Punishment and Reform: Effective Community Sentences

Response from Women’s Breakout

June 2012
Women’s Breakout

Women's Breakout is an infrastructure organisation with a membership of 47 organisations. We have a primary objective to embed gender-specific interventions for women offenders and those at risk of offending into the Criminal Justice System - not as a short term project response, but as a mainstream service that is available to vulnerable women to support them in taking control of their lives and making positive progress; available to sentencers as a robust alternative to imprisoning women; available to support the rehabilitation of women who have offended.

Our member organisations bring a unique approach to supporting women with complex and multiple problems. They aim to provide women with holistic and empathetic support, in a women only environment, in order that they will be enabled to make better life choices. By putting women at the centre of support services and by understanding the complex and related nature of issues affecting their lives, projects are able to effectively deal with the underlying reasons for offending behaviour. By working with many statutory and voluntary organisations they can provide a broad range of support services to women, to help them address all of their needs through a 'one stop shop' that is focussed on empowering women to make positive choices and break patterns of offending.

Section 1: General comments

Women’s Breakout welcomes the opportunity to respond to this paper and help shape a more fair and effective Criminal Justice System. We are strong advocates of community orders as they have consistently proven to be more effective than short term custody at reducing reoffending (the most recent rigorously tested research has shown more than an 8% difference). They allow offenders to stay with their families, minimise the disruption to their employment and can provide positive interventions to address vulnerabilities and needs in a community environment; all of which assist in the desistance process.

There is increasing evidence that desistance requires a fundamental change in people's attitudes alongside real opportunities such as employment to turn their lives around. We welcome the confirmation that community orders will continue to address the problems that have caused or contributed to offending behaviour such as substance and alcohol misuse and mental health problems. However, the focus of the proposals is greater enforcement and punishment, and it is disappointing that this is to the exclusion of what we know works in helping people to turn their lives around - such as strong family relationships, taking responsibility, constructive supervision or mentoring, and for women, gender specific, holistic support services.

We want to emphasise the importance of community sentencing for women offenders for whom custodial sentences are frequently inappropriate and deeply harmful to them and their children. Women’s Community Services offer sentencers a genuine choice of alternatives to custody that work for women offenders, and this provision and approach should be available to all courts across the country, but as yet the coverage is very limited.

We would like to acknowledge the inclusion of the section on Women Offenders and the value this places on women centred, women-only support services as a key contribution within community sentencing, whether this be through co-location arrangements with Probation officers, through Community Payback provision, through the delivery of packages which form part of a community sentence order or in providing intensive alternatives to custody. Our work has demonstrated, and continues to demonstrate, the impact of the women’s project approach in increasing compliance levels and indicates that this approach deters women from offending behaviour. At the same time these approaches address issues that lie at the root of offending behaviour and enable women to turn their lives around.

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The statement in the introduction that reoffending rates are still too high (para 4) does not tell us what is considered ‘acceptable’, and neither does it compare to the higher reoffending rates for custody, although this is mentioned later in the document. Further, we are not clear why community orders would need to be more punitive than custody (para 6).

We understand that the goal must be to reduce crime and see fewer victims of crime, however, Women’s Breakout believes that a more sophisticated measurement of progress is needed than the binary measures currently employed. We believe that for women a primary goal should be to reduce her vulnerability status that has led her to offending, and we also believe that a reduction in frequency or severity of crime is a measure of success for all offenders in the short term, as long as the individual is on a pathway towards no offending in the longer term.

It is true that the public have concern regarding community sentences and specifically community payback, and we need to address that concern in the proper way. There needs to be a clear understanding about when these measures are employed and what they are addressing, and it may be perfectly appropriate for there to be one weekly meeting if that is a productive meeting, addressing a low level crime of a first time offender. Unfortunately, the public often take their concerns from the media, and it is time to be brave about what we are doing, and find our own routes to extend the understanding of our communities.

When developing strategies to support victims (para 16) it should be remembered that women who offend at some time in their lives will often be victims themselves – victims of abuse, victims of violence, victims of a controlling ‘other’, victims of failed statutory services.

Finally, on the wider context, we believe that sentencing guidelines are too tough and inflexible and would like to see some fundamental changes for example

- For any offence less than three years, the courts should impose a community sentence first, and only imprison in case of breach or reoffending within 12 months.
- All offences should have a licence period on release to ensure that individuals are supported appropriately.
- The suspended sentence law should be changed so that it can be used for offences up to three years.

Section 2: Responses to specific questions

**Question 1: What should be the core elements of Intensive Community Punishment?**

An Intensive Community Punishment should be supported by a statement of vulnerability and an assessment of the impact of punishment. A mentor provided by a third sector organisation, should be a core element of this measure, as it is in the Personality Disorder Strategy.

**Question 2: Which offenders would Intensive Community Punishment be suitable for?**

Intensive Community Punishment could be applicable to women with several previous offences but as with other community sentences women have a right to these being delivered in women sensitive environments. There are specific issues for women that would need to be addressed, such as child care provision for women who are carers of young children, assessment of mental and physical wellbeing, as our data shows that many women offenders suffer with chronic physical and mental health conditions.

However, it will be important to put in place safeguards to avoid up-tariffing, including clear guidance to sentencers and independent review of cases.
Question 3: Do you agree that every offender who receives a community order should be subject to a sanction which is aimed primarily at the punishment of the offender (‘a punitive element’)?

No. Punishment starts before the community order, and for many women arrest and court appearances are punitive of themselves. The fact that many women tell us that working with our projects is the hardest thing they have ever done gives confidence that punishment does not have to harm a person to be effective.

While it is important to give proper consideration to the punitive dimension of community orders, we would stress the need to also give proper consideration to vulnerabilities, recognising that punishment measures impact differently on different people and those that are the most vulnerable may be treated inequitably by being treated the same. The majority of women would fall into this group.

The experience of women’s community projects is that women can and do change and move away from crime when they feel a sense of hope for their futures and when they are supported to tackle some of the root causes of their offending such as homelessness, lack of literacy, numeracy and life skills, debt, domestic violence and drugs and alcohol dependency.

Question 4: Which requirements of the community order do you regard as punitive?

All aspects of the community order are punitive, as they require an individual to do something whether or not they want to do it.

Punishment is subjectively recognised by women as the requirement of having to honestly face up to the offence and make changes in their lives sufficient to prevent similar behaviour in the future. Women attending Women’s Community Services as part of a community order have an individualised support package that requires mutual commitments to action and change and this will cause discomfort in a woman’s life because she is required to make tangible changes. Attendance is obligatory and as such punitive, but must be realistic for women whose principle responsibility is child care, or who are keeping numerous other appointments with agencies that support their personal and family functions.

Community Payback is punitive and it can be helpful for women offenders to undertake activity that contributes to community benefit. The Women’s Community Payback models run in some women’s community projects and other organisations provide a good working example of this. However, Community Payback that is not women specific can raise issues of equality compliance for many women for whom working as a sole woman in a predominantly male work team can be terrifying and lead women to serious levels of distress. This is further exacerbated for Asian women within predominantly white male teams.

For the most vulnerable offenders including those who have been traumatised by abuse and violence, certain forms of punishment will further damage their state of vulnerability. It is also vital that children do not become the hidden victims of state punishment when their care is negatively affected by community or custodial punishment. More beneficial approaches to punishment for such parents who are main care givers would be participation in parenting and life skill programmes.

Question 5: Are there some classes of offenders for whom (or particular circumstances in which) a punitive element of a sentence would not be suitable?

Community sentences are a particularly effective way to administer justice for groups of people with complex needs – those with mental health problems, drug and alcohol addictions and vulnerable women, many of whom have been victims of crime themselves.
Punitive measures impact differently on different people and account must be taken of circumstances, vulnerabilities and mental health issues particularly. While regular attendance may not be seen to be punitive by the uninformed public, for some people, for example those with mental health issues, this will be challenging and will have a punitive impact.

**Question 6: How should such offenders be sentenced?**

With regards to women offenders greater use should be made of the approach and services offered by Women’s Community Services, addressing vulnerabilities and self esteem and supporting women to make better life choices. The best guide to achieve the balance of all purposes of sentencing can be clearly guided by the paper’s stated objective “to ensure that sentences in the community are effective in stopping offending behaviour escalating to the point where prison becomes the only option. “

**Question 7: How can we best ensure that sentences in the community achieve a balance between all five purposes of sentencing?**

The profile of women offenders indicate that there are only a few women offenders who pose a threat to public protection. Many women offenders commit low level crime and the root causes for this lies in the multiple facets of disadvantage in their lives - many face threats from all directions in their daily lives, from abusive partners to loan sharks, and for this reason deterrence may have a limited affect on reducing offending behaviour.

**Question 8: Should we, if new technologies were available and affordable, encourage the use of electronically monitored technology to monitor compliance with community order requirements (in addition to curfew requirements)?**

While tagging maybe an effective option for many women, for some it imprisons them within an abusive home environment from which they have no escape. Far more important is to encourage the development of positive and supportive relationships.

**Question 19: How can compliance with community sentences be improved?**

For women, compliance can be improved by taking full account of the circumstances and chaotic nature of their lives when determining the details of the community sentences, and then by using a women-specific organisation to manage the sentence.

**Question 20: Would a fixed penalty-type scheme for dealing with failure to comply with the requirements of a community order be likely to promote greater compliance?**

That would depend on the access to financial resources that the individual has, and the reasons for non compliance. There will be those for whom this would promote greater compliance, and there will be those for whom it will not. However, there will also be a group of people for whom a greater financial burden would bring significant harm to themselves and to their dependents, and this must be avoided at all costs.

**Question 22: What practical issues do we need to consider further in respect of a fixed penalty-type scheme for dealing with compliance with community order requirements?**

For the majority of women offenders, debt and low income will be a feature of their circumstances prior to offending and in many cases this, alongside family commitments and domestic violence, will be the driver to offending. Fines imposed on such women only make them even more vulnerable to
doorstep lenders, to committing further crime in order to make payments and increase the likelihood of breach of order as a result of non-payment.

Greater use of financial penalties should be avoided where circumstances indicate that we are setting women up to fail and consideration should be given to whether or not the woman has control over her income. It is also important where women offenders are mothers that fines do not have a direct impact of punishing the child or causing further deprivation to children who may already be living in poverty.

**Question 23: How can pre-sentence report writers be supported to advise courts on the use of fines and other non-community order disposals?**

Pre-sentence reports for women should always include an assessment of vulnerability.

Pre-sentence report writers should know the alternatives available to the court, and should have a clear understanding of the circumstances of the offender. Lawyers are probably better placed to present the mitigating factors, and the judges and magistrates know the available sentences. The Clerk to the Court should have an understanding of resources available to the Courts. Probation resources may well be wasted on pre-sentence reports, and these resources could be usefully put into support and rehabilitation programmes.

**Question 36: How else could our proposals on community sentences help the particular needs of women offenders?**

Almost two thirds of women in prison are there for non-violent offences. In June 2009, 26% of female prisoners were held for drug offences. The majority of women serve very short sentences, in 2007 63.3% of women were sentenced to custody for six months or less. 28% of women in prison have no previous convictions – over double the figure for men. These are just some of the statistics that demonstrate the need to increase the use of community sentences for women and how sentencers are all too often handing out needless short term prison sentences for female offenders. This has the support of the public, as 86% of people agree with a shift away from the use of custody towards the use of community penalties for non-violent women offenders.

We welcome the acknowledgement of the contribution of Women’s Community Services to addressing women’s offending behavior.

The consultation paper quite rightly refers to the different profile of offending, the multiple and complex needs of women offenders, and the impact of sentences on family and dependants. The sensitive use of curfew and approach to dealing with breach are welcome, as is the reference to the contribution of Women’s Community Services and appropriate settings for women to complete their Community Payback.

However, the proposals do not go far enough in taking us from words to deeds. We need to see Women’s Community Services as a part of the mainstream offer to the courts, and long-term funding for community support and diversion services for women is essential if sentencers are to be confident that services are robust and effective, and will continue. The network of centres using this model and approach needs to be extended so that there is good national coverage.

The proposals identify ways in which community sentences can be tailored for women and this individualization and flexibility is essential. We would also identify additional ways to deliver women-specific community sentencing requirements, including:

- Women-only drug rehabilitation requirements, consisting of interventions designed to address the root causes of women’s substance misuse
- Women-only reporting locations and times to prevent intimidation and harassment of women in mixed probation offices
- Provision of women-specific offending behavior programmes
- Community Payback for women available in appropriate settings across the country, and not just in six towns and cities.
- Community sentences for the high numbers of women in the Criminal Justice System who suffer with mental health problems need to address their therapeutic and gender specific needs which may often be met through or in partnership with the Women’s Community Projects that provide women specific and holistic support.

**Question 41: What other areas could be considered to tackle alcohol-related offending by those who misuse alcohol but are not dependent drinkers?**

Alcohol misuse is common among women offenders, and should be addressed as part of a holistic approach to address the causes of offending behaviour and the needs of women. Evidence is clear that these challenges are best met in safe places where women can be supported to deal with historical abuse and trauma and on-going problems in their lives.

**Question 42: What do you consider to be the positive or negative equality impacts of the proposals?**

We note the reference to the greater positive outcomes for women on community sentences (compared to men), and the greater likelihood that men would receive a community sentence (compared to women) and expect that you will be taking this further in your Equality Impact Assessment with a more detailed analysis of the data behind that statement.

The proposals do not carry a gender disaggregated analysis of the way in which different community sentences have been used with offenders, and the effect of those interventions on people who have one or more of the protected characteristics and it would have been helpful if the data references in the document were disaggregated by gender eg current use of community orders.

Women’s Breakout’s response illustrates some of the potential areas for negative equality impact, but a full impact assessment with a full analysis of sentencing and reoffending data should be undertaken to ensure that proper consideration is given to the potential for inequitable treatment and unfavourable outcomes for women. We look forward to being able to comment on this document.
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The Member organisations of Women’s Breakout are:

Addaction Lincolnshire
Advance/Minerva
Anawim
Ash
Blackpool Women’s Centre
Brighter Futures, Chepstow House
Brighton Womens Centre Limited, (The Inspire project)
Cambridge Resource Centre
Cambridge Women’s Resource Centre – the Dawn Project
Catch22 Women’s Service
Clean Break
Cyrenians (WOW) Women outside Walls Project
East Lancashire Women’s Centres
 Eden House
ESCAPE Family Support - SWAN Project
Female Prisoners Welfare Project – Hibiscus
Hafan Cymru
Halton Women’s Centre
Hull Women’s Centre
Jagonari Educational Resource Centre
The Nelson Trust - ISIS Project
Missing Link
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North Wales Women’s Centre
Nottingham Women’s Centre
Peterborough Women’s Centre - Dawn Project
One 25
PACT Alana House
Pankhurst Centre/Women MATTA
Platform 51
Stonham Promise
4Women
Re-Unite
Safer Wales
Salford Foundation
SWAN (Northumberland)
Together Women Project
Tees Valley Women’s Centre
Together (Working for Wellbeing)
Trust (The Trust Womens Project)
Urban Outreach
Well Women Centre (Evolve)
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Women’s Work
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