

Inquiry into female offenders in the criminal justice system in Scotland

At Engender we believe that it is vital to consider the issue of female offenders from an equal opportunities perspective. We therefore welcome the opportunity to contribute to this call for written evidence by the Equal Opportunities Committee of the Scottish Parliament.

"Equality must embrace not just fairness but also inclusivity. This will result in some different services and policies for men and women. There are fundamental differences between male and female offenders and those at risk of offending that indicate a different and distinct approach is needed for women."

(The Corston Report: a review of women with particular vulnerabilities in the criminal justice system)

Gender equality

Women have a distinctly different experience of the criminal justice system which reflects what is happening in the broader social and political context. The gender equality duty that has just come into force is important in that respect. Given the criminal justice system's impact on women offenders in particular, we should remember that equal treatment does not necessarily mean identical treatment. It will be important for all relevant bodies to examine their methodology for gathering data on gender to assess any disparity in the treatment of offenders at various points within the system. There should also be more done to assess the impacts upon women and men as well as to consider the possibility of unintended consequences.

Profile of female offenders

Most female offenders:

- Are mothers
- Have no work outside the home
- Have had problems at school and few qualifications
- Were on state benefits and in debt
- Have accommodation problems
- Have experienced some form of abuse
- Have suffered psychological distress and
- Have serious problems with alcohol and drug misuse
- A good proportion had been in local authority care as children and some have lost the care of their own children

(Scottish Executive, 2007)

Many female offenders have mental health difficulties and severe addiction problems that result in chaotic lifestyles. For example, if a woman is placed on bail and then shoplifts again, she will come back before the court in breach of bail.

The acute rise in the number of women who are incarcerated, generally as a result of acquisitive crimes—many of which are linked to addiction problems—is a result of their inability to come to court or to respond appropriately to the court's orders.

While we acknowledge that both male and female offenders can be victims of abuse and can suffer mental health difficulties, substance abuse and self-harm it remains the case that these affect a much higher number of women prisoners. Coupled with the fact that in the vast majority of cases women are primary carers for their families this means the whole family is disrupted.

Many women give a whole host of reasons why their life is chaotic, including their housing and the fact that they do not have a job. Sometimes they are caring not only for children but for family members. Or they may not have a family at all; their chaos is therefore caused by having nowhere to live and no support. There is the issue of abuse as well. In terms of postcode 'lottery' you can identify almost straight away where the women offenders have come from.

Many female offenders have been victims of physical or sexual abuse and mental cruelty in their childhood and/or in later life so they may appear as witnesses and victims in other cases. They might appear as an accused one day and as a victim another. This compounds their often negative experience of the Criminal Justice System.

Family contact and access to support services

Engender would support efforts to decentralise services and welcome the suggestion for women to be housed in smaller, more local establishments so they can retain access to local services as well as maintain family contact.

Such establishments should be independent rather than being attached to men's prisons and in developing smaller centres it would be vital to have appropriate resources for women. This should be done by transferring the opportunities provided by the different programmes and support interventions currently available within Cornton Vale.

We hold that programmes for the survivors of abuse must be an integral part of every women's prison to ensure that survivors have the opportunity to receive appropriate support and we believe that the 218 centre in Glasgow provides an excellent model of how women can be supported more effectively than can be done in a large, centralised establishment.

Opportunities for diversion – an equal chance

In terms of equality it must not be that the system is 'gender-blind' but rather that at every stage in the system the alternatives that exist for men are also made responsive to the needs and the situations of women so that women have an equal chance of being diverted at every stage.

Community penalties are being used increasingly for women, but the difficulty is often that, because women come into the criminal justice system with a range of issues, they are put on probation to address them. The offence may not have resulted in custody in the first instance, but they may be unable to comply with the conditions of a probation order or another community penalty and end up in custody for a breach of the order.

We do not argue against the use of prison to deal with crimes of violence, but are concerned that we are imprisoning vulnerable women for crimes resulting from poverty or violence and abuse perpetrated against them. Engender holds that a shift in the whole of society to tackle inequalities is required.

Social Inquiry Reports

Engender would argue in favour of the presumption that social inquiry reports should be required for women offenders. We understand that this would not require a significant additional resource but we believe it would make a considerable difference, particularly if social inquiry reports included family impact statements, which show the impact of sentencing on the person to be sentenced. Such statements would apply to all offenders, male or female, but we believe their impact would be greater for women.

Engender supports an increased use of family impact statements in social inquiry reports. Closer attention should be paid to the significance of the impact on the family and the impact of separation from the family on the woman. These matters should be brought more closely to judges' attention. The Scottish Government and the Parliament could take the lead in considering how to encourage those responsible for sentencing to take family impact statements into account.

Need for a different type of support

Large numbers of women are still not being put on drug treatment and testing orders (community disposals) and this may link to the kind of support and facilities that are available to women to help them comply with the conditions of an order. Drug treatment and testing orders are quite prescriptive and based on rules, which seems to work less effectively for women and we believe there are gendered issues that need to be taken into account.

Abuse and the prevalence of drug addiction certainly mean that more women are entering prison. More women are using harder drugs, which is linked to patterns of offending. Sentences for drug offences are becoming longer, which also has an impact on the number of women who are in prison and we need to link the increase to abuse issues, by looking at people's reasons for using drugs. Many women start to use drugs as a way of self-medicating, to block out much that has happened in their lives previously. To date, not enough research has been done into the link between substance misuse and experiences of abuse.

Alternative services – 218 Centre

Engender commends the work of the 218 centre in Glasgow which offers excellent support and services to female offenders.

We hold that despite the lower numbers of female offenders they should have equal rights to specialist services and support. We agree with Dr. Malloch's observation to the Equal Opportunities Committee on 22 April 2008 that "Spending in the short term with a longer term perspective would lead to longer-term savings."

In March 2007, the Corston review of vulnerable women in the criminal justice system made several recommendations, including: "Community solutions for non-violent women offenders should be the norm", and; "There must be a strong consistent message right from the top of government, with full reasons given, in support of its stated policy that prison is not the right place for women offenders who pose no risk to the public".

Many women who have been convicted of offences are in prison for six months or less. The reality is that in that time, there is little that can be done other than deal with their physical and mental issues and keep them safe. Support must be available during a prisoner's sentence and this should then be transferred outside. For example, support for women with addictions and survivors of abuse as well as support for training and employment must be continued when they leave prison. The ideal situation would be to identify the various issues and connect them with appropriately financed community-based resources.

Engender supports linking women offenders to gender-specific services which seem to be highly beneficial to them. We believe it is important to be able to link women into broader social networks of support and would urge the Scottish Government to roll out lessons from the 218 project which is a female-focused programme based on support, relationships and strengthening the women's ability to cope with the type of issues that they have to deal with.

In conclusion, Engender supports the notion that the Equal Opportunities Committee should make it a priority to inquire into equalities in respect of women in the criminal justice system. We believe that such consideration in the Scottish context would be well merited. We are aware that there is very little research on women offending and it would be very useful to have more information on what has happened historically, how things are developing and what the trends are.

We remain highly concerned about the number of women in prison and firmly believe that we have a responsibility to find out as much as possible about the situation and how we can best work to minimise the number of women who have to be incarcerated and then, for that smaller number of women, to enhance the standard of services.

If you wish to contact Engender about any issue raised in this document please telephone us on 0131 558 9596 or email Carol.Flack@engender.org.uk