with maternity services. When she went into labour with Aisha, and pressed her cell bell for help, no-one came. She delivered baby Aisha on her own, at night, in her cell. Aisha did not survive. The coroner's inquest, held over four weeks in May 2023, heard evidence from more than 50 witnesses. This included evidence from the London Borough of Camden's Head of Safeguarding and Quality Assurance, who accepted that debates between Camden and Haringey social care teams over who was responsible for Aisha's mother "will have left her feeling unwanted and uncared for" (Travers, 2023).

## Current practice

Entering prison means mothers are separated from their children, either temporarily, or permanently through local authority care proceedings. The impact of these separations is hugely significant for all involved, with maternal imprisonment recognised as an 'adverse childhood experience'. On release from prison, issues with securing suitable accommodation can mean further challenges in reunification with children, or in maintaining contact with those taken into care.

For pregnant women and mothers of very young children, there is an opportunity to apply to have their child stay with them in a prison Mother and Baby Unit (MBU); up to the age of 18 months. There is provision for extended placements where appropriate, such as when the mother's sentence ends shortly after the child is 18 months old. In exceptional circumstances placements can be extended up to a maximum age of 24 months. Pregnant women, and women with children younger than 18 months old can apply. There are no exclusions relating to remand status/sentence, offence type, sentence type or sentence length. There are currently six MBUs in England.

Whilst in the MBU, the mother is responsible for her child (although the governor of the prison has a duty of care for both mother and baby). All parents in prison retain parental responsibility for their child (whether in an MBU or not) unless there is a court order removing this.

The decision as to whether to admit a mother and her baby to an MBU is taken after a Board has reviewed her application, and the reports compiled by relevant professionals, including the local authority children's social care team.

A review of the MBU application process, led by the Chief Social Worker for England in 2022, reported significant concerns about social workers' understanding of, and attitudes towards, these units (Department of Education, 2022). The review also brought into focus the quasi-legal nature of the hearings involved in MBU decisions, which, unlike decisions to separate children from their families in the community, do not allow mothers legal representation and have few checks and balances in place to ensure such decisions are fair and just. Since this review was published in 2022, there has been only limited progress made in addressing these concerns. While the recent public appointment of new MBU panel chairs is welcome, the Ministry of Justice has not formally responded to the question of legal representation for mothers in these processes.

Work is underway to embed social workers in women's prisons, including pilots led by the charity PACT, which have shown significant improvement in relationships with community-based social workers and better outcomes for mothers and their children in terms of contact, input into MBU decisions, and preparation for resettlement, but these roles are as yet only in place in four out of the twelve women's prisons.

The difficulties and concerns around the separation of mothers from their infants in the 1001 days underlines the need to prioritise non-custodial options for these women.

## Working together: justice, health and social care

If the government is to be able to keep families safely together, and break down the barriers to children having the best possible start in life, we need a radical shift in the ways that children's social care and the CJS – police, courts, prisons and probation – work together around pregnant women and mothers of infants. Whether or not a reduction in the number of women in prison is achieved, particular attention needs to be paid to the relationships between probation and social care.

In 2021, the 'Window of Opportunity' study, conducted by Birth Companions and Clinks, identified significant issues in how pregnancy and motherhood are recognised and addressed within policing, community sentence requirements and probation supervision (Birth Companions and Clinks, 2021). Less than half of the voluntary sector organisations that took part in the Window of Opportunity research said they felt that probation services in the community take sufficient account of the needs and circumstances of pregnant women and new mothers.

This means information about these needs is not informing decision-making, including sentencing decisions (e.g. through pre-sentence reports) and the setting of compliance expectations. The majority of the midwives who participated in the research said they felt that involvement in the CJS had a significant impact on women's antenatal and postnatal care needs, partly due to the extra concerns and stresses they experienced as a result.

One participant, a midwife, stated:

*"They often have many appointments to attend which can be very difficult when [their] mental health is not good, feeling threatened by social care and not sure if they will be able to keep their baby. Social care often requires regular engagement with everyone in order to get a positive assessment (psychologists, substance misuse, midwives etc.). This is challenging for them."*

Another participant, a mother under probation supervision, stated:

*"I have told them [probation] many times, I am scared of you and I wish I never had to see you back here again. The fear is because of the separation."*

Women's transition back into the community after prison also poses a particular risk to the continuity of their healthcare and other crucial forms of support. For example, pregnant women serving a short sentence, or a short period of remand, will have to build relationships with new midwifery teams in the community, often at a late stage in their pregnancy. Women experiencing or at risk of perinatal mental health issues may also not be appropriately referred to community provision when released (Birth Companions and Clinks, 2021). Problems securing appropriate housing on release create particular issues for contact with children and for access to health and support services (Birth Companions, 2024).

It's important that we remember that probation was regarded as social work for most of the twentieth century, until it was split off around 30 years ago. The disconnect that occurred with this separation is sharp and problematic; probation, despite the best efforts of many officers, became focused on punishment and supervision rather than support, and social work lost touch with the CJS. Both professions have also suffered in the ensuing years from underfunding – huge caseloads and staff turnover due to stress and burnout mean many core aspects of these roles, including a focus on relational practice, have been weakened despite individuals' best efforts, and there has been a marked shift towards crisis-point intervention rather than early intervention. Many, including us at Birth Companions, see a need to build far better multi-agency working and to establish a shared commitment to relational approaches across both spheres. We need joint training, in the curricula and through continuous professional development, to rebuild what was lost in that split.

Multi-agency child protection teams, which are to be established in each local authority area through the Children's Wellbeing and Schools Bill, will be expected to include work with probation services as well as police. But these relationships must not sit only within child protection processes – they need to be embedded in early help and support around families, and be able to address the specific and distinct needs associated with pregnancy and infancy, not only older children.

It's also essential that we establish stronger connections between these agencies and the health system - in particular the maternity system and health visiting, but also GPs - when we're thinking about the importance of those 1001 days. Great work is underway to establish these connections in some of the Families First for Children pathfinders – established to test reforms to children's social care in a number of local areas - and this work should be shared and scaled up across the country in order to help ensure families are not separated 'by default' because of a lack of planning and support.

Gaps in data on the overlap between these systems is also a huge barrier to improvement. Little is known currently about the outcomes of women's contact with both the criminal and family courts, for them and for their children. A new project led by Lancaster University, Swansea University, and the University of Central Lancashire (2025) is set to change that, by building the evidence base through data-linkage. Working in partnership with Birth Companions, the Ministry of Justice, and the Children and Family Court Advisory Service (Cafcass), the COMFT (Child Outcomes for Mothers Facing Trial) study will centre the involvement of women with lived experience, through an advisory group led by us. We're hopeful this project will pave the way for more of its kind, focused on understanding and addressing women's and children's needs in a holistic way.

## Recommendations for a better system

In March 2025, Justice Secretary Shabana Mahmood intervened to halt the implementation of Sentencing Council guidelines that aimed to ensure judges have detailed pre-sentence reports for specific groups, including pregnant women and mothers of babies. These guidelines were designed to help courts consider the circumstances of these individuals, to inform sentencing decisions. Mahmood has expressed concern that such measures risk undermining the principle of equality before the law, although equality is not delivered by treating everyone the same. At the time of writing, the Sentencing Council guideline is paused, pending progression of a related Bill through parliament. Many parties, including Birth Companions, are concerned about the impact this Bill may have on specific provisions for the consideration of pregnancy and motherhood across all sentencing guidelines, including the mitigating factor introduced last year.

The Independent Sentencing Review (ISR) published its report in May 2025, with explicit recognition of the harm caused by imprisoning pregnant women and new mothers, and a call for more flexible sentencing options on that basis. The report states these women should be diverted from prison and supported in the community. Custody must only be a last resort.

The proposal made by David Gauke and his team that suspended sentences should be allowed for up to three years and prioritised for those with complex needs, including pregnant women; and the extension of deferred sentencing from six to 12 months. As Gauke spells out, this will allow pregnant women an opportunity to engage with health, social care and community services.

We now wait to see what happens in translating the ISR's recommendations into practice, supported through greater investment in the probation system, community services and the specialist women's sector. We also await

the strategy being prepared by the Women's Justice Board, the review of the court system, and the further progression of the Sentencing Guidelines (PSRs) Bill. Whatever happens in the coming weeks and months, though, it is important that we continue to fight for a better approach to the 1001 days across the CJS. So what can we do, in practical terms, to shift the needle?

## The need for a 1001 days impact assessment

We need a mandated approach to the sentencing and support of women who come into contact with the CJS in the 1001 days, to ensure consistent and high-level consideration of these risks and the lifelong impacts on infants. Such a mandated approach should prioritise diversion, community sentences, and use of deferred and suspended sentences, as highlighted in the ISR, well as ensuring that all requirements and conditions placed on women in the 1001 days as part of the sentencing process are appropriate to the needs associated with pregnancy and early motherhood.

To support this approach, every sentencing exercise undertaken for a woman in the 1001 days should include a mandatory impact assessment, specifically accounting for the needs relating to pregnancy and early motherhood/ infancy. The Child Impact Assessment Framework (Prison Reform Trust, 2022) has proven to be a welcome and effective addition to sentencing processes, helping bring focus to the needs of the child, but this only applies to older children, able to take part in discussions about the impact of parental contact with the CJS. The needs of non-verbal children, including unborn babies, require equal but tailored consideration.

A 1001 days impact assessment would ensure sentencers are required to account for their consideration of this critical period in their decision-making, including the nature of conditions and requirements placed on women. A tool to support the completion of such assessments, as part of mandatory written Pre-sentence Reports (PSRs), should be co-produced with mothers who have experienced the CJS in the 1001 days, as well as specialist services, and be at the centre of a new package of training and resources for sentencers, probation, family support agencies and others.

## Deferred sentencing and rehabilitation in the 1001 days

Where it is not possible to divert a woman or to apply a community sentence at the outset, the default for women in the 1001 days should be deferral of sentence, unless a clear and overriding justification exists for immediate custody. This should be set out in the 1001 days impact assessment. To support this approach, in the case of women who are pregnant or have a child under the age of two, the deferral period available must cover the entirety of the remaining days up to that second birthday (as a minimum). Hence the extension of deferral in the ISR proposals are welcome.

Deferral offers sentencers a valuable opportunity to allow pregnant women and new mothers the chance to give birth in the community, with full access to healthcare including easy access to emergency care if required, and to navigate the complexities of pregnancy and early motherhood within their existing support networks. It also reduces the likelihood of temporary or permanent separation from an infant in this critical period, allowing healthcare, voluntary sector, and social care services to be offered more easily and to be effectively coordinated across multiple agencies.

In many cases, the work done by women to address the root causes of offending may then support a community or suspended sentence, instead of custody.

This approach can be instrumental in supporting rehabilitation and reducing reoffending. We know that pregnancy and early motherhood present a powerful ‘window of opportunity’ in working with women to address the issues that may have contributed to their offending. Many of these issues are exacerbated, rather than addressed, by a custodial sentence, making the journey towards desistance and resettlement more challenging. It is anticipated that many women could, with the right support, avoid custody entirely as a result of deferral.

## A new probation framework

Improved understanding of, and responses to, the 1001 days across the probation system will be critical to supporting different and better outcomes for pregnant women and mothers of infants. Currently, there is no probation policy framework that takes account of pregnancy and early motherhood, despite pregnancy and maternity being a protected characteristic. A policy framework to mirror that developed in the prison system (HMPSS and MoJ, 2021) must be a priority, and incorporate the 1001 days impact assessment tool. In this way, probation can help ensure PSRs are comprehensive, and conditions and requirements are appropriate and supportive of resettlement and rehabilitation. Delivering probation support for women in the 1001 days will require gender-informed and trauma-informed approaches across the service, including women-only provision where required, and support delivered in close partnership with the specialist women’s voluntary sector – a relationship that the ISR rightly highlights needs to be strengthened and appropriately funded.

## Concluding remarks: the opportunity before us

This government’s commitment to cross-departmental working and to its core missions has established some strong directions of travel. Let’s hope that commitment is maintained and translated into practice, with Justice, Education, Health and Social Care, Home Office, Treasury and Housing, Communities and Local Government all working more closely together to address the issues that so often lie at the root of female offending, and which result in mothers being separated from their children, with life-long consequences for all. If that happens, then perhaps we will finally see the long-promised reduction in women’s imprisonment, better support for women and girls, and more infants supported to remain safely with their mothers. That is how we will break down the barriers to opportunity and ensure children can have the best start in life.

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