

August 2020



CLINKS  
RESPONSE

# Women and Equalities Committee sub-inquiry: Unequal impact? Coronavirus and BAME people

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## Introduction

1. Clinks is the national infrastructure charity for voluntary organisations working in criminal justice in England and Wales, supporting the voluntary sector's largest providers and its smallest. We have over 500 members and our network reaches 4,000 voluntary sector contacts across England and Wales. We also manage the National Criminal Justice Arts Alliance (NCJAA) which has a network of over 800 organisations and individual artists. NCJAA exists to promote the specific role of arts, and arts organisations, as a springboard for positive change for people in contact with the criminal justice system (CJS). We also support a network of women's centres and specialist women's services working in the CJS.
2. We are pleased to provide evidence to the Committee's sub-inquiry into the unequal impact of Covid-19 on black, Asian and minority ethnic (BAME) people. Clinks previously submitted evidence to the Committee's inquiry on the unequal impact of Covid-19 on people with protected characteristics. We welcome the opportunity to expand further on the specific impact on BAME people, focusing on those in the CJS in light of growing concerns about the disproportionate effect of Covid-19 on BAME people combined with the disparities in outcome and health inequalities that people from a BAME background face in the CJS. We support and reiterate the recommendations made by the Zahid Mubarek Trust and The Traveller Movement in their response to the Committee's call for evidence.

## The impact of Covid-19 on BAME people in prison

3. People in contact with the CJS often have higher health and social care needs and face multiple disadvantage compared to people in the general population. In prisons there is an ageing population and underlying health conditions are prevalent. The health needs of the prison population combined with overcrowding and poor conditions in the prison estate and the close proximity that people must live in (including having to share cells), means that any outbreak of Covid-19 could have a devastating and fatal impact.
4. As we previously highlighted to the Committee, people from BAME communities are disproportionately represented in prison, making up over a quarter (27%) of the prison population and over half (52%) of the youth custody population,<sup>1</sup> compared to just 14% of the general population.<sup>2</sup> The Lammy Review<sup>3</sup> also highlighted a wide range of disparities in the treatment of, and outcomes for BAME individuals in prison, including health inequalities.

5. Emerging evidence has also shown a disproportionate impact of Covid-19 on minority ethnic communities in the UK and globally, with black people most likely to be diagnosed and death rates from Covid-19 highest among black and Asian groups.<sup>4</sup>
6. However, despite the heightened risk for BAME communities combined with the high risk environment of prisons, Her Majesty's Prison and Probation Service (HMPPS) has not published a breakdown of the data on staff and prisoners that have tested positive for Covid-19 by ethnicity. The British Medical Association has called for the government's review into the disproportionate impact of Covid-19 on BAME communities to be informed by real-time data collection if it is to have real effect. We support this recommendation and would highlight that it is essential that criminal justice statistics are included in the review.

**We support the recommendation made by Zahid Mubarek Trust and The Traveller Movement that statistics on infections and deaths related to Covid-19 in prison should be broken down by ethnicity and published. As part of this, there needs to be improved data collection for Gypsy, Roma and Traveller groups who are often excluded from the BAME category and recorded as white despite their disproportionate representation in the CJS and the unequal outcomes and health inequalities they face.**

## **The criminal justice response to Covid-19**

7. The government created the End of Custody Temporary Release (ECTR) scheme which was intended to reduce the prison population to facilitate social distancing. 4,000 prisoners were assessed as being eligible for early release under the scheme. The guidance for the ECTR scheme states that not everybody who meets the eligibility criteria will necessarily be released, with a level of prison governor and HMPPS discretion built into the decision-making process.
8. Successive reviews and reports have highlighted that outcomes in the justice system based on discretionary decision making can be impacted by conscious and unconscious bias and lead to unequal outcomes for BAME people. This bias - conscious or unconscious - leads to BAME people in the CJS being perceived through a lens of risk and therefore they could be more likely to be excluded from schemes such as ECTR. It is therefore vital that the data on the ethnicity of those eligible for release and those released is collected and published so as to monitor and ensure that release opportunities are equitably applied. If the data shows that these opportunities have not been equitably applied, then establishments and HMPPS centrally must adopt the Lammy Review's *explain or reform* principle in response.
9. To minimise the impact of Covid-19 in prisons and prevent outbreaks, HMPPS also implemented a highly restricted prison regime across the estate. In prisons all movement has been severely restricted, with people locked in their cells for 23 hours a day. All physical visits have been cancelled, including education, training and non-essential employment activities. We are pleased that there have been no 'explosive outbreaks' of the virus in prisons, and that HMPPS have published a framework for recovery, meaning that prisons are beginning to transition out of the most restrictive conditions. However, there is growing concern about the long term impact the restrictive regime may have had on the wellbeing and mental health of those in prison and their families. Added to this, for BAME prisoners is the disproportionate impact that Covid-19 has had on their communities outside of the secure estate.

- 10.** Prior to Covid-19, the Lammy Review highlighted that BAME people in prison are less likely to be recorded as having a mental health concern and less likely to be identified as at risk of self-harm. There is concern that their mental health needs are not being recognised with knock on consequences for BAME people's access to mental health support and other services. Lockdown, and its impact on people in prison, risks exacerbating this issue for BAME people, preventing them from accessing important support at a time when it will be needed the most. Criminal justice agencies need to recognise not just the physical risk of Covid-19 on BAME people, but the long term implications on mental health and wellbeing and the exacerbated effects of poverty and disadvantage that can disproportionately impact BAME communities. Voluntary sector organisations are key to supporting people in this context.

## **Recovery from the pandemic**

- 11.** HMPPS has published its framework for easing lockdown in prisons<sup>5</sup> and a roadmap to recovery for probation.<sup>6</sup> It is disappointing that neither document mentions the disproportionate impact of Covid-19 on BAME people. Nor does there appear to have been an Equality Impact Assessment for either document. This reinforces concern that safeguarding of BAME individuals – including service users in the CJS, prison and probation staff, and the staff and volunteers in voluntary organisations working alongside the CJS – is not being sufficiently prioritised. It may not yet be clear why the danger of contracting Covid-19 and subsequent mortality rates are higher for BAME people, nevertheless it is clear that a bespoke health and wellbeing offer should be developed for BAME staff and service users. This offer should be modified in line with ongoing reviews into the impact of Covid-19 on BAME communities.
- 12.** Currently, people who enter prisons for the first time are also held in separate units for a period of 14 days to detect possible cases of Covid-19 (referred to as 'reverse cohorting'). However, we have growing concern about the sustainability of this approach, in part because the ECTR scheme has not been used to its full potential. As court activity begins to increase, more people will enter prisons, making reverse cohorting more difficult to manage and increasing the prison population again. If as a result, the number of prisoners and staff affected by Covid-19 rises further, it is likely given the disproportionate impact in the wider community, that BAME people in prison will be hit hardest by this.

**We recommend that the recovery planning process for criminal justice institutions gives relevant consideration and recognition to the disproportionate impact of Covid-19 on people from BAME backgrounds. This should include consideration of the disparity in treatment and outcomes of BAME people in the CJS and, as recommended by the Zahid Mubarek Trust and the Traveller Movement, include a clear action plan of how the needs of BAME groups will be identified and met. BAME-led organisations should be engaged for their expertise in developing this process and to improve transparency, all plans and equality considerations should be published.**

## **Engaging with the BAME-led voluntary sector**

**13.** Voluntary sector services led by and for people from BAME communities are vital for ensuring people from BAME backgrounds in the CJS have access to specialist support that understands and can better respond to the needs, experiences, and barriers faced by BAME people. Collectively the BAME-led sector offers significant resources tailored for their service users, including wellbeing and mentoring resources, with many organisations now able to deliver their services to BAME prisoners and staff remotely.

**We recommend therefore that BAME-led organisations are engaged in efforts to mitigate the disproportionate impact of Covid-19, and the impact of lockdown, on BAME people in the CJS.**

**14.** The Reducing Reoffending Third Sector Advisory Group (RR3) - an advisory group to the Ministry of Justice and HMPPS chaired and coordinated by Clinks - has set up a special interest group (SIG) on Covid-19 to support more effective working between the voluntary sector and government in the response to the pandemic. On behalf of the RR3 special interest group, a collective of BAME-led organisations developed a briefing for HMPPS which highlights several issues that need to be addressed in order to support BAME-led organisations in delivering services to BAME people in the CJS during and beyond Covid-19, including:

- The need to safeguard BAME voluntary sector staff that work in prisons
- The need for further financial support for BAME-led charities working in the CJS who are already chronically underfunded and face rising service user need due to Covid-19
- The need for greater transparency and accountability during Covid-19 to provide critical reassurance to both BAME charities and the communities they serve.

**15.** Clinks supports these aims. The BAME-led sector has found communication with statutory services at a local and national level to be challenging during this crisis, leaving them feeling extremely isolated and creating additional barriers for them in co-ordinating support for their service users. Added to this are growing concerns about the sustainability of BAME-led organisations, which are typically smaller, local organisations that face being squeezed out by larger mainstream services. BAME-led organisations have reported during this crisis feeling excluded from emergency funding and other government support during this time, with organisations not confident in how government support applies to charities working in the CJS. BAME specialist services have expressed some frustration that there was little specific engagement from the Ministry of Justice and HMPPS to share such information. It is vital to ensure the sustainability of the BAME-led sector in order to respond to the acute impact of Covid-19 on BAME communities and support recovery from this crisis.

**We recommend that in the recovery from the pandemic, funding should prioritise specialist services for protected groups and in recognition of the disproportionate impact of the CJS and Covid-19 on BAME communities and the organisations that work to support them, a particular focus should be put on ensuring funding streams for BAME-led services.**

**We also recommend that government departments ensure they are regularly engaging with BAME-led voluntary sector organisations to ensure a consistent information flow about changes that will impact their delivery and to ensure organisations understand the available support and how it applies to them.**



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- 16.** BAME people represent over 27% of those in prison and therefore the BAME-led voluntary sector should be seen as a valued partner and ally in improving the treatment of, and outcomes for, BAME people in the CJS. Clinks will continue to work to support the BAME-led voluntary sector working in criminal justice and advocate for the sustainability of the services they provide to BAME people. In recognition that things are moving at significant pace, we would be glad to provide the Committee with additional information on the impact of Covid-19 on the CJS as the situation develops.

### End Notes

1. Prison Reform Trust (2019) *Bromley Briefings Prison Factfile: Winter 2019*. Available at: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Winter%202019%20Factfile%20web.pdf> [accessed 26 June 2020]
2. *ibid*
3. Lammy, D. (2017) *Lammy Review: An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system*. Available at: <https://www.gov.uk/government/publications/lammy-review-final-report> [accessed 26 June 2020].
4. Public Health England (2020) *COVID-19: understanding the impact on BAME communities*; and Office for National Statistics (2020) *Coronavirus (COVID-19) related deaths by ethnic group, England and Wales: 2 March 2020 to 10 April 2020*.
5. Ministry of Justice and Her Majesty's Prison and Probation Service (2020) *COVID-19: National Framework for Prison Regimes and Services*. Available at: <https://www.gov.uk/government/publications/covid-19-national-framework-for-prison-regimes-and-services> [accessed 23 June 2020].
6. Her Majesty's Prison and Probation Service and the National Probation Service (2020) *Probation Roadmap to Recovery*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/892498/probation-roadmap-to-recovery.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892498/probation-roadmap-to-recovery.pdf) [accessed 23 June 2020].

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**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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