



Policy briefing: The disproportionate use of remand for Black, minoritised and migrant women

Women in Prison (WIP) is a national charity which provides independent, holistic, gender-specialist support to women facing multiple disadvantage, including women affected by the criminal justice system. We work in prisons, the community and 'through the gate', supporting women leaving prison. We run Women's Centres and 'hubs' for services in Manchester and London and working in partnership with Woking Women's Support Centre in Surrey.

Our combined services provide women with support and advocacy, relating to domestic and sexual abuse, mental health, substance misuse, debt, education, training, employment, and parenting.

Hibiscus enables marginalised migrant women trapped in the immigration and criminal justice systems to rebuild their lives. Hibiscus's vision is to build a fair and just society where inequalities are eliminated from the criminal justice and immigration systems. We work with migrant women in the community (Greater London area), in prison and in immigration detention; and have a pilot project to support women appearing at Westminster Magistrates Court. We have consulted with both our staff working directly with women on remand, and the women themselves to reflect their expertise in this briefing.

The unsentenced women's project This is a pilot project delivered by Women in Prison in HMP Bronzefield. Our team of advocates work with unsentenced women (i.e. women on remand) and look at their support needs, including housing, mental and physical health and more. We have consulted with frontline staff from both Women in Prison and Hibiscus as well as women currently on remand to inform this briefing.

What is remand?

When someone is in either a Magistrates or Crown Court accused of committing a crime, there is a presumption in the Bail Act 1976 that they will be bailed, (allowed to leave court) either with or without conditions, as they await trial.ⁱ A magistrate or judge can make a decision not to impose bail and remand someone into custody until their trial and, where relevant, their subsequent sentencing hearing. This **should only be once all potential bail options have been exhausted, and if a custodial sentence is strongly anticipated.**ⁱⁱ Women who are remanded to custody are called 'unsentenced' women.

Bail Information Services (BIS)

The Bail Information Service is run by the Ministry of Justice and works to triage and prioritise remand prisoners awaiting trial who are potentially suitable for bail and suggest a suitable plan and conditions for the court to safely release them.

Bail Information Services are now provided in every public sector prison in England and Wales, apart from high-security prisons which would not hold individuals suitable for bail. According to the Justice Select Committee, the Bail Information Service in courts is currently “patchy, and in need of greater support.” In a survey run by Transform Justice, 54% of lawyers said bail information officers were never available in court to help prepare a package for a first hearing and 36% said that they seldom were.

There is often no support available for women who are bailed, and our frontline colleagues tell us there is a lack of Bail Accommodation (known as CAS-2 accommodation) available for women.

The use of remand is increasing for women

Women remanded to custody account for over half of the women received into a prison within a given year.ⁱⁱⁱ In June 2023, 22% of the total women’s prison population were remanded into custody and from **June 2022 to June 2023, the number of women who were on remand increased by over 20%.**

Remand use is disproportionate to the offences women are accused of

85% of women on remand have been charged with a non-violent crime, with the most common offence for remanded women going through a Magistrates Court in 2019 and 2020 being theft.^{iv} Around one quarter (24%) of women on remand are held for periods longer than six months.^v

The Prisons Strategy White Paper acknowledged that only a minority of women on remand go on to receive a custodial sentence and set an ambition to enable more women to successfully access bail.^{vi} **Indeed, evidence represented in the Justice Select Committee Report on remand shows that almost two thirds of women remanded to prison are either found not guilty or a given a community sentence.**^{vii}

The disproportionate use of remand for racially minoritised and migrant women

Racially minoritised and migrant women are disproportionately represented amongst those on remand. In 2021, 30% of female Black defendants were remanded in custody at Crown Court – this was higher compared to female Asian defendants (28%) and female white defendants (26%). At Magistrates’ Court, female Asian and Black defendants were more likely to be remanded in custody (both 10%), compared to white women (7%).

A Freedom of Information request by Liberty Investigates in March 2022 found that the proportion of racially minoritised people in the total remand population had risen to 34% at the end of September 2021, despite only forming around 13% of the UK’s population.^{viii} Recent research by Justice also outlines the increased use of remand for racially minoritised people, and outlines that that “likelihood of any given prisoner held on remand being from a Black or racialised background has risen by 17% in the 6 years up to September 2021.”^{ix}

Research has found that foreign national women are more likely to be remanded in custody while awaiting trial or sentencing than British women, often for less serious offences, due to an assumed risk of people absconding overseas.^x

Prison is not a place of safety for women

The Bail Act lays out that the defendant can also be remanded if the court is “satisfied” that they should be kept in custody for their “own protection.” There is no further assistance in the legislation, or statutory guidance, to clarify what these circumstances would be.

A recent report by the Independent Monitoring Boards found that for seven women’s prisons between April 2021 and March 2023, the number of women with severe mental health needs detained or remanded for their ‘own protection’ or prison being used as a ‘place of safety’ had increased in practice. One women’s prison received five women a month on average in a year.

Women were mostly being sent to prison for their ‘own protection’ or as a ‘place of safety’ due to their severe mental health needs, high risk of self-harm and suicide, previous suicide attempts and a lack of secure and/or community mental health beds.

Concerns about this practice have been raised by Charlie Taylor, HM Chief Inspector of Prisons, who has recently told the Justice Select Committee that the practice of prison being used as a place of safety is creating a situation where *“untrained, unqualified people are looking after some of the most vulnerable and unwell people in the country, and are being taken away from other duties they could be doing to support other prisoners in the jail.”*

Elisabeth Davies, the National Chair of the Independent Monitoring Boards, also emphasised that there is a need to address issue of prisons being used as places of safety.

The impact of remand on women

Custodial remand is a disproportionate and harmful response to managing people in contact with the criminal justice system. Women we have worked with describe being given *“no information, prison pack [...] the feeling of no control and you don’t know what happened.”* It can be a very traumatic experience – uncertainty about the future is ever-present, with no clear timeframes for women about how long they will be held on remand and many lack the support and opportunities available to sentenced women.

This sentiment is echoed by Rochelle, a woman who we work with on remand who, told us how *“as a remand prisoner, you cannot apply for jobs in the prison because you can’t be certain you will return after court.”* The lack of structure on remand extends to very basic necessities: one woman we work with, Melissa, described how she lacks a toothbrush and toothpaste: *“I’ve been asking for it but they haven’t given me anything. I have to ask other prisoners to use their toiletries.”*

These dehumanising conditions where women are provided with less than the basic requirements to have a dignified existence only further exemplify the far-reaching consequences of being on remand. This also extends to women’s family and dependents. Mia, who is also on remand, told us, *“I have a child with separation anxiety who struggles without me... My child is autistic so they need me.”*

- **The detrimental impact on women's mental health**

Through our work delivering services to unsentenced women in HMP Bronzefield, we see the detrimental impact it has on women's mental health and wellbeing. Our frontline workers described the negative mental health impacts that women on remand experience as a result of being 'stuck in limbo' as they await the outcome of their case. The stress and uncertainty about the process is even greater for women for whom English is not their first language, who face greater barriers in navigating the criminal justice system.

This fear and concern for the future can result in high levels of mental distress, all whilst being in an unfamiliar, harmful environment and removed from any support networks. 93% of the unsentenced women we work with in HMP Bronzefield who completed a needs and risk assessment were initially referred to us with accommodation as their primary support need also reported having further needs around physical health, mental health or substance misuse.

Often, the mental health support available to women on remand prioritises symptom management, as long-term work to address the underlying causes of their poor mental health is not possible due to the uncertain time frames within remand.^{xi} Official statistics show that women accounted for **23% of self-harm incidents of people on remand,^x despite representing less than five percent of the total remand population.^{xi}**

- **Challenges accessing medical care**

One of the key issues contributing to this is a lack of access to healthcare and medication within prison: women we work with have told us they have been given unsuitable medication; have had to wait two months just to see a triage nurse and some also outlining they have needed to wait as long as 22 weeks to get a medical appointment.

- **Lack of resettlement support**

Most aspects of life cannot be put on "pause" for the duration of remand. The consequences of any period on remand can be significant and long-lasting, impacting children and family ties, physical and mental wellbeing, employment and housing and in some cases locking women into poverty and debt on release. One of our service users, Beatriz, described her experience as, *"I feel like I'm losing everything because when I get out, I have to start again."*

Due to the uncertain timescales relating to remand, if a woman is acquitted, often the pre-release team will only be able to submit a referral to the appropriate local authority for statutory housing support on the same day, significantly reducing the likelihood of securing safe, secure and appropriate accommodation.

Charlie Taylor, HM Chief Inspector of Prisons, noted that there is a growing issue with people being released directly from court due to the length of time spent on remand, with no pre-release support provided or resettlement support provided – they are *"walking out on to the street with nothing."*

What needs to change

- The Government should introduce fundamental reforms to The Bail Act 1976 to
 - strengthen the presumption of the right to bail, especially for primary carers and pregnant women, end the use of remand for “own protection”
 - prevent remand being used by default for migrant women.
- Utilisation of remand alternatives, such as Electronic Monitoring (EM) and Home Detention Curfew (HDC) must be encouraged to ensure remand does not become a default for cases that cannot be unconditional bail.
- MoJ should publish the evaluation of the court-based Bail Information Service sites (including specific data on supporting Black Asian minoritised and migrant women) and work with the community and voluntary sector to identify opportunities for specialist organisations and peer workers to be involved in wider delivery

ⁱ House of Commons Justice Committee. (2023). *The role of adult custodial remand in the criminal justice system* (Seventh Report of Session 2022-23), <https://committees.parliament.uk/publications/33530/documents/182421/default/>

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} Ibid.

^v Atkins, V. (2022) [Parliamentary question UIN 138041](#) Prisoners on remand

^{vi} Ministry of Justice, Prison Strategy White Paper, December 2021,

<https://www.gov.uk/government/publications/prisons-strategy-white-paper>

^{vii} Justice Select Committee (2023) [The role of adult custodial remand in the criminal justice system - Committees - UK Parliament](#)

^{viii} Liberty Investigates. (2022). *Proportion of Remand Prisoners from Ethnic Minorities Rises 17 Percent in Six Years*, <https://libertyinvestigates.org.uk/articles/prisoners-on-remand-increasingly-likely-to-be-black-or-from-an-ethnic-minority-figures-show/>

^{ix} [Remand-Decision-Making-in-the-Magistrates-Court-November-2023-1.pdf \(justice.org.uk\)](#)

^x Robson, M. (2022) [A suspect population: An examination of bail decision making for foreign national women in criminal courts in England and Wales](#)

^{xi} House of Commons Justice Committee. (2023). *The role of adult custodial remand in the criminal justice system* (Seventh Report of Session 2022-23), <https://committees.parliament.uk/publications/33530/documents/182421/default/>