

July 2019



CLINKS  
RESPONSE

# Clinks response to the criminal justice inspectorates' consultation on the joint inspection programme 2019/20

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## About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of people in the CJS and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 13,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

Clinks manages the National Criminal Justice Arts Alliance, a national network of over 800 artists, arts organisations and criminal justice practitioners using creative approaches to reduce reoffending. We also support a network of women's centres and specialist women's services working in the CJS.

## About this response

We welcome the opportunity to provide feedback on the Criminal Justice Joint Inspection (CJJI) programme for 2019/20. Unfortunately due to the limited timescale of this consultation we have not been able to consult directly with our members for our response. Our response is based on evidence from our existing research and draws on our ongoing work and engagement with the voluntary sector about emerging issues and key challenges facing criminal justice. Our response builds on those we have submitted to the prisons<sup>1</sup> and probation<sup>2</sup> inspectorates directly.

Our response provides key overarching principles for CJJI to embed in its programme of work, including all collaborative work, scoping and feasibility studies, and joint thematic inspections. These are:

- The role of the voluntary sector
- Service user involvement
- Meeting the needs of people with protected characteristics under the Equality Act (2010).



We also provide feedback on some of the planned scoping and feasibility studies where we have knowledge and evidence from the voluntary sector to contribute, including ethnic disproportionality in the CJS, mental health and youth violence. Finally, we make suggestions for future joint thematic inspections.

## Summary of recommendations

- Clinks recommends that CJJI engage specifically with voluntary sector organisations about emerging trends to better utilise the sector's evidence for future joint studies and inspections. This should go beyond written consultations to extend CJJI's reach to a wider range of organisations especially to smaller, specialist organisations. We would be happy to support the inspectorates to more effectively engage with the diverse range of voluntary sector organisations that work with people in contact with the CJS.
- Clinks recommends that CJJI engage with voluntary sector organisations delivering in the CJS when conducting scoping and feasibility studies and undertaking thematic inspections, for their insight of issues on the ground, to monitor the impact of issues on the delivery of services, and to promote co-ordinated diversionary and rehabilitative services.
- Clinks recommends that all criminal justice inspectorates embed service user involvement into its core work and CJJI engage service users when conducting joint thematic inspections.
- Clinks recommends that CJJI in all scoping studies and thematic inspections proactively look at the outcomes of people with protected characteristics and particular vulnerabilities and how criminal justice agencies are working to address disparities, with a particular focus on black Asian and minority ethnic (BAME) individuals, women, young adults, and older people.
- Clinks recommends a joint thematic inspection by the criminal justice inspectorates into the treatment of, and outcomes for, BAME people in the CJS.
- Clinks recommends that in conducting the scoping and feasibility study into mental health, CJJI include a focus on Community Sentence Treatment Requirements, Liaison and Diversion services, and continuity of care, and consider them for further inspection activity.
- Clinks recommends that all criminal justice inspectorates conduct a thematic review into how criminal justice agencies are identifying and responding to mental health needs and the availability of services. The inspectorates should embed the principles of the holistic whole prison, whole person approach into the standards of the inspection.
- Clinks recommends that a scoping and feasibility study into youth violence involves all criminal justice inspectorates and considers the impact of youth violence strategies on young people, particularly the disproportionate impact on those from BAME communities. The study should also ensure that it considers the availability of services for young people in the community.
- Clinks recommends that given the urgent and serious nature of accommodation needs for people who come into contact with the CJS and the rising level of unmet need, all criminal justice inspectorates should conduct a joint thematic inspection into accommodation.
- Clinks recommends that HM Inspectorate of Prisons and HM Inspectorate of Probation conduct a joint thematic inspection into resettlement support for short sentenced prisoners.
- Clinks recommends that HM Inspectorate of Prisons and HM Inspectorate of Probation conduct a joint thematic inspection into employment outcomes.



## Response

### Overarching principles

#### Role of the voluntary sector

The voluntary sector provides a wide range of vital services that support people at all stages of the CJS, but are distinct from statutory agencies. These services range from prevention and diversionary work, to prison interventions, to wrap around support for those who are serving a sentence in the community or resettling back into it.

As experts delivering services on the ground, voluntary organisations can provide valuable insight into changing service user need, the challenges faced by people in contact with the CJS and emerging priorities for criminal justice and its inspectorates. Organisations often also conduct their own research to highlight key areas of concern. As such, the voluntary sector can provide a vital source of intelligence for CJJI when considering which topics to undertake scoping studies of, prioritising areas for joint thematic inspections, and when conducting its studies and thematic inspections. This will enable a fuller understanding of the nature of a problem, the impact of policies and practice on the ground and how diverse groups of service users are affected in different ways.

Voluntary sector organisations delivering in the CJS should be seen as strategic partners to advise on, and support solutions to, key issues facing people in contact with the CJS. Engaging the sector in joint thematic inspections will help to understand and take into account the impact of particular issues on the delivery of wider services which support rehabilitation. This will enable CJJI to better hold criminal justice agencies to account for how they engage and communicate with voluntary sector organisations and promote co-ordinated diversionary and rehabilitative services.

The voluntary sector working in criminal justice is made up of a very diverse range of organisations. Many of them are small, locally-led, specialist organisations and do not have the resources to engage with written public consultations such as this and share their expertise. Clinks has previously facilitated workshops to enable the HM Inspectorate of Probation to engage with a wider range of voluntary organisations for the review of its inspection framework. We also supported HM Inspectorate of Prisons to hold consultation events with the voluntary sector on its expectations for the male prison estate.

**Clinks recommends that CJJI engage specifically with voluntary sector organisations about emerging trends to better utilise the sector's evidence for future joint studies and inspections. This should go beyond written consultations to extend CJJI's reach to a wider range of organisations, especially to smaller, specialist organisations. We would be happy to support the inspectorates to more effectively engage with the diverse range of voluntary sector organisations that work with people in contact with the CJS.**

**Clinks recommends that CJJI engage with voluntary sector organisations delivering in the CJS when conducting scoping and feasibility studies and undertaking thematic inspections, for their insight of issues on the ground, to monitor the impact of issues on the delivery of services, and to promote co-ordinated diversionary and rehabilitative services.**

## **Service user involvement**

Quantitative data only demonstrates part of the picture as it does not allow for a detailed analysis of why a certain trend is taking place, or the impact this has on people in the CJS. People with lived experience of the CJS are in a unique position to be able to share their experiences and give a rich account of the story behind the data. This will enable more effective monitoring of criminal justice agencies and for the inspectorates to hold agencies to better account. This in turn can support the development of policy to address the issues outlined by quantitative data.

Involving service users not only provides unique expertise to inform the inspectorates' work and the development of policy, it can also act as a positive involvement for someone engaged in a desistance journey; boosting confidence, developing skills and offering a vision for change.

Involving service users in joint thematic inspections would allow the inspectorates to assess the extent to which criminal justice services involve service users in decisions about their own lives and sentences. It could also enable the inspectorates to explore the extent to which criminal justice services involve service users in the design, development and monitoring of their services as well as how individuals feel about their involvement and the services they receive.

**Clinks recommends that all criminal justice inspectorates embed service user involvement into its core work and CJJI engage service users when conducting joint thematic inspections.**

## **Meeting the needs of people with protected characteristics under the Equality Act (2010)**

As is widely recognised, people who have characteristics protected under the Equality Act 2010, or experience particular vulnerabilities, are overrepresented in the CJS and experience unequal outcomes once in the system. It is important to acknowledge the impact that criminal justice policy and practice has on particular groups of service users and the organisations that provide tailored services to them. Criminal justice agencies must be able to respond to and meet the diverse needs of these groups and every stage of the CJS should be taking steps to address overrepresentation and disparity of outcome.

Given the persistence of unequal and negative outcomes for particular cohorts throughout the CJS, criminal justice inspectorates should make tackling these disparities a priority and embed it into all of its work, including core work, and all scoping and feasibility studies and thematic inspections.

Whatever topic or issue CJJI are assessing or inspecting, the inspectorates should monitor the impact on equalities groups, any disparity of outcome and action being taken by services to address inequalities. This will provide greater scrutiny for criminal justice agencies and their strategies for addressing disproportionality and help hold them to account on their public sector equality duty.

In particular, there should be a distinct focus for collaborative work, scoping studies and thematic inspection on the following groups so that criminal justice agencies are required to demonstrate they are meeting their particular needs:

- **BAME individuals** – As *The Lammy Review*<sup>3</sup> highlighted, BAME people are significantly overrepresented in the CJS and consistently experience unfair treatment and unequal outcomes compared to their non-BAME counterparts. More than a year after *The Lammy Review* highlighted these disparities, and despite significant activity being undertaken in response to *The Lammy Review* recommendations, their persistence indicates the need for all parts of the CJS to prioritise the needs of BAME people.



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- **Women** – Women often have different drivers to offending and different experiences of the CJS to men. Many have experienced significant trauma and abuse and often have distinct needs and circumstances which requires a gender and trauma-informed approach from services. The government's *Female Offender Strategy*<sup>5</sup> sets out an approach for responding to women who offend that takes into account their distinct needs; prioritises early intervention, community solutions and improving custody for women; and recognises the negative implications of criminalising women.
- **Young adults** – Maturation is a process that goes on well into people's mid-twenties but as highlighted by the Justice Committee's inquiry on young adults "there is overwhelming evidence that the criminal justice system does not adequately address the distinct needs of young adults."<sup>6</sup> There is a strong case for a distinct approach from probation with tailored interventions that promote young adult's strengths and supports their emotional maturation.
- **Older people** – People aged over 50 are the fastest growing group in the prison population. Meeting their needs, both in custody and after release, is one of the most pressing challenges facing the CJS. The ageing prison population will present an increasing challenge for the CJS as a whole. Our recent report, *Flexibility is vital*, highlights the multi-faceted and changing needs of older people in the CJS and how services need to respond.<sup>7</sup> Older people in the CJS should be treated as a priority group for criminal justice agencies and the equality impact of any future strategies and policies relating to this group should be appropriately assessed.

**CLINKS recommends that CJJI in all scoping studies and thematic inspections proactively look at the outcomes of people with protected characteristics and particular vulnerabilities and how criminal justice agencies are working to address disparities, with a particular focus on BAME individuals, women, young adults, and older people.**

## Planned scoping and feasibility studies

### Ethnic disproportionality in the criminal justice system

Whilst we welcome the joint inspectorates' recognition of ethnic disproportionality as an issue within the CJS, particularly in light of *The Lammy Review* which shone a spotlight on the unfair treatment and unequal outcomes of BAME individuals throughout the CJS, we are concerned as to why this is still at the scoping and feasibility stage.

CJJI consulted last year on undertaking a scoping and feasibility study on ethnic disproportionality in the CJS for its 2018/19 business plan. Clinks, in partnership with the Young Review (now Equal), submitted a response with significant evidence from service user engagement and suggestions for thematic focus.<sup>8</sup> We have also submitted the evidence and a proposal for a joint thematic inspection directly to individual inspectorates. Given the policy priority of tackling racial disproportionality in the CJS, and the seriousness of the concerns previously raised by many stakeholders, including Clinks, to the inspectorates, CJJI should be moving beyond scoping and feasibility studies to a full thematic inspection into the treatment of, and outcomes for, BAME people in the CJS.

There is already a significant body of well-documented evidence on racial disproportionality throughout the CJS which should allow for the CJJI to act swiftly in this area. This evidence highlights the nature and extent of racial disproportionality in the CJS and the urgent need to prioritise this. It also highlights specific areas of concern where there is disparity of outcome for



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BAME people which can help target much needed action and determine areas for inspection activity, both single agency and joint. These include (but are not limited to) policing tactics such as stop and search, sentencing outcomes and treatment in prison such as the incentive and earned privilege schemes and adjudications and disparities in reoffending rates.<sup>9</sup>

Any thematic review should take a multi-agency approach which could both explore the role of policing, which was excluded from David Lammy's review, and also focus on progress made and future plans for the implementation of the Lammy Review's recommendations for prisons and probation services.

BAME service users' experiences of the CJS should be sought to inform any such review. The CJJI should also seek to utilise the expertise of BAME specialist voluntary organisations, as well as examine partnership work between criminal justice agencies and BAME-led organisations.

**CLINKS recommends a joint thematic inspection by the criminal justice inspectorates into the treatment of, and outcomes for, BAME people in the CJS.**

### Mental health

CLINKS welcomes the CJJI's focus on mental health and its recognition of the importance of this issue, given the high incidence of poor mental health within the CJS, levels of self-harm and suicide, and difficulties accessing appropriate and continuous care.

For a deeper understanding of how the CJS is responding to mental health needs, and to build the evidence-base around new or expanding approaches, CJJI should in particular consider:

- **Community Sentence Treatment Requirements (CSTRs)** – This would be timely given the recent commitment in the NHS Long Term Plan<sup>10</sup> to expand the use of CSTRs. Feedback from the voluntary sector has been generally positive of CSTRs and welcoming of proposals to expand them. However, more evidence is needed on how they are being used and outcomes to monitor any potential unintended consequences there might be for service users.
- **Liaison and Diversion** – It is welcome that Liaison and Diversion services have been rolled out nationally. With the rollout, the inspectorates should consider it as an area for scoping or further inspection activity to monitor its expansion and provide scrutiny and more transparency to how decisions to divert into services, or not, are made and the outcomes for people.
- **Continuity of care** – People in the CJS go through many transitions, from community to custody (and vice versa) and between different custodial settings across the country. CJJI should look at the continuity of care throughout the various transitions people go through between different parts of the CJS and whether services are meeting mental health needs. Our recent report on supporting good mental health in prison<sup>11</sup> demonstrates the importance of ensuring continuity of care throughout an individual's sentence, recognising and meeting the needs of each person at every stage of their journey in the CJS.

**CLINKS recommends that in conducting the scoping and feasibility study into mental health, CJJI include a focus on Community Sentence Treatment Requirements, Liaison and Diversion services, and continuity of care, and consider them for further inspection activity.**



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This is welcome and we suggest that other criminal justice inspectorates follow suit and jointly or solely conduct thematic inspections into mental health.

In our latest State of the Sector research, organisations reported that mental health provision is becoming more difficult to access, with limited resources for criminal justice organisations to meet need.<sup>12</sup>

In the report, *Whole prison, whole person*, we set out key principles and recommendations for developing a holistic approach that responds to the needs of individuals and supports good mental health in prison – especially those with protected characteristics – and for creating a wellbeing culture for all that is embedded in the criminal justice structure.<sup>13</sup> These principles could provide the basis of further thematic activity on how criminal justice agencies are meeting the mental health needs of those in its care.

**CLINKS recommends that all criminal justice inspectorates conduct a thematic review into how criminal justice agencies are identifying and responding to mental health needs and the availability of services. The inspectorates should embed the principles of the holistic whole prison, whole person approach into the standards of the inspection.**

### Youth violence

CJJI has expressed its intention to conduct a scoping and feasibility study into youth violence in order to support the government's Serious Violence Strategy. In undertaking such a study there are some key points CJJI should be aware of in order to ensure that the principle we outlined above, on meeting the needs of people with protected characteristics, is adequately embedded.

Young BAME adults and BAME children are overrepresented in the youth justice system. Racialised labelling and targeting already takes place in response to serious youth violence; for example, the London Metropolitan Police Gangs Matrix has been heavily criticised for targeting BAME communities and the negative impact it has on young BAME people.

A scoping and feasibility study into youth violence should consider the impact and unintended consequences of youth violence strategies by criminal justice agencies on children and young people, particularly those from BAME communities, and the associated punitive response this encourages towards them which can further entrench racial inequalities in the CJS and undermine attempts to address disproportionality.

This study should involve all criminal justice inspectorates, particularly HM Inspectorate of Prisons, for a richer understanding of the impact on young people of how the CJS as an end-to-end system responds to youth violence, including the impact of custody. The study should consider the availability of services in the community and in prison for children and young people.

**CLINKS recommends that a scoping and feasibility study into youth violence involves all criminal justice inspectorates and considers the impact of youth violence strategies on young people, particularly the disproportionate impact on those from BAME communities. The study should also ensure that it considers the availability of services for young people in the community.**

## **Suggested topics for future joint thematic inspections**

### **Accommodation**

In its recent consultation, HM Inspectorate of Probation indicated its intention to conduct a thematic inspection into accommodation for people under probation supervision. This is very welcome but not an issue solely facing probation and those under their supervision. A lack of safe, secure and appropriate housing puts people at greater risk of coming into contact with the CJS and people go on to face distinct barriers in accessing accommodation as a result of their conviction or contact with the CJS. The seriousness of accommodation issues for people at all stages of the CJS should therefore make it the responsibility and priority of all criminal justice agencies to address and their respective inspectorates.

A joint thematic inspection involving all the justice inspectorates would be timely given the introduction of the Homelessness Reduction Act 2018 which places on public services a 'duty to refer' and the corresponding launch of the government's Rough Sleeping Strategy which includes an explicit focus on criminal justice.

A joint inspection on accommodation is more urgent now than ever before as housing needs grow and accommodation outcomes worsen. Voluntary organisations working across the CJS in prevention and early intervention, in prisons and in the community, continue to tell us that a lack of housing, support services and welfare reform – particularly the roll out of Universal Credit, Personal Independent Payments and sanctions – are having a detrimental impact on the people they are supporting, pushing them into poverty and homelessness.

As highlighted in our response to HM Inspectorate Probation, in 2018 Clinks convened a Special Interest Group made up of 13 voluntary sector experts for the Reducing Reoffending Third Sector Advisory Group (RR3) to explore the barriers faced by people in contact with the CJS when trying to access appropriate accommodation. The inspectorates should utilise this expertise in the thematic inspection and further engage the voluntary sector for its insight on how accommodation is impacting people throughout the CJS and how agencies are addressing this.

**Clinks recommends that given the urgent and serious nature of accommodation needs for people who come into contact with the CJS and the rising level of unmet need, all criminal justice inspectorates should conduct a joint thematic inspection into accommodation.**

### **Resettlement support for short sentenced prisoners**

Each year thousands of people are caught in the revolving door of short prison sentences - almost half of the people given a prison sentence over a 12 month period will serve six months or less and 63% of those that serve a custodial sentence under 12 months will go on to reoffend within a year.<sup>14</sup>

Short custodial sentences have become a central priority for criminal justice policy. David Gauke MP, Secretary of State for Justice, and the former Minister of State for Justice, Rory Stewart MP, have publically recognised that short sentences have worse outcomes for people who have offended than community sentences, and announced that the MoJ is looking into restricting the use of sentences of six months or less. The recent Justice Select Committee report Prison Population 2022: planning for the future, argues for curbing the use of prison sentences under 12 months.<sup>15</sup>



Given the growing recognition of the negative impact of short sentences, and the public signals from the MoJ, this would be a timely opportunity for CJI to conduct a joint thematic inspection into the resettlement support provided to those sentenced to 12 months or less in prison.

This inspection would build on the recent thematic inspection by HM Inspectorate of Probation into the post-sentence supervision of short-term prisoners by Community Rehabilitation Companies (CRCs), which highlighted the level of disadvantage, often in multiple and complex ways, that this cohort faces and a number of failings on the part of CRCs.<sup>16</sup>

Short sentences are long enough to remove and disrupt people's accommodation, employment and family life, but not to provide effective rehabilitative and resettlement support. We suggest that, to build on the probation inspectorate's findings, and given the centrality of resettlement services to reducing reoffending, that this thematic inspection takes a specific focus on the resettlement support provided for those being released from short sentences including the through-the-gate services. The inspection should consider this from the point of view of whether effective resettlement – and rehabilitation – from short sentences is in fact possible.

A joint inspection by the prison and probation inspectorates on this topic for short-sentenced prisoners would provide valuable evidence to inform the current debate and future policy on this issue.

**Clinks recommends that that HM Inspectorate of Prisons and HM Inspectorate of Probation conduct a joint thematic inspection into resettlement support for short sentenced prisoners.**

## Employment

As we highlighted in our submission to the HM Inspectorate of Probation, there is a growing recognition in government policy of the importance of employment for the successful resettlement of people leaving custody and reducing reoffending, signalled by the publication of the MoJ's Education and Employment Strategy. The strategy recognises that people with convictions face significant barriers to securing and sustaining employment.

A joint thematic inspection by the prison and probation inspectorates would enable a richer understanding of the challenges faced in gaining employment and longer term employment outcomes. Inspectorates would be able to monitor the effectiveness of interventions, workshops or job placements in prison, and through-the-gate services and jointly assess whether those offer tangible opportunities on release and improve employability.

Gaining employment is not the only barrier that people who have been to prison face. After securing employment there can be many challenges to sustaining it. Working jointly, the prisons and probation inspectorate would have access to caseloads that would allow the inspectorates to better monitor longer term employment outcomes, for example six and 12 months after release, while individuals are still under probation supervision, as well as those serving a community penalty.

It would also enable both inspectorates to provide scrutiny to the implementation of the government's strategy, with the aim of improving employment outcomes for both those in prison and those under the responsibility of probation.

The RR3 recently convened a Special Interest Group (SIG) of 14 experts from the voluntary sector to explore employment support for people in the CJS. The SIG identified a number of



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challenges to securing employment for people with convictions and implementing the strategy, with recommended priority areas for criminal justice agencies to address. A full recommendations paper will be published from this work in due course and we would be pleased to share it with the inspectorates to support a thematic inspection.

**Clinks recommends that HM Inspectorate of Prisons and HM Inspectorate of Probation conduct a joint thematic inspection into employment outcomes.**

# CLINKS

**Clinks supports, represents and advocates for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.**

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Tavis House  
1-6 Tavistock Square  
London WC1H 9NA  
020 7383 0966  
info@clinks.org  
@Clinks\_Tweets  
[www.clinks.org](http://www.clinks.org)

## End notes

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2. Clinks (2019) *Clinks' response to the HM Inspectorate of Probation's consultation on the inspection of probation providers*. Online: [www.clinks.org/publication/clinks-response-hm-inspectorate-probations-consultation-inspection-probation-providers](http://www.clinks.org/publication/clinks-response-hm-inspectorate-probations-consultation-inspection-probation-providers) (last accessed: 03 June 2019); Clinks (2019) *Clinks' response to the HM Inspectorate of Probation's statutory consultation on inspection framework and programmes*. Online: [www.clinks.org/publication/clinks-response-hm-inspectorate-probations-statutory-consultation-inspection-framework](http://www.clinks.org/publication/clinks-response-hm-inspectorate-probations-statutory-consultation-inspection-framework) (last accessed: 03 June 2019).
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8. Reoffending rates of BAME people vary. Where it is disproportionately high for some cohorts, this is impacted by a range of factors such as a lack of BAME-led specialist services and diverse workforce that understands, supports and is able to meet the needs of BAME people under probation. As well as those created by having a conviction or contact with the CJS, racial discrimination means BAME people face additional structural and institutional barriers that impact access to, experience of and outcomes for education and employment opportunities, housing, and healthcare. BAME people also continue to experience after release racialised targeting, stereotyping and disproportionate policing tactics. All of these factors impact rehabilitation and successful resettlement and can contribute to reoffending.
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