



Ministry
of Justice

Government Response to the Joint Committee on Human Rights Twenty-Second Report of Session 2017-19:

The right to family life: children whose mothers are in prison

November 2019

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The right to family life: children whose mothers are in prison

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

November 2019



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Introduction

The Government welcomes the committee's thorough report on the vital topic of the right to family life of children whose primary carers are in prison. We acknowledge the importance of upholding the Article 8 rights of prisoners and their children - not only for the offender and their family, but for the beneficial impacts research has shown family ties have on reoffending rates. As well as the clear moral imperative, there is therefore also a strong public protection value to supporting the exercise of these rights, which can keep the wider public safer by reducing crime.

We thank the committee for its letter dated 22 October 2019. We acknowledge the committee's suggestion that the Prison and Probation Ombudsman's terms of reference (ToR) be amended to ensure that all babies' deaths occurring in prison are fully investigated as deaths in custody. The PPO's current ToR already allow them to investigate fatal accidents involving babies on a discretionary basis. We have recently met with the PPO about the possibility of updating their ToR, and will be working with them to ensure that these accurately reflect the work and remit of the PPO. A key priority for the PPO is to obtain statutory status. The Government will explore ways to address this when Parliamentary time allows.

As the committee's report acknowledged, this Government has been working closely with Lord Farmer on the importance of maintaining familial relationships for offenders. Lord Farmer's review into the importance of family ties for women in custody and the community was published in June 2019, following his earlier report into the men's custodial estate. This second review recognises the distinct complexities that women and primary carers face whilst in contact with the criminal justice system. The recommendations of both reports are wide-ranging, encompassing both custody and, the community (for women), and the evidence offered and issues raised reinforces much of what the committee presented in their own report.

Implementation of the Farmer Review for Women has commenced with pace. We have accepted Lord Farmer's recommendation for this work to be embedded into the implementation of the original Farmer Review, and as such, we are taking forward this work via the joint policy and operational *Family Strategy Working Group* (FWSG). We are working across government where the recommendations have direct and indirect implications for multiple departments and bodies. We are reporting to Lord Farmer with progress on a quarterly basis.

We have considered the recommendations of the committee in the context of the significant body of work that is currently ongoing to consider and implement the recommendations of the two Farmer reviews. Where there are gaps, we will look to

develop policy and improve existing practice in order to support parents in their responsibilities and to uphold their rights and the rights of their children to family life.

Data

We acknowledge the importance of data collection to illuminate the prevalence and needs of those women prisoners with children, as well as pregnancy. We are committed to collecting more data centrally and using this to inform policy and improve our services - albeit within the parameters of confidentiality, and longstanding barriers of disclosure.

We aim to establish more accurate metrics to measure the number of pregnant women in custody and the number of prisoners with primary carer responsibilities. We will collect data on the number of women in prison who are pregnant at an agreed date, and also plan to collect data on those in prison with primary caring responsibilities. In the interim, we have taken steps to improve our understanding of the number of pregnant women in custody, which we detail below.

As the committee notes, the Farmer Review for Women's recommendation to develop a Personal Circumstances File, owned by the user, offers a more holistic and constructive source of information. This file could be created as soon as the woman has contact with the criminal justice system, and will be used to record key relationships, dependants and personal histories. The File is to travel with her until she is no longer involved with the criminal justice system, and eradicates the need for the woman to repeat and re-inform at each point in her journey through the criminal justice system. The File would contain information about dependants or non-dependent children as well as significant others, and can be used to inform sentencing decisions. We are currently considering how we can best take this recommendation forward.

Gathering information on dependent children

Gathering information about dependent children is a sensitive matter. We are committed to supporting primary carers to disclose this information directly themselves however, as the committee notes, some women may be reluctant to disclose that they have dependent children. Whilst we welcome the committee's suggestion that this information can be gathered by cross-referencing with financial information from the Department for Work and Pensions (DWP) or Her Majesty's Revenue and Customs (HMRC), this would only give an estimate of the number of dependent children affected, given that not all primary carers would be identified. Any personal or financial data, particularly where it regards children, must be treated extremely sensitively. We will investigate the most accurate way to collect data about number of dependent children of women in prison, taking into consideration the ideas put forward by the committee. We intend to collate and publish this information, provided an accurate method can be found to estimate it, and provided it can be done in a way that protects the rights of vulnerable individuals.

Gathering information on pregnant women and new mothers in prison

As mentioned above, and following the bespoke data collection exercise in October, we are working on establishing more accurate metrics to capture centrally the number of pregnant women and new mothers in custody. We intend to collate and publish these figures annually, provided it can be done in a way that protect the rights of vulnerable individuals.

Before concluding a longer-term review, to provide a better understanding of the proportion of the women's prison population that are pregnant, we have carried out a bespoke and informal data collection exercise.

We have asked prison Governors to report on how many women in their establishments have declared themselves pregnant, at a given time. The total number of pregnant women identified using this methodology was 47, as at 15:00hrs on Monday 28 October 2019. This represents less than 2 per cent of the population, which stood at 3,808 at the time of the exercise.

Further to this, improving central data monitoring is within the scope of the fundamental review of the Mother and Baby Units Prison Service Instruction 49/2014, that we are undertaking this financial year. Whilst all prisons in the Women's Estate collect data on pregnancy, the processes for doing so are inconsistent, due to factors such as the function of the prison, and the varied nature of peri-natal and family support services available. We are working to assess the extent to which an approximate snapshot of the national picture is viable for public disclosure in the future, given that it is often the case that numbers are so low in some prisons that they cannot be published due to risk of identification, whilst acknowledging the value this data would add for operational and policy development. Notwithstanding these challenges, we are working to establish the most effective way to collect information about dependent children at both the court stage and in custody.

Sentencing

The Female Offender Strategy set out our vision to see fewer women in custody, and more women managed safely in the community. We recognise that women who do commit crime often face complex circumstances and are some of the most vulnerable and disadvantaged women in society.

Guidance for sentencers

Under the Criminal Justice Act 2003, the courts must not pass a custodial sentence unless they believe that the offence was so serious that neither a fine alone nor a community sentence can be justified. Therefore, courts first consider whether a fine or community sentence can be justified, and if the case is too serious for that, then the court is required to ensure that the custodial sentence it passes is for the shortest term possible, commensurate with that seriousness.

Sentencing is a matter for the independent judiciary, and as the committee's report recognises, there is already substantial existing guidance on considering the rights of the child and the impact on any dependents of sentencing outcomes. Indeed, this includes new guidance from the Sentencing Council, which came into force on October 1st, 2019, which will apply to all adult offenders sentenced on or after that date. Lord Justice Holroyde has written to the committee already on the implementation of the new General Guideline: Overarching Principles, which offers an expanded explanation in relation to the mitigating factor, "sole or primary carer for dependent relatives".

Sentencing guidelines provide for mitigation for primary carers, and list the impact on others as a factor to be taken into account in considering whether to suspend a sentence. The guideline on the Imposition of Community and Custodial Sentences (from 2016) applies in all cases where the court is considering imposing a custodial sentence. This states:

"For offenders on the cusp of custody, imprisonment should not be imposed where there would be an impact on dependants which would make a custodial sentence disproportionate to achieving the aims of sentencing".

The same guideline lists three factors for sentencers to consider which might indicate circumstances in favour of suspending a custodial sentence: realistic prospect of rehabilitation; strong personal mitigation; and where immediate custody will result in significant harmful impact upon others.

However, there will be cases which are so serious that they pass the custody threshold and require an immediate custodial sentence. For adult offenders, the courts must take account of the five statutory purposes of sentencing set out in section 142 of the Criminal Justice Act 2003, which are:

- the punishment of offenders;
- the reduction of crime (including its reduction by deterrence);
- the reform and rehabilitation of offenders;
- the protection of the public; and
- the making of reparation by offenders to persons affected by their offences.

Given the range of factors that judges must already take into account in sentencing, the existing case law and guidance already provided to the judiciary we do not believe that sentencers should be subject to a further explicit statutory obligation to consider the welfare of offenders' children when sentencing. We are, however, prepared to ask the Criminal Procedure Rule Committee to consider making recommendations in light of the proposals made by the JCHR.

Improving the quality and availability of Pre-Sentence Reports

However, we do agree with the committee's conclusion that it is vital that high quality pre-sentence reports (PSRs) are made available to sentencers by the National Probation Service to support sentencing decisions in line with these frameworks. This recommendation from the committee echoes similar findings in the Farmer Review for Women, where a number of proposals have been made to improve the quality and availability of PSRs. The Review, for example, recommends '*courts to indicate clearly when requesting Pre-Sentence Reports if the initial assessment is that the custodial threshold has been passed, and convicted women made aware of this by the person conducting the PSR interview.*¹

As the committee notes, the number of PSRs recorded as a percentage of sentences has steadily declined since 2012. Currently, we are reviewing some cases where women were sentenced to custody without a report to see if we can identify any common themes. The findings may enable us to support court duty officers in asking for reports in specific cases. It will also inform our dialogue with sentencers nationally and locally. It is important to note that the decision to adjourn or stand down for a pre-sentence report rests with sentencers. However, we acknowledge that the decline in the use of the pre-sentence reports may mean that opportunities are missed to inform sentencers where a defendant is a primary carer and of the impacts of custody on the child. We are embarking upon an ambitious programme of sentencing reform, which will include measures focused on tackling the

¹ *The Importance of Strengthening Female Offenders' Family and other Relationships to Prevent Reoffending and Reduce Intergenerational Crime*, (2019), p. 12.

underlying drivers of offending. Effective pre-sentence reports will play an important part in our new approach.

As the committee notes, the NPS have developed a checklist tool to improve the quality of PSRs. The PSR Checklist is designed to prompt PSR authors to consider all areas related to a woman's offending and to make a robust proposal for a community sentence whenever appropriate. A pilot of its use, conducted in two NPS Divisions in late 2018, is now completed and the checklist is about to be rolled out nationally. The checklist includes prompts for staff to ensure that women's status as carers is ascertained at the report stage. The checklist has been informed by a number of existing documents, including *Better Outcomes for Women Offenders September 2015*, which identified their priority needs; an interview screening tool developed in the Republic of Ireland; the North East NPS Division document, "Suggested PSR Questions for Women Offenders"; and the HMPPS, "Working with Women Offenders Guidance 2017". In addition, the emerging research on complexity factors for women within the custodial estate has been used to inform this checklist. The checklist can be found as an annex to this report. In addition, a new digital report template has been launched across the whole of NPS. This also includes a direct question about caring responsibilities, to ensure that this is picked up by report authors.

Childcare arrangements and child safeguarding

It is important that defendants are made aware that they may be facing time in custody, and that they make caring arrangements for this eventuality. We have developed easy-to-read guides for people attending court, which include a section on information for people who have children and may be facing custody. Where a primary carer does have dependent children but has been unable to make caring arrangements prior to being placed in custody, we are clear that we should support them to make appropriate safeguarding arrangements for those children. Currently, the opportunity is available to make childcare arrangements or make contact with dependents or family members from court custody suites after sentencing. Whilst there are examples where this practice takes place, we acknowledge as per findings from Lord Farmer's Review for Women, that this may not always be the case, as there is not yet a specific requirement for this to be supported. We will be reviewing operational guidance across custody suites to ensure this process is formalised and consistent.

Supporting the child

Safeguarding and promoting the welfare of children of prisoners

The statutory guidance *Working Together to Safeguard Children* (2018), is unequivocally clear that anyone who has concerns about a child's welfare should make a referral to local authority children's social care. The local authority and its social workers then have specific roles and responsibilities to lead statutory assessments or enquiries, to determine whether the child is in need (section 17, Children Act 1989), or suffering or likely to suffer significant harm (section 47, Children Act 1989). This guidance is clear that a child-centred approach is fundamental to safeguarding and promoting the welfare of every child. Every assessment by a social worker should reflect children's needs within their family and community context, which would include taking account of a parent being in prison.

We recognise that children whose mothers are in prison are a vulnerable group and may need additional help to address both the short and long-term impacts that maternal imprisonment can have. These children's circumstances vary considerably and therefore local agencies are best placed to determine what support is needed – whether early help, statutory social care services, or support for other needs such as mental health. A child's need for support should be assessed individually, and we do not believe a prescriptive approach – such as regarding all children of prisoners as children in need – is the right one. We agree with the inquiry's report that it is vital that all services consider the safeguarding and welfare issues that may be faced by children of prisoners. In order to promote consistent recognition and consideration of these children's vulnerability, we will look to strengthen *Working Together to Safeguard Children* guidance at the next opportunity, clarifying this further for all agencies.

Already, the expectation is that probation staff should ask an offender at the earliest opportunity whether they live with, have caring responsibilities for, are in regular contact with, or are seeking contact with children. Where this applies, a check should be made with the local authority children's services at the earliest opportunity on whether children are known to services and, if they are, the nature of this involvement. We will also look at current arrangements for information sharing between probation and prison staff and schools, when a child's primary carer goes to prison, and whether there are improvements that could be made to that.

Reforms under the Children and Social Work Act 2017 introduced stronger multi-agency safeguarding arrangements, replacing Local Safeguarding Children Boards, through which both prisons and probation services are specified as relevant agencies. Where part of local

safeguarding arrangements, as set out by the three safeguarding partners (local authorities, police, health), these agencies are under a duty to comply.

Furthermore, the HM Prison and Probation Services Child Safeguarding Policy Framework currently in development will set out HMPPS' duty to safeguard and promote the welfare of children. This applies to all permanent and temporary employees and contractors. It covers all aspects of our work. It will provide staff and strategic leads with an understanding of their roles and responsibilities as set out in the Children's Act 2004 and Social Services and Well-being (Wales) Act 2014. The policy will be the first to cover both prisons and probation providers. It replaces previous policy statements published by the National Probation Service and supports Prison Service Instructions related to safeguarding children. The draft Policy Framework will be subject to consultation before going through a formal approval process.

Introducing a duty to inform the relevant local authority when a child has a parent in prison would not entitle that child to services, because any support would be based on assessment of need by local authority children's social care. There are risks that a duty to inform could result in fewer women disclosing that they have children, because disclosure would result in an assessment by the local authority's children's services. We hear very clearly that when women are imprisoned they can fear social work involvement and the prospect of their children being taken into care or being stigmatised. We want women to feel safe enough to disclose, rather than increasing barriers.

Support in school

The Department for Education is committed to ensuring that all children, regardless of background or circumstances, have the opportunity to fulfil their potential. The *Keeping Children Safe in Education* statutory guidance is clear that school staff should consider the additional needs of children with parents in prison. The guidance highlights the risk of poor outcomes including poverty, stigma, isolation and poor mental health. It signposts staff to the National Information Centre on Children of Offenders (NICCO) website which provides specialist advice and resources to support professionals working with offenders and their children, to help mitigate negative consequences for those children.

We recognise the impact that a parent going to prison can have on a child's learning, behaviour, mental health and wellbeing – but we also recognise that support should be based on the needs of the child, not solely the characteristic of having a parent in prison. That is why our approach is focussed on equipping schools to respond to these needs.

To promote children's mental health and wellbeing, we are helping schools and colleges to provide a supportive environment for those experiencing problems, and to secure access to more specialist help for those who need it, through the transformation proposals to provide earlier support for children and young people's mental health. Updated *Mental*

Health and Behaviour in Schools advice, published in November 2018, provides advice for schools when they identify pupils whose behaviour may be a result of an underlying mental health difficulty. The advice supports the graduated approach, set out in the Special Educational Needs and Disability Code of Practice, that schools should take, in order to inform what support might be needed. It includes information about what to look for in terms of underlying mental health issues (including the impact that Adverse Childhood Experiences and other events may have on pupils).

The same advice directs schools towards information about how they can adapt their approaches to support these pupils with their individual needs. It places an emphasis on the importance of continuous professional development to ensure staff have the knowledge and confidence to identify: the early signs of mental health problems; what is and isn't a cause for concern; and what to do if they think they have spotted a developing problem. We are equally already taking significant steps to ensure all teachers are equipped with the skills to manage and support pupils, promoting high behavioural and academic standards for all. The early career framework underpins an entitlement for a new fully funded programme of training for early career teachers including training on how to manage behaviour. Going further, planned work on revising behaviour guidance, will be informed by a full consultation with a range of expertise, including around childhood adversity and disadvantage.

We have also carried out a recent review into the educational outcomes of children who have needed a social worker, and the barriers to education they face. The conclusion *Help, protection, education: concluding the Children in Need review* was published in June 2019 and outlines barriers to education, and best practice to help leaders and frontline practitioners overcome these. We have committed to four areas of further action to improve the outcomes for these children – increasing their visibility, safety through being in school, promoting high aspiration and effective support in and around schools.

Financial Support for carers

The Government recognises the important role that family and friends play in caring for children who are unable to live with their parents. Most children benefit from living with someone they already know and trust. Such placements are likely to provide more continuity than a placement with previously unknown carers and can help preserve a child's sense of belonging to a wider family network.

It is Government policy to prioritise support, including financial support, for children who were formally looked after by the local authority immediately before living in a permanent arrangement. This is because the majority of children who are looked after cannot return to their birth family and are amongst the most vulnerable in our society, not just because of

the neglect and abuse suffered in their early years, but also because they have to build new relationships and attachments with new carers.

However, statutory guidance for local authorities about supporting family and friends providing care for children who cannot live with their parents makes it clear that children and young people should receive the support that they and their carers need to safeguard and promote their welfare. Local authorities can provide support, including financial support under section 17 of the Children Act 1989. There is no limit on the level of support, including financial support, that local authorities can provide. They must publish a policy setting out their approach to promoting and supporting the needs of all children living with family and friends carers, regardless of their legal status.

Family and friends carers in informal arrangements are also treated equally with birth parents within the benefits system in relation to child benefit, child tax credits and other means tested benefits.

Supporting the parent

Supporting parents in custody to have meaningful, fulfilling contact with their children is critical to the maintenance of family ties.

Distance from home

We acknowledge that distance from home can be a real challenge for the maintenance of these ties, and that this is particularly acute in the female estate. HMPPS is committed to ensuring that prisoners are accommodated as close as possible to their resettlement communities and families. This is not always possible due to a variety of factors including wider population pressures, or where individuals have specific sentence planning needs which can only be met at certain establishments. Closeness to home is one of the key factors considered when choosing where to place prisoners, particularly for those on short sentences or nearing release, where they need to rebuild family ties, secure housing and health services and look for work. In the female estate, this is inevitably more challenging, as the smaller population means there are significantly fewer establishments more widely spread. In the male estate, prisoners are prioritised for release from a resettlement prison (which can be both a closed and open prison) allocated to their home Community Rehabilitation Company or probation area for release. In line with this, if a prisoner needs to resettle in a specific area HMPPS will ensure, as far as possible, that they are allocated to a prison in that area at the appropriate point in their sentence.

Where distance from home or other factors make visits challenging, we are looking at how we can support the maintenance of family ties within the estate in other ways. Our in-cell Telephony Project has equipped 30 Public Sector prisons with the technology that allows people in custody to make telephone calls from their cell via the PIN phone system. A further 21 Public Sector prisons are in the process of being fitted with in-cell telephony and expected to go live by March 2020. There are currently 397 cells complete in the women's estate (at New Hall and Foston Hall), and by 30th October there will be a further 263, completing both of those sites. HMPPS are in the process of surveying Downview and Low Newton to see what additional capacity can be added at those establishments.

Improving access to visits

Where visits are possible, they are crucial to sustaining relationships with children, close relatives and others, and help people in custody maintain links with the community. The Prison Rules 1999 require Governors to actively encourage people in custody to maintain outside contacts and meaningful family ties as may best promote the interests of the

prisoner's family and the prisoner's own social rehabilitation; it is integral to prisoners' right to family life as well as their rehabilitation.

Since April 2018 all prison Governors have been required to produce local Strategies, setting out how they will support prisoners to improve the level of engagement with their friends and families. These local strategies are available through the National Information Centre on Children of Offenders (NICCO) website.

Since the publication of the Lord Farmer's first report on male prisoners, £5.5 million has been devolved to Governors of all Public-Sector Prisons, including women's prisons, to deliver family engagement services. This funding has been used to deliver a range of services including family days, family learning and other bespoke services to meet the identified needs of prisoners.

We have also been working to improve awareness of the Help with Prison Visits Scheme (formerly Assisted Visits Scheme) which provides financial support for families on low income. In line with the original Farmer Review we have refreshed the Help with Prison Visits poster and developed (for the first time) a leaflet that highlights the availability of the scheme. They will be made available as a stock item and prisons, including those in the female estate, will ensure that they are available in their visitor's centres. Key workers will also be expected to promote the scheme as part of their ongoing interactions with prisoners.

We are aware that there may be barriers to making visits for the children, friends and family of offenders, including financial barriers. In order to understand these issues further, a number of changes to the scheme rules and eligibility criteria for financial assistance will be piloted this Autumn in a number of establishments, with the intent to improve the uptake of visits for children of primary carers. These changes will be evaluated and the scheme rules subsequently amended in 2020.

The piloting of video calling will also be trialled in a number of prisons in the coming months. Findings will be used to inform policy decisions on a possible wider roll out.

Improving the quality of contact for parents and children

The Farmer Review for Women has made a further series of recommendations based on existing good practice in the women's estate. Acknowledging the importance of the environment for visits to the experiences of children, the Review for Women recommends that a physical space is provided where women can spend private time with family members. There are already examples of good practice here, include at establishments such as Foston Hall. Given the variation across the estate, HMPPS will be reviewing how this can work effectively for each prison.

The Farmer Review for Women asks that Eligibility for Child Resettlement Leave is expanded to include primary carer status (rather than just sole carer status). This change has already been made.

Further to this, the Review also recommended that Release on Temporary Licence (ROTL) could be used more widely, so that women can continue to have contact with their family, and to undertake caring responsibilities. Finally, the Review recommended that a social worker post be introduced into prisons to ensure that parents feel supported to maintain relationships with their children. These posts could have an important role in engaging parents in any children's services proceedings, as well as supporting wider work in the prison to support family ties.

These recommendations have been accepted by the Ministry of Justice and we are considering how these can best be taken forward.

Entitlement to visits

All people in custody have a statutory entitlement to visits. Under the Prison Rules 1999 and Young Offender Institution Rules 2000 a convicted prisoner is entitled to receive a visit twice in every period of four weeks; un-convicted prisoners are allowed visits on at least three days a week, which includes weekends (see Prison Service Instruction 16/2011). Incentives schemes do not restrict prisoners' access to their statutory entitlement. Furthermore, the current statutory position enables Governors to grant additional visits as a privilege and, where necessary, for the welfare of a prisoner or their immediate family.

HMPPS will restrict a prisoner's access to children only in specific circumstances as outlined in the Prison Public Protection Manual (PSI 18/2016). If confirmed as a person posing a risk to children (PPRC) or as a potential PPRC, a prisoner subject to full restrictions on their visits and communications with children has the right to apply for child contact. Potential PPRCs and confirmed PPRCs can apply for contact with children in their immediate family. A request for contact can also be submitted by a child's primary carer or by the child directly. A multi-agency risk assessment will be undertaken, which will include information from local authority Children's Services, and is subject to the child's guardian supporting contact.

The new Incentives Policy Framework, which takes effect on 13 January 2020, is intended to offer consistency in practice whilst providing more freedom to individual Governors to allow them to better tailor their approach to incentivising people in custody. It also continues to enable Governors to account for variations in the capacity of establishments to, for example, host additional visits above the statutory requirement.

As part of the programme of work to deliver a refreshed Incentives policy in prisons, we are reviewing the relationship between the Incentives and Visits policies. As part of this

work, we have ensured that Governors cannot include access to family days as part of their local IEP schemes (which allow people in custody to spend a greater amount of time with their children and/or family members in more informal settings).

Pregnancy and Maternity

This Government takes very seriously its responsibility for securing quality care for women prisoners who are pregnant, give birth or are caring for their new born babies whilst serving a custodial sentence. We will give careful consideration to any learning from the investigations into the infant death at Bronzefield.

A perinatal pathway is currently being developed and applied across the entire estate, building on the excellent maternity service that HMP Low Newton has developed in conjunction with County Durham and Darlington NHS Foundation Trust. We are expecting full roll out across the women's estate from 2020 onwards.

The newly developed perinatal pathway is intended to provide clarity for all agencies involved in the maternity care of women currently in custody. It is designed to support an increased awareness around the needs and services for perinatal women in custody and outlines how access to equivalent care can and should be delivered within a custodial setting. The pathway will begin at the point of reception into an establishment or confirmation of a pregnancy (whichever is soonest). Dedicated custodial midwifery services will be available and personnel will work closely with local hospital midwifery services. Birth plans will be developed at the earliest opportunity and where there are any additional complexities around health needs, services will group around the patient through multi-disciplinary team approaches, to ensure patient care is consistent and appropriate. (For instance, it may be appropriate to have a dedicated midwife available who has specific expertise in managing pregnant women with substance misuse needs). The birth plan will also describe birthing wishes by the expectant mother and include intra-partum and post-natal care requirements for mother and baby and must be a multi-disciplinary document.

It is essential that all of the different organisations involved in caring for women in custody work closely together to ensure people get the support they need. NHSE/I is collaborating with specific prisons and Governors, as well as MoJ and HMPPS strategic colleagues, on these developments around health needs and pregnancy care. The national Health and Justice team within NHSE/I is using the tested approach as a modelling template across England and recognises the points of reference for good practice that Birth Companions published in March 2016.²

² Birth Charter for Women in Prisons in England and Wales: Birth Companions March 2016.

These elements form the basis of the perinatal pathway proposals that have been accepted and integrated as part of the NHS Long Term Plan deliverables for NHSE/I in relation to health and justice.

We are also in the early stages of a fundamental review of the current policy on Mother and Baby Units, which we are expecting will conclude by the end of the 2019-2020 financial year. The scope of the review is broad, and will include the process of admission and application to an MBU. The MBU review will consider the recommendations set out in the committee's report. Specifically, it will address current limitations on pregnancy data for the women's estate, improving the interface between pre-and post-sentence court processes and MBU admissions procedures. This will build upon the aim to gather information on the number of pregnant women in custody at an agreed date. The MBU review will also look, more widely, at the need for increased guidance on peri-natal support, and maintaining ties with children in the community.

Following the review, we plan to develop a policy framework containing mandatory actions specific to MBU operational delivery. We will also develop an accompanying policy guidance document that covers both MBU practice guidance and wider practice guidance on supporting pregnant women in custody and on supporting women to maintain ties with their children in the community. This guidance will cover the whole of the women's prison estate, and we will be consulting with a range of stakeholders, including Birth Companions, on this recognised need to review existing operational support for pregnant women and women with young children in the community.

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