

## ANNEX C: EQUALITY AND DIVERSITY

Young adults make up a disproportionate proportion of those in custody. Black, Asian and minority ethnic (BAME) individuals are overrepresented both within the wider prison population and amongst this young adult cohort.

The Lammy review (2017)<sup>1</sup> echoed Baroness Young's findings in the Young Report three years earlier which looked at ways to improve results for young Black and Muslim men. The Lammy review confirmed that people from BAME backgrounds are more likely to be involved in the criminal justice system in part because they faced higher levels of deprivation and disadvantage in society.

The review confirmed that this is particularly important for young adults aged 18 to 21 in custody who are from BAME backgrounds. Their disproportionate representation leads young adults and young BAME prisoners often to report feelings of discrimination and unfair treatment.<sup>2</sup>

There is also a risk of bias against young adults in general where the impact of differential brain development<sup>3</sup> or cognitive impairment<sup>4</sup> is not recognised. Age is a protected characteristic under the Equality Act 2010. In that context, failure to understand and take into account developmental aspects and their impact on an individual young adults' behaviour would represent a form of bias.

### *Perceptions of the system and its staff*

Analysis reported by the MoJ in 2016 identified stages in the criminal justice system where disproportionality was particularly pronounced for BAME young people and adults. In particular, the analysis identified that adjudications for breaches of discipline were more likely for certain BAME groups although these incidents were significantly less likely to be found proven and were often dismissed.

In general, young adults from BAME backgrounds are more likely to distrust the criminal justice system due to previous experiences of stereotyping and harassment.

BAME young adults often report more negativity in their relationships with staff. Compared to other groups, fewer said that staff treated them with respect; fewer had a member of staff they could turn to for help; and fewer said that staff normally spoke to them when they were out of their cells.

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<sup>1</sup> The Lammy Review "[An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System](#)" September 2017

<sup>2</sup> Bangor University "[Black and Minority Ethnic Boys and Custody in England and Wales](#)" November 2018

<sup>3</sup> Annex B outlines aspects of physical development and maturation

<sup>4</sup> Annex E outlines aspects of brain injury

Changes in the youth justice system are beginning to 'put the child first' and recognising that more welfare-oriented interventions at an earlier age may limit escalation of risk. Nevertheless, a cohort of young adult prisoners will have missed such opportunities and will remain in the criminal justice system, some applying for parole.

As part of a national strategy recommended by HM Inspectorate of Prisons<sup>5</sup>, young adults' needs and maturity should be assessed on entering the system and this cohort should have access to education, skills and work provision. YOIs holding young adults should focus on building positive, trusting relationships between staff and young adults to improve behaviour management.

In the light of the experiences and perceptions of young adult prisoners from BAME backgrounds, HM Inspectorate also recommended that outcomes for these young adults should be monitored and action taken to prevent discrimination.

### *Interventions*

Barriers to effective treatment for BAME inmates may interfere with them starting, completing or engaging with services. These barriers can include previous experiences of racism or discrimination, the fear of further bias, and the perception (and possible reality) that the intervention will not be culturally relevant.

Research suggests the idea that therapy, or 'treatment', is a predominantly white construct. In some cases, no cultural equivalent has been designed for BAME service users. This suggests that some people from BAME backgrounds may feel treatment is not accessible or relevant to them. They may fear they will be misunderstood or judged by inappropriate standards and expectations.

Interventions available to prisoners which have not been culturally adjusted *can* benefit BAME people in custody and on probation. However, BAME people can feel isolated and misunderstood in standard offending behaviour programmes. Studies suggest that this disadvantage may be overcome by providing treatment that has been adjusted to be culturally aware, sensitive and inclusive and has been delivered by culturally-aware staff, preferably staff from similar ethnic backgrounds to service users.

There are few interventions or adjustments available to young adults from BAME backgrounds and no testing of the differential impact on them of standard interventions.

There is early evidence that a strong sense of cultural identity and pride is associated with greater reductions in substance misuse among young people. Explicitly recognising and encouraging cultural identity could be a promising approach to making rehabilitative services more responsive to BAME people.

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<sup>5</sup> [A short thematic report by HM Inspectorate of Prisons: \*Outcomes for young adults in custody: A thematic review by HM Inspectorate of Prisons January 2021\* \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmip/themes/young-adults-in-custody/)

### *Parole reviews*

Clearly, full awareness of how bias in the system can contribute to inequality and feelings of discrimination and grievance can help equip panels to avoid additional bias through the parole process. In particular, consideration of an individual's background, vulnerability and level of maturity is essential in helping to avoid or counter bias and the sense of discrimination that can be felt by young adults and particularly by young adults from BAME backgrounds.

Such awareness and consideration fit securely within the Parole Board's fairness agenda.

Specifically, as case studies in Annex D illustrate, an oral hearing can provide opportunities to counter the risk of bias within the process and for young adults to receive a fair chance of parole. Oral hearings provide a framework within which panel members, representatives and others can take active steps to counter the risk of unfairness.

Compared to paper reviews, hearings can provide better opportunities for creating detailed assessments that reduce possible assumptions that are not evidence-based; and for the formulation of risk management plans that better meet the needs of BAME young adults.

### *Further reading*

Bangor University "Black and Minority Ethnic Boys and Custody in England and Wales" (November 2018)

[https://research.bangor.ac.uk/portal/files/22273637/2018\\_Black\\_and\\_minority\\_ethnic\\_boys.pdf](https://research.bangor.ac.uk/portal/files/22273637/2018_Black_and_minority_ethnic_boys.pdf)

The Lammy Review An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System (September 2017)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)

Prison Reform Trust and Zahid Mubarek Trust "Tackling Discrimination in Prison: still not a fair response" (March 2017)

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Tackling%20discrimination.pdf>

Ministry of Justice Analytical Services "Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales" (2016)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/639261/bame-disproportionality-in-the-cjs.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/639261/bame-disproportionality-in-the-cjs.pdf)