

Improving magistrates' awareness of vulnerable women in the criminal justice system: a pilot

Abstract

Most criminal offences in the UK are committed by men which means that women make up a small proportion of offenders dealt with in the criminal justice system. In total, women who offend comprise around 5% of the custodial population and 15% of offenders in the community. The issues women in the criminal justice system face are significantly different to those of the male population with women more often having distinct vulnerabilities. For instance, women in prison are more likely to have a mental health problem and to have experienced abuse as a child or an adult. Therefore, addressing the sentencing of this population requires a specific approach.

This article describes a pilot study that aimed to improve magistrates' awareness of vulnerable women in the criminal justice system. The *Vulnerable Person Focus* group delivered a series of 'Focus on Women' awareness sessions to over 100 court staff at four courts in Northamptonshire. Following the training, the participants reported improved confidence when sentencing women offenders; that the training had influenced them to seek information about the women's health and social care circumstances before sentencing; and that the training had made them more likely to consider alternatives to custodial sentences .

Key Words Court; Women; Magistrates; Mental Health; Vulnerable Adults

Introduction

Over the past decade, a series of policy reports have been published which have detailed specific vulnerabilities women who offend have and have outlined a series of recommendations to improve how women offenders progress through the criminal justice system (CJS). In 2007, Baroness Corston published '*A review of women with particular vulnerabilities in the Criminal Justice System*' (Home Office 2007) and was commissioned following self-inflicted deaths of six women in Styal prison. The review contained 43 recommendations which focused on improving services and outcomes for women both within the CJS and for those at risk of offending. The report highlighted a high degree of vulnerabilities experienced by women including those with: substance misuse, self-harm, mental illness, learning difficulties, experience of trauma and abuse, domestic violence, along with time spent in the care system. Baroness Corston's Report was shortly followed by Lord Bradley's Report (Department of Health 2009) which underscored the issues of those with mental health and learning disabilities across the CJS. These two seminal reports form the basis for contemporary positive change across the CJS pathway in respect of improving outcomes for women within the CJS.

More recently, the Government published *Violence against Women and Girls Strategy* (Home Office 2016) and the Female Offender Strategy (Ministry of Justice 2018), both of which outline the issues and vulnerabilities that women and girls face across the CJS and represent a prominent contemporary drive to realise positive change. It is argued that an opportunity exists to reform the CJS by tailoring the approach to account for specific vulnerabilities that women who offend have, which has the potential to break entrenched cycles of offending and improve society.

Whilst women who offend make-up about 5% of the incarcerated population and around 15% of offenders in the community (Ministry of Justice 2018), the case for change is compelling given the distinctions between women and men at each stage the CJS. The types of offences that women are typically serving custodial sentences are for: theft and handling stolen goods, financially motivated crimes (often linked to poverty and addiction) and breach of licence (Ministry of Justice 2012). It should also be noted that women are more likely to be the victims of crime than male offenders, with experience of domestic abuse, child abuse, sexual violence and sexual exploitation being common for female offenders.

Women who offend are typically given a short sentence due to the circumstances and nature of the offence, with 62% of sentenced women entering prison in 2017 serving six months or less (Prison Reform Trust 2018a). Critically, rates of self-harm amongst women are at the

highest level for six years. In 2017, women accounted for 19% of all self-harm incidents in prison even though women make up 5% of the overall incarcerated population (Prison Reform Trust 2018a). Such mental health needs are less likely to be supported in custody, compared to care within the community, as women's deaths in prison are often related to unmet mental health and substance misuse needs (Barlett and Hollins, 2018).

The outcomes for women serving short custodial sentences are poor. On average, the re-offending of women within a year was measured to be 18.5%, compared to 27.7% of men (Ministry of Justice, 2015). Outlined in the Female Offender Strategy (Ministry of Justice, 2018:6), "56.1% of adult women released from custody between April and June 2016 reoffended within a year, with 70.7% of women reoffending following a short custodial sentence (<12m)". Therefore, the Government is "committed to reducing the number of women serving short custodial sentences" (Ministry of Justice, 2018:6).

A final and important consideration are the wider costs of sentencing women who offend to short prison sentences with limited access to support to maximise prospects of recidivism. Around a third of women prisoners lose their homes, and often their possessions (Prison Reform Trust 2018b). It is also estimated that over 17,000 children a year are separated from their mothers with only 9% being cared for by their fathers in and just 5% remain in their own homes while their mother is in prison (Prison Reform Trust 2017). Such considerations are also linked with higher rates of deaths of women in prison compared with men (Bartlett and Hollins, 2018).

Given that women offenders were estimated to cost £1.7bil in 2015/16 (Ministry of Justice 2018) and that central Government funding on criminal justice has fallen by 26% since 2010-11 (House of Commons 2016), it is critical that women who offend are provided support to reduce recidivism further and that sentencing ensures women who offend are provided adequate support in relation to specific vulnerabilities. Gobeil *et al.* (2016:1), when analysing studies of higher methodological quality found that "gender-informed interventions were significantly more likely to be associated with reductions in recidivism". To achieve this, however, more awareness is needed of the specific vulnerabilities women have among staff within the CJS, which distinguish them from men, within the sentencing process.

The *Vulnerable Person Focus Group*

It is vital that those magistrates responsible for sentencing are equipped with the information and a full range of sentencing options during the sentencing process. Figure 1 provides an overview of recommendations made in the Corston (2007) and the Bradley (2009) reports. In Northamptonshire, it was recognised by local Magistrates that there was a need to address

the recommendations outlined in Figure 1, and a Magistrate-led awareness group was formed in 2014 named the *Vulnerable Person Focus* group.

Figure 1: Recommendations to Sentencers

Corston Report (2007)

1. All magistrates' courts, police stations, prisons and probation officers should have access to a court diversion/Criminal Justice Liaison and Diversion scheme in order to access timely psychiatric assessment for women offenders suspected of having a mental disorder.
2. Magistrates must be able to access timely psychiatric reports and fail to remand in custody/sentence if not available.
3. Training, should include gender awareness, how community sentences can meet the needs of female offenders and should be extended to include all staff within the criminal justice system in contact with women, particularly those who make sentencing and bail decisions.

Bradley Report (2009)

1. The judiciary should undertake mental health and learning disability awareness training.
2. Improved information for the judiciary and closer links and awareness with community services

The *Vulnerable Person Focus* group have played a key role in providing a platform to increase knowledge and understanding, around vulnerabilities for all those within the CJS including youths and women in areas such as: Mental Health, Learning Disability and Autism. The group is committed to

1. increasing awareness across the judiciary regarding mental health and learning disabilities;
2. reducing reoffending by delivering appropriate sentences to vulnerable offenders; and
3. providing a forum for peer support with evidence-based awareness support.

The group is chaired by a Magistrate Mental Health Champion and is magistrate-led but includes membership from health, the third sector, HMCTS and Probation (NPS). Several successful awareness sessions have now been completed (Hardy et al 2016) and the most recent session was provided to address a higher than national average number of women

being sent to custody for short term sentences. This article now provides an overview of 'Focus on Women' awareness sessions and the outcomes of the pilot.

Method

A team made up of the magistrate-led *Vulnerable Person Focus group*, third sector provider (Good Loaf Women's Centre) and Service Users, delivered seven 'Focus on Women' awareness sessions in Northamptonshire to approximately 100 staff in November 2016.

Delivering the 'Focus of Women' Awareness Sessions

The awareness sessions were designed to last 45 minutes to enable them to be conducted in court over lunch, with the aim of delivering a convenient, short session that was relevant to the magistrates and give them appropriate prompt information to take away and be available on the bench. The sessions were primarily targeted at magistrates but were made available for other court staff including Legal Advisors, Probation, Solicitors and Ushers.

These awareness sessions were developed in a collaborative manner involving magistrates, health, probation, third sector, national women's charity *Women in Prison*¹ and perhaps, most importantly service users from the Good Loaf, Women's Centre. This co-production approach recognised the need to increase awareness of the issues surrounding women offenders for the Judiciary.

The sessions were developed with the following aims in mind:

1. to increase awareness of some of the issues facing women affected by the CJS;
2. to increase knowledge and awareness around remand and sentencing decisions which address the core causes of the offending behaviour;
3. to increase awareness of the local Women's centre and the role they play in providing localised community order provision and alternatives to custody.

The sessions included presentations, written material and activities to allow participants to actively engage with the materials provided and reflect on their decision-making. The session content covered;

1. Introduction to the Vulnerable Person Focus group;

¹ Women in Prison is a national charity that provides services in prisons and runs 3 women's centres in Woking, Manchester and Lambeth, London. It provides a platform for the voices and experiences of women affected by the criminal justice system, including those in prison and campaigns for their rights and for a reduction in the numbers of women in prison in favour of community alternatives.

2. National and Local Statistics on Women Offenders, including numbers sent to custody for less than 12 months, non-violent crimes;
3. Women's feedback from her experience in the CJS;
4. A Case Study presentation and group exercise. Participants are organised into two groups, each have the same scenario but discussed the impact of sentencing the defendant to a:
 - a. Community order or Custodial sentence;
 - b. The group feedback on: the impact of these sentences on the woman, children, family, home, longer term reoffending outcome;
5. Group provided with prompt cards;
6. Complete evaluation forms.

It was very important to have women with experience of the CJS present who could relay their experiences around how they became involved in the CJS, their perception of the courts, what went well and what could have been improved. This part of the session was supported by the Good Loaf Women's Centre², where not only community orders are delivered but employment opportunities are provided for potentially vulnerable local women so that they can break the cycle of poverty, unemployment and offending. By working through structured work placements, women who engage with the Good Loaf Women's Centre can gain practical skills and experience in a real work environment.

The case study provided an overview of Julia, a pseudonym for a real case involving a woman aged 28 who had long-term substance misuse and mental health problems who had been involved in the CJS since aged 16 years. The case study information included an overview of her history and previous engagements with social care as well as the offence for which she was being sentenced.

At the completion of sessions, participants were given a prompt card to be used in practice and serve as a reminder of what they have learned. Participants were asked to complete an evaluation form at the end of the session and were contacted three months after the session to complete a follow-up survey to establish if they were putting any of the learning into practice.

Ethical considerations

² <http://www.thegoodloaf.co.uk>

Permissions to conduct the pilot was obtained from the Northamptonshire branch of the Magistrates Association.

Results

In total, around 100 professionals attended the sessions, including 69 magistrates. The evaluation which was completed by 50 of the attendees. Participants were asked to score their overall assessment of the session between 1 and 5, with 1 being insufficient and 5 being excellent. The mean score was 4.46 and the scores show that the sessions were universally seen as being very useful.

Most valuable part of the session

Participants were asked which aspects of the training they found most interesting. No prompts or suggestions were given to influence their response. The analysis shows that the most valuable parts of the sessions were in order of frequency:

- being able to listen to the experiences of individuals experiencing psychological distress, who have had first-hand experience of being sentenced;
- being provided examples and the case study discussions;
- being given information concerning the breadth of community orders available locally, including Rehabilitation Activity Requirements, Mental Health Treatment Requirements, Drug Rehabilitation Requirements and Alcohol Treatment Requirements;
- being provided with relevant statistics about women offending;
- hearing from *Women In Prison* and the views of women offenders; and
- being provided with an overview of sentencing options and outcomes, offering an alternative to custody.

Knowledge and information gained from the participation

The evaluation illustrated clearly that not only did the training meet the expectations of magistrates, but it was also perceived that it would be useful in their roles. Of the 50 participants, 98% ($n=49$) felt that it had met their expectations and the 2% ($n=1$) said it had somehow met their expectations.

All participants indicated that they would be able to use their training in their role with 78% ($n=39$) reporting that the training would definitely be useful in their work, 18% ($n=9$) stating

that most of the training would be useful and 4% ($n=2$) suggesting that the content would somehow be useful.

Improving the effectiveness of the training

Participants were able to feedback on the training and offer suggestions to improve their quality and effectiveness. It was suggested that the training would benefit from more discussion time and additional information on other similar initiatives. It was indicated that further involvement from probation would have been welcomed as well as attendance from defence solicitors. Others highlighted the importance of the valuable work taking place at the Northampton Good Loaf Women's Centre with women offenders and it was strongly suggested additional provision was required. In terms of the format and style of training, one participant commented that they "...liked the relaxed atmosphere enabling time to give opinion". Overall, the feedback provided was very supportive and that further sessions to improve knowledge would be beneficial to improve the awareness of people working across the CJS on a variety of topics and issues.

Impact of the Sessions: Post Evaluation with Magistrates

A post evaluation was also carried out three months after the final training was delivered. A series of questions were sent to magistrates who had attended the training via an on-line survey. In total, 18 magistrates completed the post evaluation survey, representing a 26% response rate. The results of the post evaluation survey demonstrate the value of brief, low cost, pragmatic and high-quality awareness sessions to magistrates and other court staff. The analysis of the survey revealed the following results:

Improved confidence when sentencing female offenders: Participants were asked if the training had impacted their confidence when sentencing female offenders. Of the 18 magistrates who completed the questionnaire, 69% ($n=9$) of the respondents confirmed that the training had improved their confidence when sentencing women offenders. One magistrate commented that:

"[I now have a...] greater awareness of the needs of women offenders. A better understanding of the impact of sentences on women. Clearer understanding of the reasons for women offending".

Improved information gathering: Participants were asked if they since the training sought better information about the women's health and social care circumstances before sentencing and if they were more likely to ask for professional opinions if they had a concern

about a woman's health or social care circumstances. Of those completing the questionnaire, 69% ($n=9$) of the respondents confirmed that the training had influenced them to seek information about the women's health and social care circumstances before sentencing. Furthermore, of the 18 magistrates who completed the questionnaire, 85% ($n=11$) stated that they were more likely to ask for professional opinion if they had a concern about a woman's health or social care circumstances. When commenting on the key points taken from the awareness sessions, magistrates commented the training had supported them to:

"...listen carefully and ask questions about the circumstances of the defendant, whilst not losing sight of the offence and its effect upon others"

"[have a...] heightened awareness [of] considerations. Importance of triggering more engagement and activity from Court Officials and interested parties".

Improved consideration of alternatives to custodial sentences: Participants were asked if they since the training were more likely to consider alternatives to custodial sentences and what those alternatives were. Of the 18 magistrates who completed the questionnaire, 70% ($n=9$) confirmed that the training had made them more likely to consider alternatives to custodial sentences. When expanding on what alternatives they now considered, 1 magistrate confirmed that they would now consider using a Community Order with Rehabilitation Activity Requirement days and 10 stated that they would now consider utilising a Community Order with Treatment options (Mental Health Treatment Requirement, Drug Rehabilitation Requirement, Alcohol Treatment Requirement). When commenting on the key points taken from the awareness sessions, one magistrate commented the training had highlighted *"the impact of custodial sentences on women and their families"*. Other commented:

"Before the session I was dubious about alternatives to custody for repeat offenders. I am more convinced that with appropriate intervention the cycle of offending can be broken".

"Appropriate sentencing focused on reducing low level but prolific offending can both save resources and prevent human misery".

Discussion

The results presented above illustrate the value and importance of the pilot at improving knowledge on the issues facing women offenders as well as evidence of impact, building upon knowledge and learning of similar sessions conducted previously (Hardy et al 2016). There were some suggested improvements, however, though to achieve these may require

additional time to facilitate further discussion and activities. A consideration here is that such developments may impact engagement from magistrates, taking into account their schedules in court.

The demonstrated impacts of the sessions illustrate how magistrates are now equipped with important contextual information concerning the nature of women offenders, additional vulnerabilities to be accounted for within the sentencing process and the evidence of recidivism following short term custodial sentences for relatively low-level offences compared to men who offender. Following the awareness sessions, magistrates in attendance are measurably more likely to consider Community Orders with Treatment options, an outcome from training, which aligns with national policy directives (Ministry of Justice 2018).

This means that the defendant, when sentenced, may be more likely to receive a Community Order instead of a short-term custodial sentence, taking into account the increased awareness of alternatives. Bartlett and Hollins (2018:136) argue, a viewpoint which we agree, that “the avoidance of women’s imprisonment either by mental health options pre-imprisonment or by suitable community sentences for low-level offending would do much to avoid the perils of prison for women, with and without children”. Here, recent initiatives such as the Community Sentence Treatment Requirements national pilots (Dearden 2018, Rayner 2018) are a positive development in realising change within the CJS. The initiative involves collaboration between the Ministry of Justice (MOJ), Department of Health and Social Care, NHS England and Public Health England to improve access to treatment programmes for offenders serving community sentences. It is intended, following the national evaluation in 5 pilot sites, that the initiative is rolled out more widely across England (Ministry of Justice 2018b).

This pilot study provides evidence that a brief and low-cost awareness session is supportive of recent transformation within the CJS and is valuable at increasing knowledge among magistrates of alternatives to custody. However, as only a 26% response rate was achieved, the results may not be representative of all participants who took part in the training. Nevertheless, the results presented in this article are very promising and further study is required. As the design of the training is relatively simple and efficient, it should be easily replicated in other areas to improve sentencing for women across England within the CJS.

Conclusion

The evaluation of a brief, low-cost, pragmatic and high-quality awareness training sessions to magistrates and other court staff to improve their confidence around issues women in the CJS face has been able to demonstrate that via a collaborative approach that combines information, statistical data and, perhaps most importantly, access to the experiences of women offenders can impact positively on the sentencing and support magistrates to consider the importance of bio-psycho social influences on the lives of female offenders. This article makes a good case for the expansion of this well-received and highly valued training approach.

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