

Trapped in the Justice Loop?

Past, present and future of the woman-centred services at the heart of the systems-change called for in the Corston Report

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Foreword

Baroness Jean Corston's report on women in the criminal justice system, published in 2007, was enormously influential. As Liz Hogarth points out in this review, it was the catalyst for a range of government initiatives to make the various parts of the criminal justice system more responsive to the social and emotional needs of criminalised women. It also mapped out a vision for a holistic network of services aimed at preventing many women being criminalised in the first place.

Ten years on from the publication of the Corston Report, this review offers an analysis of the role envisaged for woman-centred services in the systems-change proposed by Baroness Corston: the 'radically different, visibly led, strategic . . . holistic, woman-centred integrated approach'. It charts their development and success in proving their effectiveness: an achievement to be celebrated, given the challenges in a justice environment that often seemed more hostile than enabling and one that saw the loss of some innovative projects.

The review sets out reflections from a policy perspective on what happened more broadly: what went wrong and why and suggests the need for a reality check. Behind the professed cross-party support for the Corston proposals and the somewhat inflated claims in briefings on progress delivered, the reality is one of persisting systems failure not systems change: failure to halt the use of inappropriate short sentences and to avoid the needless loss of life with deaths in custody. The shocking total of 12 self-inflicted deaths in 2016 alone is a stark reminder of that failure.

Liz Hogarth argues that change is achievable and that woman-centred projects have a pivotal role in securing that change. She sets out thoughts on how future policy and practice can reclaim and realise the original Corston vision.

Prisons across England and Wales are in crisis. The probation service is in disarray. Community-based services for women at risk of criminalisation are closing through lack of funding. This timely review by Liz Hogarth explains how we got here, as well as how we might develop a sustainable model for women-centred services in the future.

Richard Garside
Director

1 Corston, J. (2007), *Corston Report: a review of women with particular vulnerabilities in the criminal justice system*, London: Home Office 13 March, p70-71.

2 TWP (2005), £9.1 m funding for holistic women's demonstration projects; announced by HO minister Patricia Scotland 17 November, HL Deb cols ws 99-101.

The Corston Review¹ was initiated amidst the growing sense of outrage at increasing numbers of women dying in custody. External pressure grew with disquiet voiced by people like the Cheshire Coroner, Nicholas Rheinberg following a series of inquests into six deaths in custody in HMP Styal within a 13 month period: 'I saw a group of damaged individuals committing for the most part petty crime, for whom imprisonment represents a disproportionate response'.

Baroness Scotland's ministerial statement on 28 March 2006 on the commissioning of the Review included a commitment to learn lessons from the deaths: 'The review will be focused on those women in whom a multitude of risk factors coexist and which could lead them to harm themselves in prison'. Furthermore, it 'will profile the characteristics and histories of some of the women who have died in custody in recent years and look at the pathway through the criminal justice system that led them to that point'.

The Review took the opportunity to look in detail at what was happening to cause so many women to get sucked into the CJS who should not have been there in the first place: in particular women receiving short and repeated custodial sentences for petty offences, who often had issues around mental health or dual diagnosis, (coexisting substance and mental ill health). The report called for 'a fundamental re-thinking about the way in which services for this group of vulnerable women, particularly for mental health and substance misuse, are provided and accessed'. 'Prison is being used to contain those for whom there is no proper provision outside prison, or who have already been excluded from society'.

There were then, two clear elements to the systems change called for by the Corston Review. It was not only seeking internal systems change within the CJS; but crucially also set out the need to go up-stream, putting prevention firmly on the agenda in demanding a focus too on women 'at risk of offending' and wider system failures: 'Much more needs to be done to divert low-level offending women not just from court but also from prosecution'. This represented a significant policy shift. Coupled with the insistence on the need for a gender-specific response, – putting the woman-centred model at the heart of the systems-change required – it signalled the intent to look outside of the CJS for solutions to stemming the flow into custody.

The call for an expanded network of holistic women's projects, building on the work of the Together Women Programme (TWP) (2005)² was pivotal to the argument that it is patently wrong that women experiencing severe and multiple disadvantage (SMD) and often repeatedly failed by health and social care systems, should only get attention, support and a policy focus once enmeshed in the CJS. It is pertinent to note that the specification for the five TWP women centres, aimed at diverting women 'at risk' as well as 'reducing re-offending', was based on two well-established centres: Calderdale WomenCentre, which had a long established track record in supporting women's complex and often health-related needs in the community and Asha women's centre, set up by Jenny Roberts, a Chief Probation Officer, who had direct experience of the limitations of a CJS-only response to women, given the extent of unmet health needs. The design of the TWP model challenged the unhelpful 'woman offender' label that risked defining women by their offending alone, as if they were somehow a different species from other women in the community affected by poverty, violence, health and other social inequalities, in need only of CJS interventions to change their 'bad' behaviour. Grappling with how best to define 'at risk' inevitably threw up challenges; but recognition that the solution for women who should not be in prison lay with gender-sensitive mainstream services in the community and not the CJS was crucial. It opened up the potential to achieve the systems change needed. A singular focus on the CJS alone was seen as insufficient: once caught up in the justice loop of courts, probation and prison, the limited range of non-custodial sanctions quickly run out in the face of repeat low level offending, making short repeat prison sentences almost inevitable.

Leverage at last?

The Corston Report really did seem to have the potential to be a game-changer. In the early stages of implementation of the accepted recommendations a number of factors fuelled hopes that substantive changes to policy and practice were possible. Strong leadership and a ministerial champion upped the profile of women. Strong and influential women like Patricia Scotland, Fiona McTaggart, Vera Baird and Harriet Harman gave the Corston agenda additional leverage across government departments, making it easier to gain

- 3 Fawcett Commission on Women and the Criminal Justice System (2009), 'Engendering Justice – from policy to practice', Fawcett Society, May.
- 4 Dylan, B. (1975), Simple Twist of Fate, second track on Blood on the Tracks album, Bob Dylan, released January 1975.

commitments and cross-departmental join up. Unlike the light touch predecessor to the Corston proposals – the Women's Offending Reduction Programme – systems were put in place to drive delivery:

- a detailed National Service Framework published in May 2008, with measurable strategic outcomes tied into the Ministry of Justice Departmental Strategic Objectives;
- central oversight of local delivery;
- an Inter-Ministerial Group under-pinned by a cross-departmental officials' strategy group.

All this was held to account by open monitoring and regular reporting to parliament.

The securing of specific ring-fenced funding for voluntary sector holistic woman-centred services was a major score and change-enabler: initially with the £9.15m for the TWP demonstration projects in 2005 and then the £15.6m to expand and strengthen the network of women-specific services, a key Corston recommendation. Harnessing external forces brought additional benefits in maintaining pressure and momentum to the work. The innovative partnership, established in late 2009, between the Ministry of Justice and the group of charitable trusts and foundations in the Corston Independent Funders' Coalition with the Women's Diversionary Fund not only brought in additional funds and much needed grant-giving expertise but also an additional level of accountability to bear that increased leverage on some officials who had previously seemed to have little appetite for giving women a greater profile.

The Fawcett Commission between 2004 and 2009³ had maintained a helpful long-term pressure on the National Offender Management Service (NOMS) to ensure that its focus remained steady. The Fawcett Society itself was a key source of support for the Women's Policy Team in its work to ensure NOMS had a grasp of the 2006 Gender Equality Duty: countering the often quoted phrase 'but women are only 5% of the prison population' that was seemingly taken by some as a kind of indicator of the level of attention these women merited. Looking beyond the CJS in developing a collaborative approach to policy and practice with experts from the women's sector and academic researchers brought energy and fresh thinking to strategy. The

declared cross-party support for the Corston Report also created some optimism for longevity and hope that what the ministerial Champion, Maria Eagle, termed the start of 'a long-term sustainable strategy for change' could really prove to be just that.

Unforeseen impact of 'a simple twist of fate'⁴: the peculiar case of the 'women at risk' disappearance

While there was a real sense of momentum in progressing the initial cross-government three-year programme of work detailed in the National Service Framework, implementation of the 'women at risk of offending' element of the strategy faced challenges from the outset. Sometimes it can be a relatively small departmental change that can have a major adverse impact and throw an initiative off course: the simple twist of fate not always foreseen by mundane risk management. Thus it was that the 'women at risk of offending' element – the prevention component – was dealt a severe blow even before the implementation of the Corston agenda got underway. The dual strategy – stemming the flow and reducing the number of women in prison – both essential to achieving the systems change goal, came under single ownership in the Home Office. The syphoning off of prison and probation responsibilities from the Home Office to the newly created Ministry of Justice in 2007 ended that. Strategic leadership on women's policy and the Corston implementation was despatched, along with NOMS (Prisons and Probation) to join Courts, becoming embedded firmly within 'Justice'. Reducing the number of women entering the criminal justice system remained the first priority in the National Service Framework for Women Offenders (not 'women at risk'); but the split meant that some of the areas in the Home Office key to stemming the flow, such as policing, community safety, drugs and the Violence against Women and Girls Strategy, would be harder to influence at a distance or might slip off the Ministry of Justice's radar.

There was a valiant effort by the newly created cross-departmental Women's Unit to secure some traction for the work needed upstream to stem the flow of women into the CJS and to widen strategic ownership. The support of the Cabinet Office's Social Exclusion Task Force was enlisted

5 Social Exclusion Task Force (2009), 'Short Study on Women Offenders; Social Exclusion Task Force', London: Cabinet Office, p. 3.

6 Department of Health (June 2009), 'The Health and Personal Social Services Programmes', p163.

and, drawing on the expertise of the established voluntary sector women-centred services, it produced a model for early intervention that sought to develop a more systematic approach to linking women into mainstream services and support at their first point of contact with the CJS.⁵ It highlighted that:

... in delivering systematic change there is great value in complementing existing provision with earlier, intensive and tailored support. By building on the most exciting existing practice and by using initial contact with the CJS as an opportunity to identify and engage women with complex problems much earlier on, there is an opportunity to further improve outcomes for women offenders and their families and to ensure early and effective provision for those at risk.

The proposed model inevitably had its limitations. The aim to divert women at the first point of contact with the CJS, and to curtail further progression through the system, reflected the reduced policy levers available to the MoJ. Its reach could not extend to preventing women at risk entering the CJS. An attempt to help stem the flow of women was the best the MoJ could offer. It could not leverage the social policy change needed for the prevention agenda that would see 'women at risk' in the community better supported and mainstream public sector services offering improved, appropriate, well-coordinated gender sensitive responses.

The systems change required for prevention was clearly identified. The aim of the MoJ's Women's Diversionary Fund was 'to ensure early and effective provision for vulnerable women in the community' by increasing capacity and coverage of holistic woman-centred services. The National Service Framework flagged the intent to look to 'the need to create adequate services in the community to meet these women's needs, including detoxification and mental health services' and 'any necessary re-allocation of funds from custody to community'. (The re-allocation of resources from prison budgets to non-CJS community services being dependent on achieving reduced numbers of women in prison: something hardly likely to enthuse or incentivise NOMS' implementation role). As the lead on delivery, the MoJ simply was not in a position to make these changes happen.

Work on scoping the project would, though, have at least explored ownership of and responsibility for the problems needing resolution – outside of the CJS – and helped identify the role of women's services in fostering relationships and facilitating change. It would have set out too the clear delineation needed between 'support' and 'justice'. Unfortunately the opportunity presented by the SETF model to at least expedite progress on early intervention and diversion and to build on the expertise of the women's sector, putting them at the heart of the model, was lost with a change to the Head of the cross-departmental Women's Unit in 2009. The proposed model was immediately parked, and then abandoned.

A further barrier to progress emerged in addressing the Corston health recommendations. The MoJ's interface with the Department of Health was between NOMS and Offender Health where focus on improvements tended to be within the custodial environment. Negotiating strategic outcomes became mired in delay. The vital work on diverting women at the first point of contact with the CJS was transferred for consideration under the wider brief of *The Bradley Report* on mental health and learning disabilities in the CJS; but that took until April 2009 to complete. Other health recommendations were not progressed at all. Well into 2009, there were mere aspirational statements of intent rather than tangible commitments with time-lines for delivery from the Department of Health. For example:

The Department is responding positively to the health recommendations contained in the Corston Report. The Offender Health and Social Care Strategy will have a distinct pathway for women in contact with the criminal justice system and will look at improvements in health provision throughout the process, including at arrest and in court, as well as more generally in the community⁶

As a result of the challenges and missed opportunities, stemming the flow, a fundamental strand of the dual strategy needed to realise the Corston vision, was not progressed. By 2009 it was, in effect, lost altogether. Instead, the focus was firmly only on the more entrenched end of the CJS: the world of courts, probation and community orders as 'tough alternatives to custody' and embedding holistic women's services into the system as a component of the 'tough alternatives'.

7 Stewart, L. and Gobeil, R. (2015), 'Analytical Summary: Effective Interventions for Women Offenders, A Rapid Evidence Assessment', NOMS, p2.

'Justice Loop' constraints: 'lockdown' on systems change?

Despite the cross-party support for the Corston Report and claims from NOMS as recently as July 2015 that the government 'has since adopted many of the Report's recommendations',⁷ concerted, coordinated efforts to implement the majority of the accepted recommendations had stalled by 2010. The mechanisms to drive delivery, the inter-ministerial group, the strategic framework, and departments held to account through external scrutiny by regular reporting to parliament all disappeared. Commitments aimed at improving women's community provision – like the £2 million allocated to develop enhanced bail accommodation and support and redesigning Approved Premises to actually meet the specific needs of women – failed to materialise. There has been some *ad hoc* small scale activity, including some continuation of the Corston 'joined-up integrated approach' such as that initiated in the Manchester area. This has now been re-branded as the MoJ testing out the exciting 'whole systems approach' for women in contact with the CJS. Building on previous good practice this approach is going quite well, albeit with a less well-resourced and diluted role for women's services; but could hardly be described as 'systems change'. Funding for the women's projects was extended for a period too, to support the work on 'alternatives to custody'.

A singular focus on trying to halt the imprisonment of low risk women offenders by changing the internal workings of the CJS was never going to achieve the systems change required. Well before the Corston Review, the prevalent premise was that the solution to cutting the over-use of short prison sentences for women whose offending did not merit custody lay with the judiciary. Targeting efforts towards increasing awareness of gender specific needs by probation and the judiciary, improving court reports and the range of community options for women, so the argument went, would influence the judiciary to have greater confidence in and opt for community orders as 'alternatives to custody' in place of short prison sentences. The Women's Offending Reduction Programme (2004) and the TWP demonstration projects (2005) reflected and tested out this premise.

Some advocates for change in the treatment of women in the penal system challenged the premise early on and research and analysis

proved them right. The locus for change has to be outside of the CJS: it cannot rest with the judiciary; it is not within their remit. As the 'keeper of the law' on behalf of society, the role of the judiciary is to punish the 'transgressor': the offender who has broken the law. However sympathetic towards a woman offender who has been failed by health and social care systems, or impressed by the support offered by a holistic women's project, there has to be a punitive element to the sentence. That was the clear message from magistrates captured in the TWP evaluation: they just could not see attendance at a women's centre as an 'alternative to custody'. Carol Hedderman's *Empty Cells or Empty Words* provides a comprehensive and cogent analysis of why looking to magistrates and judges to be agents of change within the existing sentencing framework and without restricting sentencing powers simply cannot alone achieve the sought decrease in short prison sentences and actually risks net-widening and up-tariffing.

Remaining caught up in the 'justice loop' with the lead role resting with the MoJ and NOMS risks losing sight of the key concern identified by the Corston Review, supported by cross-party agreement, that prison remains a disproportionate and inappropriate response for many women. It is easy to get caught up in the rhetoric geared to reassuring the judiciary and public, without pausing to ask exactly who are all these women whose offending poses such a risk that community orders need to be 'tough', 'robust' and 'punitive' with additional coercive requirements such as tagging and curfews. That may be so for some; but surely not those petty offenders described by Corston as in need of decent mental health support, safe housing and long-term help in dealing with deep-seated traumas, where such disproportionate requirements would make breach inevitable? Or those victims of modern day slavery who are the Prime Minister's priority: those migrant women who are victims of trafficking or forced labour languishing in prison because of failure to identify them at the point of arrest?

'Justice loop' impact on the woman-centred services

The holistic woman-centred services, the cornerstone of the Corston systems change, have not fared well within the confines of the justice arena. The rapid progress achieved with the ring-

8 Ministry of Justice (2011), *Diverting Women Away from Crime: Guide to the Women's Community Projects*; London: Ministry of Justice January.

9 Gelsthorpe, L and Hedderman, C. (2012), 'Providing for Women Offenders: the risks of adopting a payment by results approach', *Probation Journal*, 59:374.

10 APPG on Women in the Penal System (2016), *Is this the end of women's centres*, Howard League.

11 Justice Data Lab (May 2015), 'Re-offending Analysis: Women's Centres Through-out England', London: Ministry of Justice.

12 Noble, A. (2009), *We Have to Stop Now*, Peccadillo Pictures.

13 Bromley Briefings (2016), *Prison Fact File*, autumn.

14 Hedderman, C, (April 2012), 'Empty Cells or Empty Words: Government policy on reducing the number of women going to prison', *Criminal Justice*.

15 Ministry of Justice (2016), 'Women in the CJS 2015', updated in November 2016 a Section 95 publication.

16 Ministry of Justice (2017), *Prison Population Stats w/c 5/3/17*.

fenced Women's Diversionary Fund (WDF) saw the creation of a network of 40 women's community projects by 2010,⁸ including many that were small and new to the CJS world. All needed time to develop; support in building the infrastructures needed to meet increased demand and in creating effective data capture systems and help from NOMS to champion and embed the model at local level, securing stable funding streams from local mainstream services too. However, once funding was delegated to NOMS in 2010 and it was no longer held to account through the strategic framework, the vital protection was lost. Support from the centre dwindled and interest focused solely on NOMS' remit: offenders, not those at risk of offending. The onus shifted onto the projects being required to prove they reduced re-offending.

The 'justice loop' and the focus on 'alternatives to custody' at least meant funding for the women's projects continued through to 2013; but at that point NOMS chose to devolve commissioning of women's services to Probation Trusts. There was no requirement to keep funding the WDF projects or to maintain the integrity of the holistic woman-centred approach. A number of projects had their funding cut, some of those new to the CJS folded and others struggled with requirements from Trusts to extend their reach to cover an entire probation area. There was no attempt to extend the network of projects to fill gaps in coverage.

The even more devastating impact of NOMS' decision to leave women's projects to battle for funding in the competitive market with the Transforming Rehabilitation (TR) payment by results model (PBR), despite clear warnings that women would fare badly,⁹ is well-documented.¹⁰ It is ironic, given NOMS' lack of commitment to the women's projects, that they did indeed prove their worth by NOMS' criteria. In May 2015, the MoJ's own Justice Data Lab confirmed that women's centres had evidenced their impact on reducing re-offending with statistically significant results.¹¹ Their value is clearly better appreciated by the Probation Inspectorate. 'In recent years, dedicated funding for women has virtually disappeared and so the future of some services, and in particular those provided by Women's Centres, was in doubt. The Inspection found cases where Women's Centres had been pivotal in turning women away from crime and helping them to rebuild their lives'. The Inspectorate said in September 2016. It added: 'These centres need

recognition, support and funding so that they can continue to help these women and make communities safer'. The iconic Asha Women's Centre, key in informing the model for women's community projects closed in early 2017. Others are unlikely to thrive or survive if they remain in the 'justice loop' under the control of NOMS' new incarnation, HM Prison and Probation Service.

'We have to stop now'¹²

Ten years on from the Corston Report and nothing has really changed: prison still remains a disproportionate and inappropriate response for far too many women. The fixation with internal tinkering with the CJS within the 'justice loop' has achieved nothing. From 2002 to 2016 the overall numbers serving short sentences have remained the same. The use of community orders has actually gone down. In the 12 month period from May 2015 to June 2016, 70% of women entering custody were sentenced to six months of imprisonment or less.¹³ Back in 1993, only a third of women received such sentences.¹⁴ The percentage of women sentenced to 12 months imprisonment over the last decade each has remained stable at around 25 per cent. Eighty four per cent of women entering prison have committed non-violent offences.¹⁵ Optimism that the introduction of the 'no real prospect (of custody) test' (Schedule 11 of the Legal Aid, Sentencing and Punishment of Offenders Act, 2012) would slash the numbers of custodial remands proved unfounded. The anomaly remains that around 50 per cent of women remanded in custody do not go on to receive a custodial sentence, or are acquitted. The relatively recent small drop in the women's prison population is welcome – it had dropped to 3,844 in February 2016; but crept back up to 3,953 at the beginning of March 2017¹⁶ – but cannot be attributed to greater use of 'alternatives to custody' and is hardly a cause for celebration. There is a risk too that any downward trajectory will be reversed as a result of the drastic cuts to community drug services currently underway.

Over ten years ago deep concern about women's deaths in custody was pivotal to the decision to embark on the Corston Review: urgent change was needed. The situation now is much worse and shockingly so. In 2016 there were 22 deaths; 12 known to be self-inflicted and 6 still awaiting classification. The women who have died are chillingly similar to those described by the

17 INQUEST (2014), 'Preventing the Deaths of Women in Prison: the need for an alternative approach and INQUEST's monitoring service, Deaths in Custody figures', 2016.

18 Ministry of Justice (2016), 'Women in the CJS 2014 and 2015', updated November 2016 a Section 95 publication.

19 Together for Mental Wellbeing (2016), *Rotherham Pathways Project: part of the T2A Alliance Pathway Programme*.

Cheshire Coroner¹⁷, and those identified in the Corston Review as women affected by severe and enduring multiple disadvantage getting sucked into the CJS because of failures in the health and social care systems: women who should not be in prison. The issue here is one of 'rights': these women have a right to access appropriate services that are responsive to their needs and a right not to be imprisoned inappropriately because of systems failure.

Progress on implementing the Corston Report stalled over six years ago. The singular focus on the CJS has helped to mask the reality that what could have worked to halt needless deaths and improve women's life chances – the 'prevention' element of the proposed systems change – has not yet even been fully explored and tried out. Conditions for women in the hard end of the CJS are much worse than ten years ago: the system both in prison and the community is nearly broken and the solution does not lie in the planned prison reform. Spending £50 million on creating five new 'community prisons' that will no doubt be filled with yet more women who should, or do not need to be there is not the answer. Justice policy remains stubbornly prison-centric despite the fact that most offenders do not go to prison and many women who do certainly do not need to be there in terms of the severity of their offence or risk posed to the public. The current policy focus on prison and portraying 'rehabilitation' as its 'key purpose' now risks drawing yet more women into prison: there still appears to be a tendency amongst some members of the judiciary to view prison as a potential place of safety and only where a woman can get the help she needs, despite all the evidence to the contrary.

There is an urgent need to break out of the 'justice loop' now and broaden the focus, shifting attention up-stream on how best to stem the flow of women into the CJS. Focussing efforts on what is needed to support women who may be at the earliest stage of contact with the CJS or even before that point presents a real opportunity to reclaim and finally realise the original Corston vision for 'women at risk'. It is essential to locate ownership of the 'prevention' agenda outside of justice, with those in control of the systems in the community that need changing. Baroness Corston recognised the risk that progress could stall if focus stayed with and solely on the CJS; hence her insistence on the need for structures

that ensured external governance and holding to account and the recommendation that the then Department of Community and Local Government should take over the lead on implementation within three years.

An inter-face with justice is still needed here; but it lies with the police. They are gate-keepers of the CJS and have an integral role in the systems change needed to stem the flow. It is therefore encouraging that there have been marked reductions in recent arrest rates. The number of arrests fell by 'around 60 per cent for females between 2008/9 and 2012/13' and the total number of arrests for females by 26 per cent between 2011/12 and 2015/16.¹⁸ This is a good development and one worth building upon. There is real potential for the police to be the first and only point of contact with the CJS, if support is at hand with women-centred services able to foster access to appropriate mainstream services in the local community. There are some good practice initiatives that easily could be built on. In 2016, Together's Rotherham Pathways Project, working closely with the police in supporting vulnerable young adults, achieved an impressive 44 per cent reduction in the number of young people coming into contact with the police.¹⁹ Liaison and diversion schemes in police custody suites or courts were a priority in the Corston vision. Progress in implementing the Bradley Report (2009) recommendation for such schemes has been painfully slow; but after pilots in 10 areas from April 2014, national rollout is now underway. Emerging good practice highlights particular benefits for women, as long as well-funded mental health and other services are available.

The way forward/Recommendations

In the current sentencing framework, prison is the ultimate sanction on the punishment spectrum available to the courts. It is meant to be reserved for those who commit the most serious offences and to protect the public from those posing a serious risk of harm. It is never appropriate to use prison as a place of safety for vulnerable and/or homeless women, or those deemed by the judiciary to be at risk of harm from herself or others in the community. Nor should prison be used as a pseudo 'hospital' to assess, contain or treat those with complex mental health issues or addiction problems. As the Corston Review so clearly identified, such women do end up in prison, often for repeated short periods in

custody and will continue to do so unless the focus finally shifts to prevention. This is a social justice issue: such women should not be sent to prison and they certainly do not deserve to die in prison. The locus for change has to be outside of the CJS and needs to be on improving and increasing woman-centred support and services in the community for women with extensive experience of abuse and trauma.

Recommendation 1: A shift of focus is needed now away from sentencing and the CJS to 'whole system' thinking: the holistic, woman-centred, integrated approach identified in the Corston 'Blueprint', along with the delivery structures needed, that will help avoid needless and damaging contact with the CJS.

There is a need for bold thinking now: the Corston vision that would see far fewer women imprisoned and save lives can be realised. The Blueprint and lessons learned from the last ten years help inform thinking on governance structures needed to deliver the systems change required. Appropriate ownership of the prevention agenda lies with the Department of Communities and Local Government (DCLG), leading the cross-departmental group needed to drive and over-see delivery from the centre. Health should have a prominent role on the group; but not Offender Health. A strategic framework with clear deliverables is essential, with external monitoring and holding to account to ensure change happens. Alignment with the remit of the Minister for Women and Equalities would be helpful. The Women and Equalities Select Committee could have a role in over-seeing progress.

Recommendation 2: The DCLG should have departmental ownership of the prevention agenda and the lead role, alongside the Department of Health, on the cross-departmental governance group.

Local governance arrangements will be crucial in the development and delivery of the appropriate and accessible mainstream services needed. Local Authorities should have the lead role and Health and Well-being Boards, clinical commissioning groups, Public Health Teams and Community Safety Partnerships all need to be involved, as do Police and Crime Commissioners (PCCs). The metro Mayors and combined authorities coming on-stream represent a real opportunity to expedite delivery on the ground, especially where

there are devolved powers for health and social care as well as housing.

Recommendation 3: Responsibility for expediting the 'whole system' approach needed to better support troubled women without criminalising them must be devolved to local communities and robust local governance arrangements put in place.

PCCs have a particular contribution to make in supporting the 'whole system' approach. As gate-keepers of the CJS, front-line police can help limit contact with and progression through the system, not just with out of court disposals for low-level offending; but also by diverting women from prosecution. There are good examples of police working closely with long-established women centres, in referring women on for support rather than criminalising what in essence are often 'nuisance' behaviours. Such wrap around support can include help to access and engage with appropriate mainstream services. When that is not an option, proactive liaison and diversion from police custody suites can help stem the flow of women into the CJS.

Recommendation 4: PCCs should maximise the potential for the police to divert troubled women away from prosecution whenever possible and, in any event, for police to be the only point of contact within the CJS for women with multiple complex needs who commit low-level offences.

Priority must be given to the work needed to rebuild, expand and nurture the network of holistic woman-centred projects at the heart of the Corston vision, reclaiming the original intent that work in local communities with women who may be at risk of getting caught up in the CJS is as vital as any support given to those already affected by the CJS. This is not about pitting one part of the women's sector against the other. As well as the network of women's projects, a range of specialist provision is needed too, such as safe accommodation for women escaping violence or women exiting prostitution. All have a role to play in working alongside mainstream services in the whole system approach.

The woman-centred projects are the glue that can help bring communities together, fostering relationships with and between mainstream services; bringing together too women and the services they need to navigate through, access

²⁰Women Centred Working (2016), *Taking forward Women Centred Solutions* (with a focus on public services); p 3.

²¹Bashford, J., Professor Lord Patel of Bradford., *The Right Hon Hazel Blears*, Howell, H., Hasan, S. (2017), 'Doing it Justice: Breaking Barriers to Criminal Justice Transformation', *Dragongate Market Intelligence*, 2017.

and engage with. As a recent assessment has argued: 'Woman centred thinking means building women's capabilities to find their own solutions, which can reduce demands upon statutory services, enrich communities and ultimately save lives'.²⁰ It is important that women's projects are seen as equal partners at the local level and not just viewed as providers or commissioned services. They need a place at the table with public services, alongside the women with whom they work, to ensure their voice is heard and that there is co-production in the design, development and delivery of the gender sensitive services needed.

Recommendation 5: The network of woman-centred projects should be rebuilt, expanded and nurtured so that they are embedded in local communities. Their engagement as equal partners, along with others in the women's sector, in shaping the local strategy for women with multiple, complex needs and in the design, development and delivery of gender-sensitive health and social care provision is essential.

The prevention component of the Corston vision can only be fully realised if key health and social care services are properly funded alongside those of the women's sector. A range of provision is needed, such as safe supported housing, mental health and drug and alcohol services, including residential options offering more intensive support; all designed to meet the specific needs of women affected by extensive experience of abuse and trauma. Full coverage of gender sensitive liaison and diversion schemes for those getting caught up in the CJS must be expedited too.

Funding of the women's sector projects and services must be ring-fenced, together with the woman-centred health and social care provision needed to realise the prevention vision.

Accountability for the spend and deliverables achieved must be captured within the overall strategic framework, reflected in the local strategy and will need monitoring locally with central oversight. The systems change needed and the funding required may seem a big ask amidst the current climate of swingeing cuts and pressures on health and social care services. On the contrary, this is exactly the right time to confront the silo mentality of government departments' concern to fight for and defend their own budgets

at all costs, adopting instead a more cost-effective collaborative model. We need to look to creative ways to make sure money is where it needs to be to work better, achieve the best results and potentially realise sizeable overall savings.

Despite the cuts to the MoJ departmental budget there continues to be year on year waste of £millions spent on women's prisons, covering the costs incurred by unnecessary custodial remands and inappropriate prison sentences for women who should not be in prison at all. Re-directing resources into the community to fund the woman-centred services needed to prevent women getting sucked into the CJS at all or to stem the flow at the first point of contact will help to achieve this key element of the Corston vision. Realising that vision in full by restricting the women's prison population to those who, in the context of the current sentencing framework, are defined as really needing to be there: high risk women committing serious offences who pose a risk of harm to others, would save many more £millions in the longer term. Giving immediate priority to the prevention agenda avoids any risk of slipping back into an over-focus on women more entrenched in the 'justice loop'; but there is a good argument for a devolved approach to the whole of the CJS in the slightly longer term. Such 'justice reinvestment' on a grand scale could secure the radical and comprehensive system change sought by the Corston Review.²¹

Recommendation 6: The £50 million earmarked for building five new 'community prisons' for women, supplemented if necessary by some of the proceeds from the sale of HMP Holloway, should be re-directed by the Treasury from the MoJ to the DCLG led cross-departmental governance group for local devolvement to initially resource the work on prevention ahead of more wholesale local ownership of justice issues.

The changing environment and closer community engagement created by the whole systems approach and devolvement brings with it the need to look more broadly at penal policy. Realising the systems change proposed by the Corston Review and its contention 'prison is not the right place for women offenders who pose no risk to the public' has implications in particular for women at the far end of the justice spectrum. There are relatively few serious high risk women offenders: it is imperative that they are considered and not

22 Justice Committee (2013), 'Women Offenders after the Corston Report', London: The Stationery Office, p. 39.

23 The Correctional Services Accreditation Panel Report, 2009-2010 (March 2010), accreditation of CARE: Choices, Actions, Relationships, Emotions, p15, London: Ministry of Justice.

24 NHS England & NOMS (2015), 'The Offender Personality Disorder Pathway, Offender Personality Disorder Programme from 2011, Gateway reference O4272', Department of Health & NOMS.

lost in the system. The Justice Select Committee in 2013 highlighted the fact that only 3.2 per cent of the women's prison population – 3,893 on 1 May 2013 – were assessed as posing 'a high or very high risk of harm to other people'.²² That equates to around 125 women at most.

Current penal policy, unchanged for many years, has prison – a type of total institution cut off from the wider community – as its most severe sanction: punishment by loss of liberty and removal from society. The intent is that protection of the public is assured while a serious offender is imprisoned and that risk of harm and of re-offending hopefully reduced during 'rehabilitation', where activities, attendance at programmes and behaviours are monitored and assessed. Economies of scale have tended to dictate a preference for large rather than small prison sites. The current system has never worked well for the relatively few serious, high risk women: small numbers are not easily managed in the prison system. Generally they are held further from home than men; can find it difficult to access relevant activities and gender-specific programmes like CARE²³ and can get caught up in the tensions created when prison as punishment is aligned with treatment needs.²⁴

It is time for a radical re-think. Removing the use of short sentences as a sentencing option is the way to curtail the continuing inappropriate use of prison for low risk women who re-offend. Thinking needs to shift away from the traditional, out-dated concept of prison and focus on exploring what a twenty-first century environment designed for women in need of some form of containment might look like. Public protection

needs to be addressed; but now new technology makes security in the form of locks, bolts and bars largely redundant, any secure confinement would bear little resemblance to a prison in its internal and exterior design. Thinking outside of the 'justice loop', there is the potential to see a small contained unit as having a place in and of the community. It could, for instance, be sited alongside community woman-centred projects, be trauma-informed in its ethos, be external facing rather than insular, drawing in the support and services needed. As an integral part of the community, access to any courses or accredited programmes needed could be sourced externally. The opportunity for such an innovative approach is one that must be grasped.

Recommendation 7: Urgent attention must be given to the need to curtail the inappropriate use of imprisonment for low risk women offenders and to improve the response to the relatively few serious high risk women judged as requiring secure confinement. A rethink on penal policy is required to ensure containment for such women is proportionate, makes best use of new technology and provides an environment that meets their specific needs.

About the author

After a career in the voluntary sector and probation service, including working in HMP Holloway during the 1990s, **Liz Hogarth** became the Ministry of Justice policy lead on women in the criminal justice system from 2002. She worked closely with

Baroness Corston during her review and on the implementation of the Corston Report recommendations. She was awarded an OBE in 2008 for services to women offenders. Now retired she continues to advocate for the reforms called for by Baroness Corston, working in a voluntary capacity alongside others in the voluntary sector.

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