



MILLION

Prison Mother and Baby Units - do they meet the best interests of the child?

January 2008

This document is aimed at:

- Policy makers responsible for developing policy on women's prisons
- Politicians and parliamentarians with an interest in prison reform
- Members of the judiciary



"The 11 MILLION children and young people in England have a voice"
Children's Commissioner for England, Professor Sir Albert Aynsley-Green



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Foreword by the Children's Commissioner for England



Few of us would consider it ideal for children to be born into or start out life in prison. For twenty years, child psychologists have posed the question as to what is best for children whose mothers have committed imprisonable offences. This discussion paper addresses the question from the point of view of the child, whose voice is frequently lost in this debate.

This discussion paper looks at existing policy on pregnant women and very young babies who are in prison and addresses whether more could be done to improve the life chances of this vulnerable group of babies. The facilities currently available for such children have been much improved in recent years but they remain at best a compromise. That is, a compromise between the practice of keeping often vulnerable women in prison and the need to do what is best for the baby.

There is a need to achieve a balance between, on the one hand, the use of prison to address crime and keep society safe and, on the other hand, to do whatever is best for highly vulnerable women in view of their role in bringing up the next generation.

My intention is for this discussion paper to add a new perspective to this debate that will ultimately lead to a commitment to delivering a more child-centred, humane approach that places the child at the heart of policy and practice.

Professor Sir Al Aynsley-Green
Children's Commissioner for England

1 Who are we?

11 MILLION is a national organisation led by the Children's Commissioner for England, Professor Sir Al Aynsley-Green. The Children's Commissioner is a position created by the Children Act 2004.

The Children Act 2004

The Children Act requires the Children's Commissioner for England to be concerned with the five aspects of well-being covered in *Every Child Matters* – the national government initiative aimed at improving outcomes for all children. It also requires us to have regard to the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC underpins our work and informs which areas and issues our efforts are focused on.

Our vision

Children and young people will actively be involved in shaping all decisions that affect their lives, are supported to achieve their full potential through the provision of appropriate services, and will live in homes and communities where their rights are respected and they are loved, safe and enjoy life.

Our mission

We will use our powers and independence to ensure that the views of children and young people are routinely asked for, listened to and that outcomes for children improve over time. We will do this in partnership with others, by bringing children and young people into the heart of the decision-making process to increase understanding of their best interests.

Our long-term goals

1. Children and young people see significant improvements in their wellbeing and can freely enjoy their rights under the United Nations Convention on the Rights of the Child (UNCRC).
2. Children and young people are more highly valued by adult society.

Spotlight areas

The wellbeing of young children whose mothers are in prison falls within two of 11 MILLION's 'Spotlight' areas for 2007/8: Safeguarding, and Mental Health (what happens to a child whose mother is in prison and the impact on the child's future wellbeing). Our interest is in areas in which we aim to influence emerging policy and debate.

Easy to read

We aim to make our publications easy to read for people without specialist knowledge. The final section of this document contains a list of words and abbreviations that might need further explanation.



2 Executive summary



There are eight Mother and Baby Units located within prisons and Secure Training Centres in England. This discussion paper looks at whether or not these units are the most appropriate location and environment for women and their young children who need to be in a secure setting.

In light of concerns expressed in the Inspectorate of Prisons' (HMIP) report into Styal Prison and Young Offender Institution¹, 11 MILLION visited their Mother and Baby Unit (MBU) using the Children's Commissioner's statutory powers.² We found that many of the concerns expressed in the HMIP report were being or had already been addressed. However, the visit prompted a number of questions regarding elements of practice across the mother and baby estate in England and Wales. The visit also raised more fundamental questions about the policies of MBUs in prisons and for young women in Secure Training Centres.

11 MILLION believes that further consideration should be given to the needs of babies born to mothers in prison or whose mothers are imprisoned when their children are very young. Although having either a mother or a father in prison is a risk factor for children, there are special considerations which apply to mothers. For example, some may be pregnant when sentenced, and others may be caring for very young babies and might be breastfeeding at the time of their incarceration. The fact that so many women in prison are single parents (up to one third), and therefore the primary caregiver for their children, needs to be taken into account when developing policy in this area.³

Key facts

- For 85% of mothers, prison was the first time they had been separated from their children for any significant length of time.⁴
- Only 9% of children whose mothers are in prison are cared for by their fathers in their mothers' absence⁵.
- Just 5% of women prisoners' children remain in their own home

¹ HM Chief Inspector of Prisons. Report of an Unannounced Inspection of Styal Prison, June 2006, London, HMSO.

² Section 2.8(a) of the Children Act 2004 permits the Children's Commissioner, or any person authorised by him, to enter any premise, other than a private home, for the interviewing of any child accommodated or cared for there. Staff from 11 MILLION visited the babies at Styal Mother and Baby Unit in July 2006, in exercise of this power.

³ The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System, 2007, HM Stationery Office, London. Page 20.

⁴ Home Office Research Study 162 (1997), Imprisoned Women and Mothers, Home Office: London.

⁵ The Government's Response to the Report by Baroness Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System (December 2007), HM Stationery Office, London.

once their mother has been sentenced.⁶

- Around 18,000 children are separated from their mothers by imprisonment each year⁷.
- At least one third of women in prison are lone parents⁸.
- One third of women in prison have a child under five⁹.
- Women in custody are five times more likely to have a mental health concern than women in the general population.¹⁰
- Children of prisoners are three times more likely to have mental health problems and exhibit anti-social behaviour compared to other children.¹¹

Why is this issue important?

Parenting has never been higher on the Government's agenda. Providing additional, tailored support for parents is clearly reflected in many current policy initiatives, ranging from those on social exclusion¹² and early years to educational attainment¹³. A comprehensive overview of the Government's strategy for parenting, *Every Parent Matters*¹⁴, was published in 2007¹⁵ to mirror *Every Child Matters*. There is also a commitment to improving and disseminating the evidence base on parenting interventions through the establishment of the new National Academy for Parenting Practitioners¹⁶, which we welcome.

Now seems an appropriate time to build upon the current work to review the way in which outcomes for children with either parent in prison can be improved¹⁷. Children with either parent in prison are currently among the most vulnerable in our society. In terms of the *Every Child Matters* outcomes, they are at risk of performing poorly in all five areas¹⁸ and of continuing the intergenerational cycle of social exclusion and deprivation.

⁶ Prison Reform Trust (2000); *Justice for Women: The Need for Reform*, London. Prison Reform Trust.

⁷ Bromley Briefings Prison Factfile, November 2006, Prison Reform Trust, 2006 page 16.

⁸ Social Exclusion Unit (2002), *Reducing re-offending by ex-prisoners*, London: Social Exclusion Unit.

⁹ Cited in Corston, op cit. page 20

¹⁰ Cited in Corston, op cit.

¹¹ Murray, J and Farrington D P (forthcoming) *Effects of Parental Imprisonment on Children*. Cited in *Reaching Out: Think Family, Analysis and themes from the Families at Risk Review*, p18. Cabinet Office. January 2008.

¹² See *Reaching Out: An Action Plan on Social Exclusion*, Cabinet Office, September, 2006.

¹³ *Reaching out: Think Family*, Cabinet Office June 2007.

¹⁴ *Every Parent Matters*, DfES, London, March 2007.

¹⁵ *Every Child Matters Green Paper*, September 2003, (London) Stationery Office.

¹⁶ A centre of training, research and knowledge exchange, promoting best practice for parenting practitioners. The Academy aims to build on knowledge of what works, equip practitioners with skills and expertise, and inform parenting policy. See *Think Family: Improving the Life Chances of Families at Risk*, Cabinet Office, January 2008.

¹⁷ *Children of Offenders Review: a joint Department for Children, Schools and Families/Ministry of Justice review to consider how to support children of prisoners to achieve better outcomes*, June 2007.

¹⁸ These are: enjoying and achieving, being healthy, staying safe, making a positive contribution and economic wellbeing.

The children of imprisoned mothers are more likely to have been convicted of a crime and to have served time on probation than the children of mothers who have not been imprisoned¹⁹. This may be attributable to many factors, including the perceived normalisation of offending behaviour within the family, or the removal of the protective factor of having a significant relationship in a child's life. We believe that a fundamental change is needed if we are to improve the life chances of vulnerable children and maximise the chances of them not getting into trouble.

A stark choice

We were struck by the conundrum that, given that there are only eight Mother and Baby Units (MBUs), including the one for young women, a woman who chooses to apply for a place may end up being placed far from home. Inevitably, this has consequences for the woman's relationships with her other children and family members. In some circumstances, a woman may even have to choose between giving up her baby to be placed in a unit close to home and her other children, or keeping her baby but moving to a unit miles away from her other children. Given the importance of the attachment between mother and baby, a more child-centred approach would take into account the implications of this dilemma for all the children concerned.

A child-centred approach - prison without walls

There is a need to achieve a balance between, on the one hand, the use of prison to address crime and keep society safe and, on the other hand, to do whatever is best for highly vulnerable women in view of their role in bringing up the next generation. We would like to see a reduction in the use of custody for women in recognition of their role as primary caregivers, and to move towards the more community-orientated approach envisaged by Baroness Corston which is common practice in some countries.

This would have the effect of radically reducing the number of women who are eligible for admission to Mother and Baby Units (MBUs), since the vast majority of those women imprisoned have not committed serious crimes, don't pose a threat to society and would no longer require custodial sentences. Facilities would, however, still be needed for some women with longer sentences whilst arrangements are being made for their children's care. The type of community-based custodial settings - the 'Prison without Walls' - envisaged by Baroness Corston and other advocates of prison reforms, based on models of good practice already found within the United Kingdom, would facilitate such a child-centred approach.

¹⁹ Huebner, B.M. & Gustafson, R. (2007), Effect of Maternal Incarceration on Adult Offspring Involvement in the Criminal Justice System. *Journal of Criminal Justice*, 35, 283-296.

The role of Mother and Baby Units

There are seven adult Mother and Baby Units (MBUs) in England, and one located in a Secure Training Centre on the juvenile estate. Up to 75 women and their babies can be accommodated at any one time - at the time of writing there were 48 women accommodated in the adult estate.²⁰ It is significant that, ever since their inception, they have rarely been full.

For some women admitted to prison, their babies will be adopted. Others will be cared for by the second parent or other relatives, and some will be placed in care for the duration of their mother's sentence, sometimes for longer.

All eligible mothers or mothers-to-be have the option of applying for admission to a MBU (including women who discover that they are pregnant when they are in prison, who are given a range of options). There is some evidence to suggest that some eligible women are not being identified in prisons, and are therefore not informed of their choices. This is being addressed by improved training of the staff concerned.

Where there is no real alternative to custody for the mother of a young child, it may be in the best interest of the child to be with his or her mother if she is in prison for a relatively short period. This enables the mother to bond with her baby - ideally, in suitable surroundings, with sympathetic, skilled staff on hand to lend support where needed. This would be with a view to establishing and maintaining a meaningful relationship between mother and her child in the all-important first years of life. There is strong evidence to show that attachment between babies and their mothers or primary caregivers starts in the early stages of life, and that babies become attached by around six months²¹.

In general, the mother and baby may remain together until the child is around 18 months old (24 at most). In the majority of cases, this occurs when the mother is due to be released before the child is 18 months old, although there is now a flexible upper age limit of around two years and each case is looked at on its merits. In some cases, however, where a mother has a longer sentence, she will be able to keep her baby with her for the first few months with a view to separation at around six months or possibly later. The current upper age limit is historical and we support calls for further research to ascertain the best age from the child's point of view²². We welcome the greater flexibility that has been introduced when applying the upper age limit following a

²⁰ This is made up of 10 pregnant women, 37 mothers with one child and 1 mother with twins, information provided by National Offender Management Service.

²¹ Bowlby (1969); Ainsworth (1982) – both cited in Black (1988), pg.140. See reference 36.

²² Archives of diseases in children, Black D, Payne H, Lansdown R, Gregoire A, (2004), p896-8.

decision by the Courts in 2001²³, since this enables some women who will be released soon after their child reaches 18 months to look after the child until release. When a mother is serving a long sentence and separation is inevitable, it is common practice for separation to take place within the first six months of the child's life in order to reduce the trauma to the child. The impact of separation should not be taken lightly and should be a determining factor when conducting the initial assessment to see whether placement in a MBU is likely to be in the child's best interests.

Policy on Mother and Baby Units

We looked specifically at the appropriateness or otherwise of Mother and Baby Units (MBUs) in prisons and, for young mothers who are under 18, in Secure Training Centres. Following pressures for reform, we found evidence that significant improvements have been made in terms of policy and practice in recent years. This has led to changes in the environment which make it a far more acceptable place for women to look after their babies. The inspection regime in place provides adequate safeguards that any serious shortcomings will be identified and, hopefully, addressed.

Our paper looks at the reasons why MBUs have developed as the model of choice for some women who have committed imprisonable offences. There are three main reasons addressed in this paper:

- evidence on children's outcomes and the importance of early attachment between babies and their mothers/primary caregivers
- human rights obligations
- criminal justice/penal considerations.

Teenage mothers in prisons

Mothers who are themselves still children face additional issues. A new Mother and Baby Unit was opened in August 2006 at Rainsbrook Secure Training Centre - five young women have given birth while placed there. We welcome the forthcoming Green Paper on resettlement of young offenders and hope that this will address the needs of young mothers with babies as a particularly vulnerable group, and that ways of helping them avoid re-offending will be found.

11 MILLION has serious concerns about the large number of children imprisoned in England, sometimes for relatively minor offences. However, it is hoped that the more welfare-based approach to youth justice signalled in recent Government statements, including the Children's Plan²⁴ and the new Public Service Agreement to Increase the Number of Children and Young People on the Path to Success²⁵,

²³ On the need to have a flexible rather than fixed upper age limit see: *P & Q v Secretary of State for the Home Department & Another* [2001] EWCA Civ 1151, [2001] WLR 2002.

²⁴ The Children's Plan: Building Brighter Futures, HM Stationery Office (December 2007) London

²⁵ PSA Delivery Agreement 14 (October 2007), HM Stationery Office, London.

will help to reverse this.

Mothers from Wales

This discussion paper covers England and Wales. Wales has its own Children's Commissioner with whom we work closely. However, the prison service is still reserved by Westminster and the Welsh Assembly Government is not able to legislate in this area. Every Child Matters does not apply in Wales, but Welsh legislation and guidance on the outcomes for children and young people are not significantly different. There are no Mother and Baby Units (MBUs) in Wales, and Welsh mothers and babies serve their sentences within units in England. The needs of Welsh mothers to be as near to home as possible merit further consideration.

What we want to see

Our proposition is that there should be an end to the routine use of custody for women who are pregnant, or mothers of very young children, other than in exceptional circumstances where they represent a danger to society. In line with the Corston Report on vulnerable women in prison we agree that women, including those with children, should only be imprisoned as a last resort. We welcome the Government's commitment to working towards this in the long term. Many women incarcerated on remand do not receive custodial sentences and, when they do, the often short sentences demonstrate that custodial sentences are being used inappropriately for women, including those with young children. (This is not the case for many foreign national female prisoners in the UK who may receive long sentences, often for drug trafficking, for whom separate solutions may be required.)



3 Summary of recommendations

11 MILLION recommends:

- Women who are pregnant or who have young children should only be imprisoned as a last resort when there are no suitable alternatives to custody.
- The Government should fulfil the commitments set out in its response to the recommendations of the Corston Report, including taking forward the findings of the project to consider the future of the women's custodial estate. They should invest in the proposed pilot unit to see whether this might be more appropriate for women prisoners with babies, who have not committed serious crimes.
- The need for a separate probation report to assess the impact of a custodial remand on children, which the Government has not accepted in full, should be revisited.
- Further research is conducted into the different models of provision found overseas in order to identify best practice for mothers with babies.
- In line with guidance issued in relation to Every Child Matters, decisions on whether or not to admit a child into a Mother and Baby Unit should always be based on a comprehensive and timely assessment of the best interests of the individual child.
- The Government should commission research into:
 - the implications of emerging evidence on the importance of attachment for the infant's development to inform future policy on Mother and Baby Units
 - the effects of custodial environments on children, and on the impacts of separation from mothers at particular intervals to see what is best practice for Mother and Baby Units. The greater use of community-based facilities to widen the stimuli to which the child is exposed should be considered.
- The impact of separation should be a determining factor when conducting the initial assessment to see whether placement in a Mother and Baby Unit is likely to be in the child's best interests.
- The course run by the Anna Freud Centre is used widely across the Mother and Baby estate and consideration given to adapting it for use at Rainsbrook Secure Training Centre.

- The Government should specifically address what is in the best interests of the babies of foreign national prisoners with long sentences, and whether they could be accommodated in Mother and Baby Units in open prisons where appropriate. As with children born in this country, the overriding consideration must be the best interests of the child.
- The following initiatives currently under development should include specific consideration of women in custody who are pregnant or have babies. This is to address the needs and best interests of their babies and to see whether their rights are being met:
 - the Together Women Programme²⁶ which is testing out a multi-agency one-stop-shop approach in the community as an alternative to custody;
 - the National Offender Management Service National Service Framework for Women which will set out policy for commissioning services for women;
 - the implementation of Gender Specific Standards for women in prison.
- The admission criteria for Mother and Baby Units should be revisited with a view to considering whether more women, including those with sentences longer than 18 months, could, where appropriate, be admitted with their babies when (but not before) alternative community-based facilities are available, including during the pilot stage.
- Alternatives to custody should be found wherever possible for all young women under the age of 18 who have committed an offence and are either pregnant or mothers of babies or very young children. However, where there is no alternative to secure accommodation, it should be considered whether a place at Rainsbrook Secure Training Centre could be appropriate for young women who are either pregnant or have a young baby.
- A concerted effort should be made by both the National Offender Management Service and the Youth Justice Board (YJB) to make information on Mother and Baby Units more widely available to women, including those under 18, about the options for keeping their babies with them whilst serving their sentences.
- The eligibility criteria for admission to Mother and Baby Units should be restated clearly with a view to achieving greater clarity and moving towards more equitable provision between units throughout England and Wales, though recognising the need for flexibility in

²⁶ Corston, op cit, page 63

applying the criteria. Although there are no units in Wales, it is important that consideration is given to the need for Welsh mothers to be admitted to units as close to Wales as possible.

- Research should be conducted to compare the mental health of mothers in prison with their babies with the mental health of those who have been separated from their babies.
- The criteria for admission to Mother and Baby Units should be reviewed to assess whether these permit admission to mothers with treatable mental health conditions who would be capable of caring for their babies.
- Further research should be commissioned on how best to address the needs of pregnant women or mothers with problematic substance misuse who would otherwise be eligible for admission to Mother and Baby Units. In the meantime, the possibility of effective detoxification on the mother's ability to parent her baby should be taken into account in applying the current eligibility criteria.
- Existing Mother and Baby Units should be protected from reductions in funding due to pressures on prison places so that it is feasible to continue the current policy of admitting any child where it is in his or her best interest.
- Work to embed the Think Family approach is applied specifically to all women in prison who are mothers. This should include it being applied to those eligible for admission to Mother and Baby Units with a view to improving outcomes for the children concerned and reducing the risk of re-offending.

4 Introduction



Women in prison

The female prison population has more than doubled in the last decade²⁷. This is despite it being recognised that women who offend are often vulnerable, with histories of abuse and neglect, domestic violence and substance misuse, which may have contributed to their offending behaviour. Two thirds (66%) of women serving prison sentences are mothers with dependent children aged under 18²⁸, many of them single parents. When sentenced to prison, these women are effectively penalised twice: by being incarcerated, and also by being separated from their children, with the possibility of not having them returned on release.

In general, women are less likely to commit crime than men - the female prison population constitutes only 5% of the total prison population²⁹. They are also more likely than male prisoners to have been victims of abuse or violence, with up to 50% reporting violence at home and up to one in three having suffered sexual abuse at some time during their lives³⁰.

Visit to Styal Prison's Mother and Baby Unit

In June 2006, HM Chief Inspectorate of Prisons (HMIP) published a report on an unannounced follow-up inspection of Styal Prison³¹. The report exposed significant shortcomings in the provision of care to babies accommodated with their imprisoned mothers in Styal's Mother and Baby Unit (MBU). Of most concern to 11 MILLION was HMIP's finding that procedures at Styal's MBU were "...*unsafe and out of line with national practice*"³². This finding was linked to inadequate levels of staffing on the MBU, most notably the absence of permanent night cover and a reduction in the number of employed nursery nurses.

Significantly, HMIP also found that the unit was not adequately meeting the needs of developing babies, nor was it providing sufficient support for the babies' mothers. Crèche provision had been reduced to an unacceptable level and recommendations made by HMIP just over a year previously in regard to physical conditions in the MBU had not been fully implemented³³. Furnishings, decoration and age-appropriate stimulation for babies and toddlers were still not up to standard. Some mothers did not have care plans to assist them in looking after their

²⁷ Bromley Briefings Prison Factfile, November 2006, Prison Reform Trust, 2006, p. 14.

²⁸ Ibid.

²⁹ There were 4,321 female compared to 75,383 male prisoners based on the population in prison in January 2008 <http://www.howardleague.org/index.php?id=572>

³⁰ Corston, op cit p. 17.

³¹ Report of an Unannounced Inspection of Styal Prison, op cit.

³² Ibid. p. 12.

³³ Ibid. p. 15 and 31.

babies and emergency separation plans to manage the needs of baby and mother were not in place³⁴.

In light of the concerns expressed in the HMIP report into Styal, legal and policy specialists from 11 MILLION paid a visit to the MBU using our statutory powers³⁵. We found that many of the concerns expressed in the HMIP report had already been or were being addressed. However, the visit prompted a number of questions about elements of practice across the mother and baby estate in England and Wales and raised more fundamental questions about the actual policy of MBUs in prisons and, for young women, in a Secure Training Centre. In particular, this led 11 MILLION to revisit the question, posed for at least twenty years by leading child psychologists, clinicians, academics and non-governmental organisations, as to whether the interests of children whose mothers have committed imprisonable offences are best served by remaining with their mothers in prison MBUs³⁶.

Although there are many other issues which merit further investigation in relation to the children of prisoners of both genders, whatever age the children might be, this paper considers only the specific group who are or could be eligible for admission to MBUs. It focuses primarily on the current policy and practice regarding the use of MBUs.

Timeliness of contribution

There is currently a strong commitment to tackle the specific problems encountered by women, particularly those who have particular vulnerabilities as outlined in the Corston Report published in March 2007³⁷. The Government's response, published in December 2007, commits to the implementation of many of the recommendations and to further work in this important area³⁸. However, there was no commitment to additional funding. Also, despite the recognition that many women in prison are mothers, there is little consideration given to the needs of those who are either pregnant or have babies, for whom specific policies and provision are required.

This paper is intended to highlight the interests of this small but important group of very young and vulnerable children who fall within the Children's Commissioner's area of responsibility. The Government is currently considering the recommendations of the Children of Offenders Review³⁹. This work is linked to ongoing programmes of work within the Department for Children, Schools and Families (DCSF) and the Ministry of Justice, and to the Cabinet Office Families at Risk

³⁴ Ibid. p.14.

³⁵ See reference 2.

³⁶ See for example the writing of Dr. Dora Black, consultant child psychiatrist, on the subject. Black, D. Imprisoned Children. *Medico-Legal Journal*, 1988; 56/3; 139-148. Black, D. Children of Parents in Prison. *Archives of Disease in Childhood*, 1992; 67:967-970; Black, D. Babies Behind Bars Revisited. *Archives of Disease in Childhood*, 2004; 89:896-898.

³⁷ The Corston Report, op cit.

³⁸ The Government's Response to the Report by Baroness Corston, op cit.

³⁹ Children of Offenders Review, op cit.

Review. In particular, the Think Family⁴⁰ initiative links services for adults and children more effectively to improve the life chances of families at risk. Joining up services in this way provides a valuable opportunity to consider this group of children and their parents.

Structure of Report

This paper explores the question of whether and to what extent the views and best interests of babies and young children are met by Mother and Baby Units (MBUs) in female prisons and Secure Training Centres in England and Wales. It addresses both policy and practice.

Section five will examine the current model or policy of MBUs in England and Wales, the rationale for having such provision and the problems/shortcoming associated with MBUs from the point of view of children's rights and interests. Section six then looks at the operation of MBUs in practice in England and Wales drawing on the report of the visit to Styal Prison, key data and literature including reports of HM Inspectorate of Prisons and meetings with:

- the Independent Chairs of the Mother and Baby Unit Admissions Boards
- the National Mother and Baby Unit Co-ordinator
- the Prison Service
- the Youth Justice Board
- Baroness Corston.

This discussion paper takes account of current Government initiatives and opportunities in the area of children's policy, youth justice, criminal justice, social exclusion and parenting/families as well as emerging evidence on the importance of attachment.

11 MILLION's recommendations

The Children's Commissioner has the power to make formal recommendations to Government and others (Children Act 2004, Part 1, Section 2.10). Where we make recommendations, these must be answered in writing. The recommendations in this document are formal recommendations to the Secretary of State for Justice using the Commissioner's statutory powers.

⁴⁰ Think Family: Improving the life chances of children at risk, Cabinet Office, January 2008.

5 Prison Mother and Baby Units in England and Wales: the model and policy



History

Allowing mothers who are remanded or sentenced to custody to keep their babies with them in prison has been policy in England and Wales for well over a century⁴¹. Records show that women were permitted to keep their babies with them in closed prisons until the age of around nine months, at which point they were normally committed to the care of family or friends⁴². In Askham Grange, England's first open women's prison, mothers were originally allowed to keep their children with them until the age of around three years. Records do not exist to reveal when or why this practice changed⁴³.

Current Status of Provision

There are currently seven designated Mother and Baby Units (MBUs) in prison service establishments in England and Wales with the capacity to look after seventy-five mothers and their babies⁴⁴. These are at Askham Grange, New Hall, Styal, Peterborough, Eastwood Park, Bronzefield and Holloway. There is also an MBU at the privately-run Rainsbrook Secure Training Centre which is the responsibility of the Youth Justice Board and accommodates young women under the age of 18 with their babies. Of these units, the majority allow women to keep their babies with them until the age of eighteen months, with a flexible upper age limit of around two years in cases where it is deemed in the child's best interests to remain with its mother for that extended period⁴⁵.

Admissions Requirements and Procedures

Prison Service Order 4801⁴⁶ sets out the terms of the admission criteria and the application process for places on Mother and Baby Units (MBUs). Applications are considered by an Admissions Board led by an Independent Chair (generally from a social care/probation/legal background). The board consists of:

- the mother and friend
- the prison governor or Mother and Baby Unit Manager
- representatives from social services and/or probation
- relevant health, education and childcare professionals where appropriate.

⁴¹ Report of a Review of Principles, Policies and Procedures on Mothers and Babies/Children in Prison, (1999), HM Prison Service, p. 12.

⁴² Ibid.

⁴³ Ibid. Askham Grange was opened in 1947 and babies were at that time accommodated in the prison hospital.

⁴⁴ Mother and Baby Estate Review, unpublished October 2006, Women and Young People's Group, HM Prison Service.

⁴⁵ See *P & Q v Secretary of State for the Home Department & Another*, op cit.

⁴⁶ See Part II: "The Application Process", p. 17 -26.

The primary task of the Board is to consider how to ensure that the best interests of the child are met, with consideration of any relevant factors regarding the mother, the baby and other family circumstances. One non-negotiable requirement for entry onto an MBU is that the mother is free of illicit drugs and agrees to remain so. However, mothers on prescribed methadone treatment can be admitted. This is a difficult area given the large number of women in prison who have used illicit drugs: up to 58% of women prisoners are thought to have used drugs daily in the six months prior to admission, and 75% to have taken an illicit drug in the same period⁴⁷.

Owing to the nature and capacity of different prisons, certain MBUs in England and Wales have particular admission requirements. For example, two of the units – Holloway and New Hall – only permit babies up to the age of nine months because of the limitations of the physical environment of the MBU and lack of outside play area. The MBU at Askham Grange is the only unit to operate in open conditions and does not therefore accept remand prisoners, arsonists or foreign nationals who are subject to deportation orders. The units at Bronzefield and Peterborough also do not accept babies whose mothers are sentenced young offenders (aged 18 to 21).

Rationale for domestic model of Mother and Baby Units

Why have Mother and Baby Units (MBUs) developed as the model of choice for dealing with babies whose mothers have committed imprisonable offences? There are at least three main areas of consideration that form the rationale for MBUs in England and Wales:

- evidence on children's outcomes and the importance of early attachment between babies and their mothers/primary caregivers
- the European Convention on Human Rights and the United Nations Convention on the Rights of the Child
- criminal justice and penal considerations.

These considerations are complex and, given the shortage of evidence on how MBUs affect children's wellbeing, do not yield definite answers. They are also conflicting, requiring a balance between criminal justice objectives on the one hand and children's rights and interests on the other. Determining whether current provision in England and Wales strikes the optimum balance requires consideration of the available evidence (both in policy and practice terms), of the human rights aspects and of the experiences of other countries in Europe and internationally to identify and compare practice. These issues are addressed in the sections which follow.

⁴⁷ Plugge, Emma et al, The Health of Women in Prison, Oxford University Study (in press), cited in Corston, op cit. p 74.

Evidence on children's outcomes and the importance of early attachment between babies and their mothers/primary caregivers

There is a large and compelling body of literature which identifies the key importance of early attachment between babies and their mothers (or other permanent primary caregiver) in terms of the child's physical and emotional development^{48 49}. The importance of early attachment as one of the key influences on outcomes for the individual child cannot be overestimated. This is reflected in key Government policy documents on social exclusion as well as on children and families, and is one of the key drivers towards many of the early years policies introduced over the last ten years⁵⁰. Furthermore, there is some evidence to suggest that the lack of access to meaningful attachment relationships in early childhood increases the likelihood of an adolescent being involved in crime⁵¹.

Attachment between babies and their mothers or primary caregivers starts in the early stages of life and babies become attached by around six months⁵². Severe psychological damage may occur to babies if the bond or attachment with the primary caregiver is severed between the age of six months and four years, and could occur even before this period⁵³. The effects of sudden or repeated separation are said to increase the likelihood of the child developing a personality disorder, having learning difficulties or developing other psychiatric disorders in childhood and adult life⁵⁴.

Strong attachment constitutes a protective factor for children against negative influences and may help to mitigate the risk of later negative outcomes⁵⁵. The Government is investing heavily in the Family Nurse Partnership model, based on the work of David Olds in Colorado in the US⁵⁶. What is, perhaps, new in terms of evidence is the knowledge of the impact that neglect in early childhood has on the physical and functional development of the infant brain⁵⁷. Research has identified that the 'rich and extensive neuronal links...can be formed only in the first eighteen months of life.'⁵⁸

⁴⁸ Bowlby, J. (1969) *Attachment and Loss*, Hogarth Press, London. Cited in Black, D. *Imprisoned Children*, *Medico-Legal Journal*, 1988, Vol. 56/3, pgs 139-148.

⁴⁹ Ainsworth, M. *Attachment Theory: Retrospect and Prospect* (1982); Cited in Black 1992.

⁵⁰ See, for example, the *Social Exclusion Action Plan*; the Treasury document, *Aiming Higher for Children: Supporting Families*; and the recent Cabinet Office paper *Reaching Out: Think Families*.

⁵¹ Fonagy, P., Target, M., Steele, M. & Steele, H. (1997). *Development of Violence and Crime as it Relates to Security and Attachment*. In *Children in a Violent Society*, 150-177, Guildford Publications, New York, NY.

⁵² Bowlby (1969); Ainsworth (1982) – both cited in Black (1988), p.140.

⁵³ *Ibid.*

⁵⁴ Rutter, M. (1981) *Maternal Deprivation Reassessed* (2nd ed.) Penguin, Harmondsworth. Cited in Black (1988) p. 141.

⁵⁵ *Reaching Out: Think Families*, Cabinet Office, p. 13.

⁵⁶ Olds, D. (2006) *The Nurse-Family Partnership: An Evidence-based Preventive intervention*, *Infant Mental Health Journal*: 27(1) 5-25.

⁵⁷ *Social Exclusion Action Plan*: p. 47.

⁵⁸ Black D, *op cit.*

Mother and Baby Units (MBUs) in prisons exist primarily for the wellbeing of babies and young children in recognition of the importance of this attachment for both the current and future wellbeing of the child. If they did not exist, there would undoubtedly be more babies never reunited with their mothers on release. In the words of HM Prison Service policy, MBUs are based on “*society’s normal assumption that the best place for a young child is with its mother*”⁵⁹. It is not disputed that parental imprisonment where contact is disrupted is strongly associated with poor outcomes.⁶⁰ There is some evidence which suggests that the policy of MBUs may not always promote the child’s best interests and can be problematic. The most substantive of these concerns relate to the effects of separating babies from their mothers.

Separating babies from their mothers after a stay on a Mother and Baby Unit

For many years, questions have been asked about whether the current practice of enabling babies to stay with their mothers in prison, at least for a time and even where they may then need to be separated from their mothers,⁶¹ is in the children’s best interests. Questions have also been asked as to whether equal attention should not be given to the child’s need to form an attachment with an alternate, long-term care giver in cases where the child’s mother is serving a long sentence.

A prison service review of Mother and Baby Unit (MBU) policies, published in 1999⁶², considered the issue of separation at nine and 18 months and concluded that no changes should be made. However the review did recommend further empirical research to establish a stronger evidence base on the impacts of separation on babies at different ages, with a view to reviewing separation procedures depending on the findings. The review group emphasised their concern about babies staying on MBUs for prolonged periods and recommended, in particular, the development of new approaches to best meet the needs of babies of foreign national women who were typically serving long sentences of between nine and 12 years. The review proposed that measures should be taken to enable foreign national women to apply for a place on an MBU in open conditions at Askham Grange. This has not been implemented and foreign national prisoners are still unable to stay in open prisons even where this would be in the best interests of their children.

⁵⁹ P 4, Prison Service Order 4801, Third Edition, HM Prison Service, London.

⁶⁰ Reaching Out: Think Families, Cabinet Office, p 18.

⁶¹ Mothers may be transferred from a nine-month Unit to an 18-month Unit to avoid separation. Children are not automatically separated because of the upper age limit of an individual MBU; each case is looked at on an individual basis.

⁶² Report of a Review of Principles, Policies and Procedures on Mothers and Babies/Children In Prison, HM Prison Service, 1999.

Following the recommendations of the review and a more recent call for further evidence in a leading professional journal⁶³, further research should be commissioned by the prison service on the impact of separation and of prolonged periods of stay in prison environments on the baby. Conversely, research has been carried out into the mental health and treatment of women in MBUs⁶⁴.

So far, there have been no changes to the treatment of mothers serving long sentences, including foreign national women. Current Prison Service policy therefore provides that:

“Whilst a long sentence will not of itself preclude admission, its inevitable consequence is that any admission will lead to separation in due course. That fact needs to be borne in mind by the Board and clearly explained to the mother if she is admitted.”⁶⁵

The policy refers, however, to the (then) known evidence on the damaging effects of separation and notes that, ideally, separation should take place when the child is aged six months or under. At the same time, however, it concedes that *“later separation may be necessary”* and, in the absence of perfect solutions, *“...it is commonly a matter of finding the least bad option for the child”* in every individual case.⁶⁶

This has resulted in some inconsistent practice across the mother and baby estate. This is particularly in the area of admissions procedures where the mother is serving a long sentence (see section three), though it is true to say that every case is looked at on its merits. It underlines the challenge of finding alternative care solutions for affected children. For many women, such a dilemma would not arise were custody used only for women who need to be imprisoned because they pose a threat to society, which is currently not the case. Although the Government agrees that more needs to be done to achieve this, it will take some time and will require initial investment which may or may not be forthcoming⁶⁷. It also has to be seen in the context of increasing pressures on the secure estate and the changes set out in the recently-published review by Lord Carter of Coles.⁶⁸

The needs of the babies of foreign national prisoners merit special consideration here. Few have any significant history of prior offending behaviour before the offence for which they have been imprisoned, and many are imprisoned for drug trafficking offences. Given the length of

⁶³ Black D, Payne H, Lansdown R, Gregoire A, op cit.

⁶⁴ Birmingham L, Gregoire A et al, Psychiatric morbidity and mental health treatment needs among women in prison mother and baby units, University of Southampton, 2004.

⁶⁵ PSO 4801, para. 10.2, p. 22.

⁶⁶ Ibid., para. 10.4 – 10.6.

⁶⁷ The Government’s Response to the Report by Baroness Corston, op cit, p. 9.

⁶⁸ ‘Securing the Future: Proposals for the Sustainable and Efficient Use of Custody in England and Wales’, Lord Carter of Coles (December 2007), HM Stationery Office, London.

time to which these mothers are sentenced, it is particularly difficult for such babies as their mothers may be deported on release and may wish to be accompanied by their children. Such children may have no ties with their mother's country of origin, or strong cultural ties. It also appears that some babies of foreign national prisoners are staying in prison for longer than the two years considered appropriate for children born in this country.

It is recommended that the Government addresses specifically what is in the best interests of babies of foreign national prisoners, and whether or not they could be accommodated in MBUs in open prisons where appropriate. As with children of British women, the overriding consideration must be the best interests of the child.

It is therefore essential that the separation of mothers from their babies is undertaken only as a last resort. The impact of separation should also be carefully considered in the initial assessment to see whether placement in a MBU is likely to be in the child's best interests, particularly where the mother is likely to receive a very long sentence.

Effects of prison environment on babies' development

A second argument against the use of Mother and Baby Units (MBUs) relates to the potentially detrimental impacts of the prison environment on babies' development.

It is generally agreed that prisons are not ideal environments for young babies⁶⁹. The limited physical surroundings and requirements of the prison regime mean that babies may not be exposed to adequate stimuli in the early years, with potentially significant adverse impacts for their development. The only UK study carried out into the effects of prison Mother and Baby Units (MBUs) on the development of babies accommodated with their mothers found that the longer babies remained in prison, the greater the risk of their development being impaired compared to babies in the community⁷⁰. In a later, unpublished study Catan et al identified some of the factors potentially impairing the development of babies in MBUs. These factors included inadequate toys and play opportunities, the reluctance of mothers to allow their babies to crawl and explore their physical environment unassisted, and insufficient provision of nursery nurses⁷¹.

These concerns are acknowledged in prison service policy on MBUs and attempts have been made to mitigate the worst of these, even if practice does not always conform. It is recognised that, given the limitations of the current closed prison environment and lack of suitable

⁶⁹ Op cit. see reference 62.

⁷⁰ Catan, L. The Development of Young Children in HMIP Mother and Baby Units. University of Sussex, 1998. (Occasional Paper, commissioned by the Home Office).

⁷¹ Catan, L. & Lloyd, B, unpublished report, 1989. Cited in Black 1992.

alternatives, it would clearly not be in the best interests of all children to stay with their mothers for the duration of their sentences⁷². It also emphasises the need for MBUs to have a child-focused regime and environment in order to reduce the adverse effects of growing up in a prison⁷³. Also, since 2001 all MBUs are required to conform to Ofsted standards for nurseries, which include the provision of age-appropriate toys as had been called for some years previously⁷⁴. Prison governors have a duty to ensure that babies on MBUs are provided with a variety of different experiences, including time spent in the community, contact with other family members and attention to the child's cultural identity⁷⁵. They are also, of course, subject to inspection by Her Majesty's Inspectorate of Prisons, as well as Ofsted, on a regular basis.

In order to ensure that babies are exposed to wider stimuli than they receive in prison, it may be possible to find opportunities for them to participate in community-based activities (such as nurseries or toddler groups) outside the prison, even if they are in a 'closed' prison. This would be preferable to allowing them to participate only in activities which can be arranged within the somewhat restricting confines of the prison.

11 MILLION would like to see research commissioned into the effects of custodial environments on children and on the impacts of separation from mothers at particular intervals. They should do this in order to identify best practice for MBUs. The greater use of community-based facilities to widen the stimuli to which the child is exposed should be considered.

The Anna Freud Centre runs a course which has been developed specifically for mothers and babies. The course is currently being offered in Holloway, Bronzefield and Eastwood Park⁷⁶. The intention is to provide support, to optimise the chances of strong attachment and to prepare the participants for possible separation. The course, which is evidence-based, is intended to promote the baby's development and the quality of the mother and baby relationship. We strongly support the use of this course, and hope to see it continued and expanded to other sites. This should include the Rainsbrook Secure Training Centre MBU so that young mothers and their children may also benefit.

⁷² PSO 4801, para.2.2.

⁷³ Ibid, para. 3.7.

⁷⁴ Children Act 1989, as amended by the Care Standards Act 2000. Back in 1992, Dora Black commented that "If we are to admit young children to prison with their mothers, we should be providing facilities of the same standard as is mandatory in social services day nurseries." Black (1992).

⁷⁵ PSO 4801, paras. 21.1 – 21.3.

⁷⁶ New Beginnings: A Course for Mothers and Babies in Prison, The Anna Freud Centre: see www.annafreudcentre.org

We recommend that:

- **Women who are pregnant or who have young children should only be imprisoned as a last resort when there are no alternatives to custody.**
- **The Government commissions research into the implications of emerging evidence on attachment for the infant's development to inform future policy on Mother and Baby Units.**
- **The impact of separation should be a determining factor when conducting the initial assessment to see whether placement in a Mother and Baby Unit is likely to be in the child's best interests.**
- **The course run by the Anna Freud Centre is used widely across the Mother and Baby estate and consideration given to adapting it for use at Rainsbrook Secure Training Centre.**

The European Convention on Human Rights and the United Nations Convention on the Rights of the Child

With the incorporation into UK law of the European Convention on Human Rights⁷⁷ (ECHR) and the Government's ratification of the United Nations Convention on the Rights of the Child (UNCRC),⁷⁸ human rights considerations now feature strongly in discussions about how to deal with imprisoned mothers with babies. State Parties are encouraged to develop

*...policies and programmes for children living in prison with their mothers that implement international human rights standards, in particular, the Convention on the Rights of the Child, from a child rights perspective.*⁷⁹

In England, there has been some recent case law which considered the child's right to family life under Article 8 of the European Convention on Human Rights (ECHR)⁸⁰. The case of *R (CD and AD) v Secretary of State for the Home Department*⁸¹ challenged the lawfulness of the Prison Service policy to allow babies to be separated from their mothers on disciplinary grounds relating to the mothers' behaviour. It was held that any decision to separate a baby from its

⁷⁷ Human Rights Act 2000.

⁷⁸ The UK Government ratified the UN Convention on the Rights of the Child in 1992.

⁷⁹ Cited in *Women in Prison and Children of Imprisoned Mothers: Recent Developments in the United Nations Human Rights System*; Quaker United Nations Office, April 2006, p. 8.

⁸⁰ *P & Q v Secretary of State for the Home Department & Another* [2001] EWCA Civ 1151, [2001] WLR 2002; *R (CD and AD) v Secretary of State for the Home Department* [2003] EWHC 155 (Admin); *Claire Frost v Secretary of State for the Home Department and Lia-Jade F (Fam)* [2004] EWHC 111 (Fam).

⁸¹ *Supra* n.11.

mother must consider the child's right to family life under Article 8 ECHR and must ensure that any interference with that right is both necessary and proportionate.

The United Nations Convention on the Rights of the Child also has a significant bearing on the policies of states parties in dealing with babies whose mothers have committed an imprisonable offence. Indeed, this subject has increasingly become a feature of states parties' examinations by the UN Committee on the Rights of the Child⁸². Of the articles in the Convention, one of the most significant, for the purposes of assessing the appropriateness of prison Mother and Baby Units is Article 3:

*"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*⁸³

The Convention also provides that: states shall ensure equal treatment of every child irrespective of the status of the child's parent;⁸⁴ that a child has the right to know and be cared for by his or her parents;⁸⁵ that children shall be protected against unlawful interference with their family life;⁸⁶ that children shall not be separated from their parents against their will unless separation is necessary to protect the child's best interests;⁸⁷ and that parents shall receive appropriate assistance from the State to support the upbringing of their children⁸⁸.

Whilst there is guidance and legal precedent to assist states in effectively discharging their obligations under the Convention, the question of whether a policy meets the "best interests" requirement of Article 3 can be far from straightforward. Any assessment, including an assessment of proportionality, must be based on knowledge of how certain policies affect children's rights and wellbeing. In the absence of good evidence, it is difficult to determine whether a particular measure meets the "best interests" standard. Prison MBUs fall into this category since conducting comparative analysis is inherently difficult and would undoubtedly raise ethical issues. For an individual child, it can be similarly difficult to assess whether placement in a MBU would be in his or her best interests in the long run.

There are many initiatives underway which are intended to bring about the more women-centred approach to all aspects of the criminal justice

⁸² Women in Prison and Children of Imprisoned Mothers, op cit.

⁸³ United Nations Convention on the Rights of the Child, (1990), United Nations, Geneva.

⁸⁴ Ibid. Article 2.

⁸⁵ Ibid. Article 7.

⁸⁶ Ibid. Articles 8 and 16.

⁸⁷ Ibid. Article 9.

⁸⁸ Ibid. Article 18.2.

system envisaged in the Corston Report.⁸⁹ 11 MILLION would like to see greater recognition given to the rights of children set out above and the potential impact of all such initiatives on the babies of women prisoners assessed.

Therefore it is recommended that the following initiatives currently under development should include specific consideration of women in custody who are pregnant or have babies. This is to address the needs and best interests of their babies and to see whether their rights are being met:

- **the Together Women Programme⁹⁰ which is testing out a multi-agency one-stop-shop approach in the community as an alternative to custody**
- **the NOMS National Service Framework for Women which will set out policy for commissioning services for women**
- **the implementation of Gender Specific Standards for women in prison.**

Criminal justice and penal considerations

HM Prison Service policy states that Mother and Baby Units (MBUs) “... exist first and foremost for the benefit of children who are not prisoners and have committed no offence”, and that “[children’s] best interests are the primary concern in all matters”⁹¹. However, it is clear that the concept of MBUs is a compromise between, on the one hand, considerations of children’s rights and welfare and, on the other, the criminal justice or penal considerations. This is particularly true in light of the rate of female imprisonment in England and Wales which, according to the 2006 World Female Imprisonment List, ranks second highest in the European Union after Spain⁹². Around 55% of female prisoners have a child under 16⁹³. Between 1992 and 2004, there was a 173% increase in the women’s annual average custodial population, compared to a 50% increase in the male population⁹⁴.

The Corston Report⁹⁵ raises important questions about the high rate of female imprisonment in England and Wales and its suitability in addressing the behaviour of very vulnerable individuals. Among its observations, the report noted that over 60% of women who are remanded to custody do not actually go on to receive a custodial sentence. This raises the question of whether it might therefore be

⁸⁹ Corston Report; op cit, p. 2.

⁹⁰ Corston Report, op cit, p. 63.

⁹¹ Prison Service Order 4801, section 2.

⁹² 4,392 women and girls were imprisoned in England and Wales in 2006, with the figure for Spain only slightly higher at 4964. Walmsley, R. World Female Imprisonment List, International Centre for Prison Studies, Kings College London, (2006).

⁹³ See HM Prison Service website, cited in Reaching Out: Think Families, Cabinet Office, p. 18.

⁹⁴ Government Action to Reduce Women’s Offending, Home Office Press Release, March 2004.

⁹⁵ The Corston Report, op cit.

feasible to significantly reduce the use of imprisonment for women on remand.

The Corston Report proposed that existing women's prisons should be dismantled and replaced with more suitable, smaller, geographically dispersed, multi-functional custodial centres⁹⁶. Community sentences should become the norm for non-violent women offenders, and women unlikely to receive a custodial sentence should not be remanded in custody. There are existing models of this kind which are already working with offenders in the community and encouraging them to take responsibility for their lives, such as the Asha Centre⁹⁷. 11 MILLION supports this kind of innovative, child-centred approach.

Addressing the parenting responsibilities mothers have for their babies and young children, Corston recommended that women who are the primary carers of young children should only be remanded to custody after consideration of a probation report showing the impact custody is likely to have on the affected children. The report also emphasised that community sentences must take account of women's child care responsibilities, particularly where young children are involved.

These latter recommendations chime with recent proposals made by Helena Kennedy QC and Cherie Booth QC. Helena Kennedy QC argued, in May 2007, that criminal courts should be required to obtain a welfare report on the effects of imprisonment and separation on affected children before sentencing mothers or primary carers to custody⁹⁸. Cherie Booth QC made similar proposals, arguing that alternatives to custody for women are urgently needed, and highlighting the risks of children turning to criminality where mothers have been imprisoned⁹⁹. Much of this approach is backed up by the recently-published Carter Review, which concludes that custody should be used as a last resort when dealing with female offenders and that community provision should be appropriate to their needs¹⁰⁰.

Having looked at the evidence available on this, including the evidence referred to earlier on the impact of attachment on the child's neural development, 11 MILLION strongly supports this view. Whilst not wishing to detract from the progress that has been made in improving facilities in MBUs, incarcerating mothers at such a critical time in their child's life should be avoided wherever possible. There is evidence that around just 16% of those arrested for notifiable offences are women, and they tend to be arrested for less serious offences than men¹⁰¹.

⁹⁶ Ibid, page 5.

⁹⁷ Ibid, page 60.

⁹⁸ Independent on Sunday, 13th May, 2007.

⁹⁹ Ibid.

¹⁰⁰ 'Securing the Future: Proposals for the Sustainable and Efficient Use of Custody in England and Wales', op cit. p. 16.

¹⁰¹ Statistics on Women and the Criminal Justice System 2003, Home Office, 2004, p. 9.

11 MILLION has serious reservations about the current situation in which women are imprisoned for minor offences at the expense of their children's wellbeing. This has significant implications for the whole of the child's life and, indeed, for the public purse given the increased likelihood of those children entering the criminal justice system in later life¹⁰².

In its response to the Corston Report, the Government commits to further work to consider whether small custodial centres would be the most appropriate and effective way forward for women sentenced to custody¹⁰³. This will report to Ministers by April 2008 - however, there appears to be no commitment to finding the additional funding which would be needed to implement changes to the secure estate on this scale.

The Government's response also commits to issuing guidance that ensures that 'Offender Managers should take account of domestic arrangements, childcare...' though does not consider there to be a need for a separate probation report on the impact of a custodial remand on dependent children. This is despite the recommendation that there should be, with which 11 MILLION would concur.

It is important that a woman's caring responsibilities are taken into account during the sentence planning for individual women. Clearly, the response of the criminal justice system to women who offend has serious implications for the models of provision for the babies of such mothers. The preference in England and Wales for custody, and the ensuing prison population crisis of recent years, has created some significant tensions for the delivery of mother and baby provision. It is therefore helpful to consider practices of provision in other countries and learn from the operation of different criminal justice models for women who offend¹⁰⁴.

It is recommended that the Government should fulfil the commitments set out in its response to the recommendations of the Corston Report. This should include taking forward the findings of the project to consider the future of the women's custodial estate. They should invest in the proposed pilot unit to see whether this might be more appropriate for women prisoners with babies, who have not committed serious crimes.

¹⁰² Huebner, B.M. & Gustafson, R. (2007). Effect of Maternal Incarceration on Adult Offspring Involvement in the Criminal Justice System. *Journal of criminal Justice*, 35, 283-296.

¹⁰³ Op cit. see reference 3.

¹⁰⁴ In 1998, the Home Office commissioned research into international best practice on age limits for babies in prisons: Caddle, D. (1998) Age Limits for Babies in Prison: Some Lessons from Abroad, No. 80. Home Office Research and Statistics Directorate. Further, in 2003, the Prison Service held an international mother and baby conference to share practice experience with delegates from at least eight countries: International Mother and Baby Conference, HM Prison Service, 12 March 2003, Novotel, York. Countries represented included: Hong Kong, Sweden, Hungary, Czech Republic, USA, Estonia and Belgium.

The need for a separate probation report to assess the impact of a custodial remand on children, which the Government has not accepted in full, should be revisited once the further work (in progress) has been completed.

6 Prison Mother and Baby Units in England and Wales: in practice



Having examined current policy on Mother and Baby Units (MBUs), and whether there might be better alternative means of provision in the longer term, the current system will inevitably continue for some time to come. It is, therefore, important that babies who are looked after in MBUs by their mothers have the best possible chance in life of meeting the five outcomes in Every Child Matters¹⁰⁵. This section briefly addresses current practice across the MBU estate in England and Wales. In the course of the inquiries into MBUs, the following issues have been raised as having an impact on the extent to which existing provision serves the child's best interests:

- Geography of MBUs, including international experience of provisions for mothers and babies in prison
- Admissions requirements and procedures
- Conditions in MBUs
- Prison service crisis/impact of population pressures

This section draws on material including: the visit to Styal Prison; meetings with the independent chairs of the MBU admissions boards;¹⁰⁶ the national MBU co-ordinator; the prison service; the Youth Justice Board; key data provided by the above; and reports of HM Inspectorate of Prisons.

Geography of Units

The current geographic location of prisons with Mother and Baby Units (MBUs) means that women will often be held far from their homes. Across the secure women's estate women in prison are already held, on average, 62 miles away from their homes. Average distances are likely to increase in respect of women's prisons with MBU facilities. For mothers from Wales, the distance from home is likely to be considerably greater and may be exacerbated by the added effects of being separated from the Welsh language and culture. Given the small number of MBUs, particularly those able to admit women with children up to 18 months, the distances involved are inevitably much further¹⁰⁷.

This has been an issue of ongoing concern for those with an interest in MBU policy and practice. Interviews with female prisoners and staff have revealed that some eligible women may be deterred from applying for a space on an MBU because of the distance of the unit

¹⁰⁵ Op cit. see reference 18.

¹⁰⁶ On the 25th April 2007, staff from 11 MILLION and the Children's Commissioner for Wales met with Gillian Hallas (Independent Chair, Styal Prison); John Wreford (Independent Chair, Eastwood Park Prison/YOI); Isabel Wilks (Independent Chair, Holloway Prison/YOI) and Ian Milner (Independent Chair, New Hall Prison/YOI).

¹⁰⁷ Report of a Review of Principles, Policies and Procedures on Mothers and Babies/Children in Prison, (1999), Prison Service, London, p. 17.

from the mother's home and other family members¹⁰⁸. Indeed, this may partly explain why, in the history of MBUs, they have never reached full capacity and a place on a unit has never been refused on grounds of lack of space¹⁰⁹.

It is also likely that, the greater the distance between the MBU and the mother's home, the more the contact between the baby and its father, siblings or grandparents will be significantly reduced. The latter not only potentially interferes with the child's right to family life,¹¹⁰ but also reduces some of the otherwise mitigating effects of the prison environment on the child's development, raising questions about how long the child should remain in such an environment. The consequence of this is that a mother may have to make a stark choice between keeping her baby with her at some distance from home, making it impossible to maintain meaningful contact with her other children, and giving up her baby in order to be imprisoned closer to home in a prison without an MBU.

Again, this problem would be alleviated if smaller, community-based hostel-type units were available as an alternative to the current highly secure institutions. This would facilitate improved contact between the members of the family and enable both parents, for example, to form an attachment with the baby. It would also improve the prospects for both mother and child on release and overcome some of the problems experienced currently during this transition which contribute to the chances of recidivism. If a network of such units was in place, it would then be feasible to revisit the admission criteria to see whether it may be possible to admit women with longer sentences.

It is recommended that the admission criteria for MBUs are revisited with a view to considering whether more women, including those with sentences longer than 18 months could, where appropriate, be admitted with their babies when (but not before) alternative community-based facilities are available, including during the pilot stage.

Meeting the needs of young mothers

The problems of geography are further pronounced in relation to mothers under the age of 18 with babies, who are the responsibility of the Youth Justice Board (YJB). Young women in this category are accommodated at Rainsbrook Secure Training Centre in Warwickshire, following the opening of a dedicated three-bed Mother and Baby Unit (MBU) in August 2006. Previously, young mothers under the age of 18 and their babies were accommodated on the MBUs at New Hall

¹⁰⁸ Ibid, page 16. This shows that 77% of women were more than 25 miles from home, 40% more than 75 miles (excluding foreign national prisoners).

¹⁰⁹ There are of course many other reasons which might explain why MBUs are undersubscribed, including the possibility that the system itself is controlled in a way to manage numbers based on the level of provision that it can offer at any given time.

¹¹⁰ Under Article 8 ECHR and Article 9 UN Convention on the Rights of the Child.

Prison/YOI in West Yorkshire and Eastwood Park Prison/YOI in Gloucestershire (under-18s are no longer accommodated at Holloway). This practice has recently ceased, partly, we believe, because of the new unit at Rainsbrook. The MBU at Rainsbrook was opened as part of the Government's commitment to remove its second reservation to the United Nations Convention on the Rights of the Child (UNCRC) and thereby ensure that children and adult prisoners are not accommodated in the same prison facilities¹¹¹.

There are significant differences between the way in which this MBU runs compared with those on the adult estate. Young mothers and pregnant young women are identified on admission to the secure estate and meetings are set up with the local authority to see whether a placement at Rainsbrook is supported. The admission criteria are also different in that the YJB can direct that a young woman be admitted. The intention behind the placement is to provide support for both the pregnant young woman and her baby, and to ensure that she acquires parenting skills for the time that she is in the MBU. This may maximise the chances of her baby being able to stay with her, and avoid the local authority initiating care proceedings.

Whilst 11 MILLION fully supports the Government's commitment to remove its reservation to the UNCRC, there are serious consequences of having only one MBU to serve all young women in England and Wales, in the absence of any alternative to custody for such women. Since it was opened, 11 young women have been placed at Rainsbrook, five of whom gave birth during their time in custody. Their average distance from home was 76 miles (ranging from 23 to 105 miles)¹¹².

At such a young age, compounded with the challenges of childcare responsibilities, this is likely to have serious consequences as to the level of support the young mothers receive from their friends and family. This may have an impact on the decisions they make in applying for a place.

Indeed, we are interested to know the extent to which social services consider the geography of the MBU at Rainsbrook in deciding whether or not to support or encourage a young mother's application to a MBU. The Children's Commissioner has learned that young women are not always supported by children's services to apply for a place on the

¹¹¹ Welcome End to Children in Adult Prisons, 20th December 2006, statement by Annette Brooke MP. Accessed at: http://www.annettebrooke.org.uk/news/000279/welcome_end_to_children_in_adult_prisons__brooke.html

¹¹² Personal communication, Peter Minchin, Youth Justice Board, 26th January 2008. The five women came from the local authority areas of Tower Hamlets, Islington, Camden, Suffolk and Cardiff.

MBU at Rainsbrook¹¹³. Instead, many seem more likely to initiate care proceedings to remove the baby at birth.

The use of alternatives, for example, community sentences or a form of remand or treatment foster care, for young women with babies could be explored. This would have the added benefit of addressing the causes of the young person's offending behaviour and enabling the mother to stay with her child in a more therapeutic, supported environment than would be the case under current provision. Technological approaches such as tagging could also be a suitable alternative to custody. We welcome the forthcoming Green Paper on resettlement of young offenders and hope that this will address the needs of young mothers with babies as a particularly vulnerable group and that ways of helping them avoid re-offending will be found.

It is recommended that, wherever possible, alternatives to custody should be found for all young women under 18 who have committed an offence and are either pregnant, mothers of babies or mothers of very young children. However, where there is no alternative to secure accommodation, the appropriateness of a place at Rainsbrook Secure Training Centre should be considered for every young woman who is either pregnant or has a young baby.

International experience of mother and baby provision in prisons

In Sweden, babies can only reside with their mothers in prison in exceptional circumstances, and then only until the age of one year¹¹⁴. The situation is similar in Iceland, where babies are generally only allowed to remain with their mothers for the duration of breastfeeding¹¹⁵. In New Zealand, there is an upper age limit of six months for babies in prison¹¹⁶. In the United States, there is no mother and baby provision at the federal level, but certain provision does exist within individual state penitentiary systems¹¹⁷.

It is, however, important to highlight that some of the countries with low age restrictions on babies in prisons sentence and remand far fewer women to custody than in the UK. They instead engage in programmes of alternative punishments, many based in the community. This is the case in Sweden and in New Zealand, where greater use of community sentences is made.

¹¹³ Communication from Mr. Paul Cook, Director of Rebound, during a visit by the Children's Commissioner to Medway Secure Training Centre, February 2007.

¹¹⁴ Caddle (1998) op cit.

¹¹⁵ Mothers and Babies in Prison, 9 June 2002, Document 8762, Parliamentary Assembly, Council of Europe, Strasbourg. Accessed at: <http://assembly.coe.int/Documents/WorkingDocs/doc00/EDOC8762.htm>

¹¹⁶ Caddle (1998) op cit.

¹¹⁷ Research papers from International Mother and Baby Conference, HM Prisons.

Generally, countries which provide MBUs for older children operate open prison models which resemble apartments rather than prisons¹¹⁸. In Germany, for example, children can stay with their mothers until they are six years old, and in the Ter Peel open prison in the Netherlands children may stay until they reach the age of four. Although there is some limited evidence on the different models used overseas,¹¹⁹ this is not current and would benefit from being updated to identify international best practice. (Further investigation is needed into the needs of foreign national prisoners convicted of drugs trafficking, who can often receive very long sentences, and for whom different solutions may be required.)

It is therefore recommended that further research is conducted into the different models of provision overseas to identify best practice for mothers with babies.

Admissions requirements and procedures

From the visit to Styal Prison, and meetings with the national Mother and Baby Unit (MBU) Co-ordinator and the Independent Chairs of the MBU Admissions Boards for New Hall, Eastwood Park, Holloway and Styal prisons, it was evident that, despite the best of intentions, practices on access to information about MBUs and admissions procedures were not always in line with prison service policy. These were explained by resource shortages, MBUs being a low priority for the prison service, and low levels of information being provided to admissions boards from social services and other relevant professionals.

Access to information about MBUs

A number of the women's prisons without MBU facilities do not have MBU liaison officers. This means many women are not receiving adequate information about options for caring for their babies whilst serving their sentences¹²⁰. This was evidenced, for example, by the drop in referrals of pregnant women and mothers from Low Newton prison – a feeder prison for the MBU at Styal Prison. This was considered a matter of concern for the independent chairs and MBU co-ordinator¹²¹. It contrasts with the good level of information that appears to be provided to women in prisons with MBUs¹²².

¹¹⁸ Caddle (1998) op cit; see also A Comparison of Mother-Child Programs from around the World, Correctional Service of Canada (CSC), June 1998.

¹¹⁹ Ibid.

¹²⁰ Observation made by National Mother and Baby Unit Co-ordinator, Jenny Adams Young and by the Independent Chair of the Admissions Board at Styal Prison (meeting May 2007). According to Prison Service Order 4801, Mother and Baby Unit Liaison Officers must ensure that women who are pregnant or have a child below the age of 18 months have the opportunity to apply for a place on an MBU and are assisted with the process.

¹²¹ Information provided by Jenny Adams Young and Ian Milner, Independent Chair of New Hall Admissions Board.

¹²² See, for example, the information booklet that should be provided to all pregnant women and mothers of young children in prison.

Unfortunately, it was not feasible to assess the processes in place for providing young mothers or young pregnant women in Young Offenders Institutions (YOIs), local authority children's homes and other Secure Training Centres with information on the MBU at Rainsbrook. However, an information booklet was found to be available and sent to all those who may be eligible. This is an area that requires some further analysis in view of information the Children's Commissioner received about the lack of children's services support for young mothers to keep their babies with them in custody, and also given the low numbers of women who have applied for places on the MBU at Rainsbrook¹²³. This is important for the purposes of feeding into discussions about the need for a second MBU at Hassockfield Secure Training Centre (STC) and also for debate around non-custodial alternatives for young mothers and pregnant women under the age of 18.

It is recommended that a concerted effort is made by both the National Offender Management Service and the Youth Justice Board to make information on MBUs more widely available to women, including those under 18, about the options for keeping their babies with them whilst serving their sentences.

Admissions board decisions

Observations from the Independent Chairs of the Mother and Baby Unit (MBU) Admissions Boards also indicate that there is significant inconsistency in practice relating to admissions. This is based primarily on the often poor level of information provided to admissions boards by children's services on mothers (and, where applicable, their babies). This leaves boards in the difficult position of having to take decisions about admissions and determine the child's best interests without all of the relevant information.

Moreover, the Independent Chairs also noted some inconsistencies between Admission Boards in terms of the circumstances in which they would admit mothers and their babies¹²⁴. It was noted, for example, that in Holloway Prison, which has a high share of foreign national prisoners imprisoned for drugs-related offences, lengthy sentences are not a bar to granting mothers and babies a place on an MBU¹²⁵. It should be noted, however, that the treatment of women with long sentences has resulted in differing practice for some time and is not helped by the lack of clear policy on the subject, as alluded to in section two¹²⁶.

It is recommended that the eligibility criteria for admission to MBUs are restated clearly. This should be done with a view to

¹²³ See note 59.

¹²⁴ Discussion on 25th April 2007 between 11 MILLION staff and the Independent Chairs. See note 106.

¹²⁵ Holloway and Bronzefield have the highest number of foreign national prisoners who are mothers.

¹²⁶ See for example, Black (1998) p. 114 and Black (2004).

achieving greater clarity as to the MBU admission process, aiming for more equitable provision between units throughout England and Wales whilst still recognising the need for flexibility in applying the criteria. Though there are no units in Wales, it is important that consideration is given to the need for Welsh mothers to be admitted to units as close to Wales as possible.

In line with guidance issued in relation to Every Child Matters, decisions on whether or not to admit a child should always be based on a comprehensive and timely assessment of the needs of the individual child.

Mental health

The prevalence of mental disorder in women within Mother and Baby Units (MBUs) is high compared to women outside of prison, but one study found it to be lower than in the female sentenced population generally¹²⁷. A second phase is nearing completion which is compiling comparable data on mothers who have been separated from their babies - again, with a focus on the mental health of mothers¹²⁸. A third phase is under consideration to conduct a comparative study between the two cohorts with a view to establishing whether or not it is better for the mother's mental health to be with her baby.

Around 450,000 parents have mental health problems¹²⁹ which are known to have a significant impact on children's own mental health and development. Up to 80% of women in prison have diagnosable mental health problems, with up to 40% of women prisoners having received help for mental health problems in the past year¹³⁰. This is twice as many as male prisoners.

The same study referred to above found that women who are admitted tend to have more stable backgrounds than other women in prison. This may be because a woman's pre-existing mental health condition will, rightly, be considered as part of the assessment for admission. However, it has been suggested that some mothers with treatable mental disorders may be considered ineligible for a place on a Mother and Baby Unit,¹³¹ and this may need to be reviewed.

It is recommended that research is conducted to compare the mental health of mothers in prison with their babies with the mental health of those who were separated from their babies. This would complement the research recommended above.

¹²⁷ Birmingham L, Gregoire A et al, op cit.

¹²⁸ Birmingham et al, University of Southampton, in progress.

¹²⁹ Reaching Out: Think Family p. 20, see reference 40.

¹³⁰ ONS Survey of Psychiatric Morbidity among Prisoners in England and Wales, cited in Corston, op cit, p. 19.

¹³¹ Ibid p. 6.

The criteria for admission to MBUs should be reviewed to assess whether these permit admission to mothers with treatable mental health conditions who would be capable of caring for their babies.

Substance misuse

Up to 58% of women in prison are thought to have used drugs daily in the six months prior to admission and 75% to have taken an illicit drug in the same period¹³². There is similar evidence of problematic alcohol misuse by women in prisons¹³³.

There is a real dilemma in considering the needs of the significant proportion of children whose mothers have substance misuse problems. There are estimated to be between 250,000 and 350,000 children of problematic drug misusers in the UK,¹³⁴ of whom around half will be living in their parent's care¹³⁵. Around 1.3 million live with a parent who misuses alcohol¹³⁶.

11 MILLION does not underestimate the impact of substance misuse on parenting capacity, which is a significant risk factor for children¹³⁷. However, the reality is that any blanket policy that excludes all women with any history of recent substance misuse from Mother and Baby Units (MBUs) would rule out the majority of would-be applicants. (Paradoxically, because of the duty of care on the Prison Service, it would also introduce a more stringent safeguarding threshold than currently exists for many children living at home). This needs to be kept under review.

The possibility of effective detoxification on the mother's ability to parent her baby should be taken into account in applying the current eligibility criteria. There is a need for further research to inform policy on how best to meet the needs of mothers at risk of imprisonment for non-violent drug offences, and their children¹³⁸. Since many of these women are at risk of being permanently separated from their children, the need for further research is even more pressing.

It is recommended that further research should be commissioned on how best to address the needs of pregnant women or mothers

¹³² Plugge, Emma et al, The Health of Women in Prison, Oxford University Study (in press), cited in Corston, op cit. p. 74.

¹³³ Corston Report, op cit, p. 75.

¹³⁴ Advisory Council on the Misuse of Drugs (2003) Hidden Harm: Responding to the Needs of Problem Drug Users.

¹³⁵ Ibid.

¹³⁶ Prime Minister's Strategy Unit. (2003) Alcohol Harm Reduction Project - Interim Analytical Report, cited in Reaching Out: Think Family - Analysis and themes from the Families At Risk Review, Cabinet Office (June 2007) p. 19.

¹³⁷ Children whose parents misuse alcohol have a higher risk of developing mental ill health, behavioural problems, involvement with the police as well as substance misuse and alcohol misuse problems. See Reaching Out: Think Family - Analysis and themes from the Families At Risk Review, op cit p. 19.

¹³⁸ Allard, P E, Research to Action: Informing Policy Makers About the Needs of Mothers and Children at Risk of Separation, Women and Criminal Justice, vol 17, no. 2/3, p. 27-42, 2006.

with problematic substance misuse who would otherwise be eligible for admission to MBUs. In the meantime, the possibility of effective detoxification on the mother's ability to parent her baby should be taken into account when applying the current eligibility criteria.

Links between adults' and children's services

Recent work on social exclusion has highlighted the extent of social exclusion amongst the families of prisoners¹³⁹. The Cabinet Office is leading work across Government to link services for adults and children more effectively. The National Service Framework for Children, Young People and Maternity Services highlights the importance of identifying the patients's or client's role as parent and considering the impact on the child's development¹⁴⁰. This is essential in tackling the needs of those few families who experience complex and multiple problems, and reducing inequalities. This will require a new approach if all staff working in services such as housing, (adult) social care and criminal justice services are to identify whether their adult clients have children and provide services that are geared towards meeting the needs of the whole family. This Think Family approach is based on four key principles:

- No wrong door: contact with any one service gives access to a wider system of support.
- Look at the whole family: both adults' and children's services take into account family circumstances. In particular, adults' services consider their clients as parents and ensure they are supported to fulfil their parental responsibilities.
- Build on family strengths: practitioners work in partnership with families, recognising and promoting resilience and supporting them to build up aspirations and capabilities.
- Provide support tailored to need: tailored and family centred packages of support are offered to all families at risk.

The Government is seeking bids from local areas and their partners to establish between 12 and 15 Family Pathfinder projects to test and develop the 'Think Family' model on the ground¹⁴¹. The Think Family approach is highly relevant to MBUs and should focus on all stages of the mother's journey through the system with a view to improving support and optimising the outcomes for the whole family¹⁴².

It is recommended that work to embed the Think Family approach is applied specifically to all women in prison who are mothers.

¹³⁹ Social Exclusion Action Plan, op cit; Reaching Out: Think Family, op cit, p. 18; Children of Offenders Review, op cit.

¹⁴⁰ National Service Framework for Children, Young People and Maternity Services. Department of Health, 2004, Standard 2, p. 80.

¹⁴¹ Think Family, op cit, p. 18.

¹⁴² Please see the following for more information:

http://www.cabinetoffice.gov.uk/social_exclusion_task_force.aspx

This should include those eligible for admission to MBUs with a view to improving outcomes for the children concerned and reducing the risk of re-offending.

Conditions in Mother and Baby Units

The 2006 inspection report on Styal Prison highlighted the shortcomings of physical conditions on the Mother and Baby Unit (MBU)¹⁴³. These ranged from inadequate decorations, furnishings and toys (some failing to meet the standard necessary to promote babies' wellbeing and development) to shortages in key staff, such as nursery nurses and night staff to ensure the safety of babies on the unit at all times¹⁴⁴.

11 MILLION's visit to the Unit at Styal in July 2006 confirmed many of these findings. It also, however, recognised that action had been taken to bring the level of provision up to the required standards, including restoration of night cover staffing, plans for a new, purpose-built MBU (though this has been delayed by a year) and the recruitment of child care specialists from the National Children's Home to help improve standards. Nonetheless, work was still required to mitigate the potentially damaging effects of the prison environment and to ensure that children had sufficient opportunities to spend time with other relatives, in varied environments and out of their rooms.

Other inspection reports from HMIP have noted generally good conditions in MBUs. Units were considered to be operating well in Holloway,¹⁴⁵ New Hall,¹⁴⁶ Bronzefield,¹⁴⁷ Peterborough¹⁴⁸ and Askham Grange¹⁴⁹. In the case of the latter, however, child protection training for all staff had still not been achieved; and in Bronzefield the child protection protocol required further development. As stated earlier, Ofsted also have a vital role in inspecting these facilities.

Prison service crisis: population pressures

A key observation from the visit to Styal Prison was that the shortcomings in the Mother and Baby Unit's (MBU) provisions were strongly associated with resource pressures experienced by the prison. These shortcomings were caused, in part, by the ongoing population crisis across the secure estate. Pending further investigation into this issue, it became clear that the 'prisons crisis' was not only having an impact on Styal prison, but on other prisons around the country.

¹⁴³ Report of an Unannounced Inspection of Styal Prison, op cit.

¹⁴⁴ See introductory section on p. 14 of this paper for more detail.

¹⁴⁵ Report on an Unannounced Follow-up Inspection of HMP/YOI Holloway, 2004, HMIP, London.

¹⁴⁶ Report on an Unannounced Follow-up Inspection of HMP/YOI New Hall, July 2006, HMIP, London.

¹⁴⁷ Report on an Announced Inspection of Bronzefield HMP/YOI, 13-17 June, 2005, HMIP, London.

¹⁴⁸ Report on an Announced Inspection of HMP/YOI Peterborough, 2-6 October 2006, HMIP, London.

¹⁴⁹ Report on an Unannounced Short Follow-up Inspection of Askham Grange HMP/YOI, 25-27 April 2006, HMIP, London.

There was, for example, a proposal to temporarily change the function of the MBU at New Hall Prison/YOI – which currently provides places for eight babies and their mothers – in order to provide a further facility to deal with overflow in the juvenile estate¹⁵⁰. A review was commissioned by the Prison Service Women and Young Peoples' Group to consider the feasibility of this proposal and the impact it would have on the mother and baby estate¹⁵¹. The review recommended against the closure of the MBU at New Hall. This was based on the fact that Styal – the closest MBU to New Hall in terms of distance - had recently closed for renovations. Also, closing New Hall would leave those women in the north of England requiring “closed” prison conditions without any local MBU¹⁵². The MBU at New Hall was closed last summer with the proviso that they would re-open immediately if needed. The MBU at New Hall will re-open at the end of January 2008. This type of consideration has not been applied to Wales, where there are no MBUs.

It remains to be seen whether any further action will be taken in relation to the MBU at New Hall. However, it is clear that MBUs are not in a secure position when the Prison Service is under pressure from other quarters. It is not inconceivable that this issue will recur again before the completion of the planned purpose-built MBU at Styal Prison which is estimated to be ready for use in 2010.

It is recommended that existing MBUs are protected from reductions in funding due to pressures on prison places so that it is feasible to continue the current policy of admitting any child where it is in his or her best interest.

¹⁵⁰ See: Adams Young J, Minnette J, and Osbourne G, Mother and Baby Estate Review, HM Prison Service, October 2006.

¹⁵¹ Ibid. Annex A.

¹⁵² Askham Grange, also in the North of England, is an open prison and therefore only takes mothers onto its MBU are qualify for this status.



7 Conclusions

It is clear that the model of Mother and Baby Units (MBUs) in England and Wales is, inevitably, a compromise. The model balances, on the one hand, the rights and what we know of the interests of babies and young children and, on the other hand, the interests of the criminal justice and penal system. In the opinion of 11 MILLION, this is neither a satisfactory balance nor a necessary one.

It is unsatisfactory because the process of balancing interests is based on a very incomplete knowledge of the impact of MBUs on outcomes for children. It is unnecessary, in the majority of cases, given the range of viable non-custodial alternatives that have been promoted in this country and beyond for managing female offenders who do not pose a serious threat to public safety. Moreover, the delivery of MBU provision in practice is subject to a number of pressures and challenges which further risk negative outcomes for children.

11 MILLION believes, therefore, that it is time to reconsider how we can promote the best interests of children whose mothers offend and are liable to imprisonment. The same question has been asked for over two decades or more, and reforms have been proposed at various intervals during this time. However we believe that the political landscape is now ripe for progressing reform given the following developments:

- The Children's Plan: Building Brighter Futures¹⁵³. This plan communicates the Government's commitment to making England the best place in the world for children and young people to grow up. This follows criticism set out in a recent UNICEF study of children's wellbeing in rich countries, which placed the United Kingdom at the bottom of the league¹⁵⁴.
- The forthcoming Youth Crime Action Plan and Green Paper, which will examine what happens when young offenders leave custody¹⁵⁵.
- The soon to be published examination of the United Kingdom by the United Nations Committee on the Rights of the Child¹⁵⁶.
- Baroness Corston's comprehensive Review, referred to many times in this report, outlining non-custodial alternatives for female offenders and specific proposals for mothers of young children¹⁵⁷.

¹⁵³ The Children's Plan, op cit.

¹⁵⁴ An overview of child wellbeing in rich countries, Unicef, Innocenti Research Centre, Report Card 7, 2007.

¹⁵⁵ The Children's Plan, op cit. p. 13.

¹⁵⁶ See evidence submitted by the Government: UK Government Periodic Report to the UN Committee on the Rights of the Child, DCSF July 2007.

¹⁵⁷ The Corston Report, op cit.

- The Government's response to the Corston review. This sets out the Government's firm commitment to implement many of its findings,¹⁵⁸ though without any commitment to finding the resources that will be necessary to do so successfully.
- The Children of Offenders Review conducted last year recommended a series of actions to improve outcomes for the children and their families¹⁵⁹.
- The recent publication of Lord Carter's Review of Prisons with recommendations for expansion of the current prison building programme in addition to the significant expansion already planned¹⁶⁰.
- The Government has set a public service agreement - Pathways to Success for Children and Young People - which includes an indicator on reducing the number of first time entrants into the youth justice system, and associated delivery plan¹⁶¹.
- The current Government consultation on improving health and social care services for people subject to the criminal justice system¹⁶².
- The current Criminal Justice and Immigration Bill 2007 provides, at least in the case of children and young people in the youth justice system, the opportunity to develop further community-based alternatives to custody¹⁶³.
- Following the Machinery of Government changes last year, responsibility for youth justice is now the joint responsibility of the Department for Children, Schools and Families (DCSF) and the Ministry of Justice.
- A series of recent Government policy documents, including Reaching Out: Think Family, Aiming Higher for Children: Supporting Families and the Social Exclusion Action Plan, all emphasise the importance of supporting families with complex needs (including families with imprisoned parents) and the severe consequences for children's outcomes of failing to intervene early or effectively. They

¹⁵⁸ The Government's Response to the Report by Baroness Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System (December 2007), HM Stationery Office, London.

¹⁵⁹ Children of Offenders Review, op cit.

¹⁶⁰ The Carter Report, op cit.

¹⁶¹ PSA 14, op cit.

¹⁶² Improving Health: Supporting Justice. A Consultation Document. Department of Health. (November 2007).

¹⁶³ See for example, the proposal to introduce Youth Rehabilitation Orders, at clause 1 of the Bill.

also recognise the need to link up adults' and children's services more effectively¹⁶⁴.

- The UK Government has committed to withdrawing its second reservation to the United Nations Convention on the Rights of the Child and thus to ensuring that children and adult prisoners are separated in prison facilities¹⁶⁵.
- The Prison Service is in the process of managing record numbers of prisoners in custody and finding a way forward to ease the crisis.
- Many high profile commentators, including Helena Kennedy QC and Cherie Booth QC, have been calling for reform for the treatment of female offenders who are pregnant and those who have babies/young children¹⁶⁶.

11 MILLION therefore believes that now is the time to reconsider policy on Mother and Baby Units in the context of the above developments. This should be done with a view to providing more appropriate and therapeutic community-based forms of provision in the long term. In the meantime, the existing Mother and Baby Units should be accessible to all women, including those under the age of 18, who meet the eligibility criteria based on a comprehensive assessment of the needs of the baby and the ability of his or her mother to meet them.

Thanks

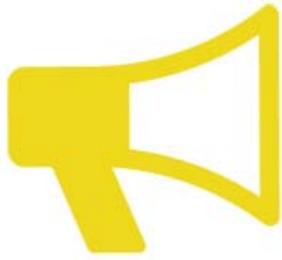
Our thanks are due to a large number of individuals and organisations who contributed to this discussion paper, in particular:

Jenny Adams Young, Mother and Baby Unit Co-ordinator
Peter Minchin, Youth Justice Board
Independent Chairs of Mother and Baby Units
Dora Black
Richard Lansdown

¹⁶⁴ Reaching Out: Think Family, July 2007, Cabinet Office, HMSO, London. Aiming Higher for Children: Supporting Families, November 2006, HM Treasury, HMSO, London. Social Exclusion Action Plan, Social Exclusion Task Force, HMSO, London.

¹⁶⁵ Welcome End to Children in Adult Prisons, 20th December 2006, statement by Annette Brooke MP. Accessed at:
http://www.annettebrooke.org.uk/news/000279/welcome_end_to_children_in_adult_prisons__brooke.html

¹⁶⁶ Independent on Sunday, 13th May, 2007.



**“The 11 MILLION children
and young people in
England have a voice”**

Children’s Commissioner for
England, Professor Sir Albert
Aynsley-Green



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