



Access to Justice Denied

Young Adults in Prison



Barrow Cadbury and Transition to Adulthood Alliance

The T2A Alliance has been established by the Barrow Cadbury Trust. The Alliance is a broad coalition of organisations and individuals working to improve the opportunities and life chances of young people in their transition to adulthood, who are at risk of committing crime and falling into the criminal justice system. The T2A Alliance aims to raise awareness of the problems this group faces and to secure policy change to improve their lives.

The Barrow Cadbury Trust has generously sponsored this publication as part of the work of the T2A Alliance.

<http://www.barrowcadbury.org.uk>

The Howard League for Penal Reform is an active member of the alliance and has previously published a report sponsored by the Barrow Cadbury Trust - Young, Adult and No Support: The entitlements of young adults to care in the community (2010)

U R Boss

In July 2009, the Howard League launched U R Boss, a five year youth justice project that provides a national programme of participation opportunities and an enhanced legal service for young people in custody and those recently released into the community. Our legal service is a key aspect of U R Boss and has been able to substantially increase its capacity thanks to the additional funding.

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Introduction

The Howard League for Penal Reform legal service provides a unique body of evidence which shows that unaddressed legal problems lead to social exclusion and further economic and social cost. This cycle of unmet need and related cost underlies our call for young adults to have meaningful access to justice. Young people need to understand and develop the confidence to assert their rights through good quality lawyers.

Our 'access to justice' service has revealed:

- the gaps in the provision of legal services for young adults in prison;
- the need for appropriate working methods for legal practitioners; and
- the need to ensure that services are targeted to the needs of young people.

This briefing coincides with Ministry of Justice's policy analysis of publicly- funded legal services. It makes the case for access to justice to be promoted at a time when all areas of public services face savage cuts; good quality legal services save costs and protect against the risk of injustice.

In this report, the term 'young adult' is used for 18- to 24-year-olds in line with the age range of transition into early adulthood which the T2A alliance work evidences.

The Howard League for Penal Reform legal team works with young prisoners who have many complex problems. A significant number of those who access our service have at some point been in care during childhood. Many of the legal challenges the team brings on behalf of those young people concern their entitlements to support and accommodation on release. For detailed information in relation to resettlement issues for young adults, please see our previous report sponsored by the Barrow Cadbury Trust - Young, Adult and No Support: The entitlements of young adults to care in the community (2010), which details the community care entitlements of young adult care leavers and non-care leavers on their release from prison.

Key Findings

Our briefing reveals considerable unmet legal need for young adults in prison and a lack of awareness of rights. Our evidence uncovers a huge problem that requires urgent attention and further investigation.

1. Young adults in prison struggle to access legal services and that there is inadequate provision of Legal Service Officers in prison.
2. 80% of access calls were from black and minority ethnic young prisoners and 9% of access calls were from females, compared with the figure of 4% of the overall prison population. This combined with our experience demonstrates that these young adult prisoners face disproportionate levels of unmet legal need and problems in the prison system.
3. Our work indicates that access to justice is often about “chance” where professionals who do not fear the consequences of referring cases contact our service for help.
4. Young adult prisoners are more likely to access justice where they have a supportive family or friend outside of prison and experience significant “blocks” from accessing legal advice.
5. 1/3 of our calls from young adults related to resettlement needs and the failure of statutory services to comply with their legal duties. Our experience demonstrates this is an extremely pressing need for young adults in prison.
6. In relation to the access calls we received where recall to custody was the main issue, 43% of our calls related to prisoners being recalled but not having any information about what to do next and 36% complained about the quality of the legal advice they received.
7. Our legal service received more self-referred calls about appeals against criminal sentences than any other legal issue. This indicates that young prisoners need education about their rights to challenge failures of statutory services or bring complaints about their treatment in prison.
8. 1/3 of our calls regarded young adults needing a decent and purposeful regime to ensure timely release and successful rehabilitation.
9. Despite the prevalence of mental health problems in prison, our evidence indicates that young adult prisoners with mental health needs struggle to access justice to get the help they need.
10. A quarter of our calls were about inadequate health care and a over fifth related to unmet mental health needs, with some 15% needing support around self-harm and suicide risk.

The Howard League for Penal Reform's legal team

The Howard League for Penal Reform, established in 1866, is the oldest penal reform charity in the world. It is independent of government and the only non-governmental organisation (NGO) in its field to have its own dedicated legal department providing advice and representation for young people in prison. The Howard League for Penal Reform campaigns for less crime, safer communities and fewer people in prison.

Our legal service was set up in 2002. We represent children, young adults and vulnerable prisoners. We aim to improve their lives through legal intervention, to change national and local policies and practice and to create a new public narrative about young people who offend.

Quality legal services and advice

We have contracts with the Legal Services Commission which allow us to undertake prison law, criminal appeals and public law work under the legal aid scheme. Our legal work protects the rights and entitlements of some of the most vulnerable and disenfranchised members of our community. We use the law to ensure that young people are detained for no longer than is legally necessary, that they are treated humanely and are able to become positive members of their communities when they leave prison. We also provide an 'access to justice' service to ensure that young people in custody get the legal help they need. We advise, represent or signpost young people, as well as providing advice to professionals working with young people.

Young people in prison go without legal advice as they are unaware of their legal rights, think the law is there to punish and not to protect them, and have no idea that they can get free legal help. – Howard League for Penal Reform solicitor

Policy and campaign work

The lessons learned through legal case work and our access service are not lost in the system but put into practice through our policy and campaigning work. Our legal work is also complemented by other initiatives designed to promote public safety and penal reform such as our Big Lottery funded 'U R Boss' enhanced legal service.

Specialist solicitors for young adults in prison

The young adult legal service was launched in April 2007 and is the only dedicated legal service in England and Wales for 18- to 21-year-olds in, and leaving, custody. It has provided advice and representation on a range of issues including treatment and conditions in prisons, parole applications and the provision of suitable accommodation and support on release from custody. Our clients require specialist support in the context of complex law and litigation. The legal service takes a holistic approach to the needs of our clients, assisting them with numerous matters at any one time and making appropriate referrals where we are unable to help.

Our clients' backgrounds are characterised by abuse and neglect, with chaotic lifestyles and exclusion from mainstream services, such as education. Many cannot read well (or at all) and often have mental health problems exacerbated by prison. Preparing the case and obtaining instructions takes some time. A young person-centred approach is essential for establishing the confidence of a young person who has been let down by professionals over many years. This is how our legal team operates.

The Howard League for Penal Reform's 'access to justice' service

As the Howard League for Penal Reform legal team's work evolved, it became clear that we could not possibly meet the overwhelming demand for legal advice and representation for young people in prison. We began to refer and signpost cases informally to other solicitors until it became evident that there was a pressing need for us to develop structured mechanisms to make sure that the people who contacted us for legal help received it. There is no statutory funding for this, but we considered that it was vital to ensure access to justice.

Our access to justice service is run by the Howard League for Penal Reform legal team, alongside our case and policy work. Team members receive calls, emails and letters from young people themselves, advocates working within the secure estate, parents and carers, caseworkers or other outside agencies. As part of the access service we also receive requests from professionals who are looking for general advice. We also operate a telephone advice line which young people can call free of charge from prison.

All members of the team are trained to take access calls and ensure that a wide range of information is captured. This includes the reason for the call, the young person's personal background, including any mental health or substance misuse issues, care history and education. The aim is to ensure that we are able to provide a full picture of the young person's needs and a 'legal diagnosis' to enable all their legal needs to be met. Every single access call is considered by a specialist solicitor.

Once the access calls are reviewed by our solicitors, they will be dealt with in one of three ways:

- the Howard League for Penal Reform legal team takes the case on;
- we arrange for the young person to be represented by a different solicitor or non-legal service; or
- we deal with the matter on the basis of 'pro bono' (free) advice.

The users of the access to justice service receive high-quality and accurate information and advice and we make every effort to ensure that high-quality legal representation is provided. As new legal aid arrangements have come into force, it has become increasingly difficult to signpost young people to other solicitors. It can sometimes take days, even weeks, to find solicitors willing or able to provide legal advice and representation in areas of law such as housing and immigration. We do not simply provide young clients with the contact details of firms, but make sure that each access call is picked up by somebody who is able to assist.

Our access to justice service is creative and the only service of its kind available for young people in custody and we are often the first point of contact for professionals. We have built a reputation for trying to ensure that young people get the legal representation they require in order to obtain the best possible outcomes.

Legal problems for young adult prisoners

Access to justice is restricted for young prisoners. Only about one-third of contacts to our service are made by young adults themselves. Young prisoners have little control over their lives once in prison. Our work evidences that young adults find internal requests and complaints ignored or rejected out of hand. They need help to make sure that they are taken seriously. Many young adults in prison are simply unaware that they could get legal assistance to improve the failings of the system.

Even if they are aware of their rights, there is very little information or help to facilitate access to justice. Prisons are required to have a 'Legal Service Officer' (LSO) under Prison Service Order 2605. The Order requires that:

- each prison has a designated officer, whose duty it is to ensure that no prisoner who is likely to need a legal service fails to apply for it due to ignorance or general inadequacy;
- LSOs are competent to do their jobs;
- LSOs give assistance to prisoners who wish to appeal, see all prisoners who are, or could, become appellants on the morning after their arrival at the prison and inform such prisoners that it is in their interest to seek professional legal advice.

However, in August 2010, the Howard League for Penal Reform contacted 25 young offender institutions (YOIs) to ask whether or not they had an LSO. Only 13 were able to confirm that they had an LSO. Only one-quarter of these were trained.

Prisoners' ability to access justice is restricted by the costs of calls from custody and limited time out of cell to access telephones. Our access to justice service highlights the difficulty young people experience in obtaining appropriate information from internal and external sources. To increase access we provide a free telephone advice line which operates in all prisons and enables young adults to contact us.

On the other hand, issues around negative relationships with prison staff create particular difficulties, as contact with officers on a day-to-day basis can be a preventative factor when taking any action.

Even when young people have secured access to legal representation, there can be problems in communicating with lawyers. A report by HM Chief Inspector of Prisons (2009b) on Aylesbury YOI stated:

Legal visits were restricted to two morning sessions a week, which was a problem for prisoners with legal advisers based some distance from the prison. In our survey, only 46% of respondents, against the comparator of 67%, said it was easy to attend legal visits. (para. 3.80)

The adequacy of facilities for confidential legal visits has been raised as a concern by numerous experts in this field, as well as by Howard League for Penal Reform lawyers. This is despite there being a clear legal right of access to confidential legal advice.

Those who can contact our legal service raise issues such as bullying, inappropriate disciplinary regimes, assaults by prisoners and staff, access to medical treatment or a safe place to live on release. Our work enables access to education, purposeful activities or

facilities, work on offending behaviour, interpreters and signers, association time, fair privilege schemes and release on temporary licence or escorted absences.

Evidence from our access to justice service and legal work with young adults

At 31 July 2010 the young adult (18 to 20 year old) prison population stood at 10,100. That was an increase of 4 per cent from the previous year (up 430). (Ministry of Justice (2010b)). The number of young adults who entered prison last year (2009) was 13, 731. (Ministry of Justice (2010a) Offender caseload management statistics 2010)

The Howard League for Penal Reform legal service received a total of 286 telephone calls, emails or letters from young people, or from people on their behalf, in relation to unmet legal need in the period October 2008 to July 2010. We describe those calls, emails or letters as ‘access calls’ throughout the remainder of this briefing.

Given the difficulties that young people in prison have in accessing justice, we consider that the evidence from our access to justice service and case work provides a small, but important, insight into the unmet legal needs of this group. It is likely that this evidence is merely the tip of the iceberg – many of our clients wish they had been aware of our services sooner.

The data gleaned from our service must be considered in the context of a busy legal team responding to unmet need. Callers may not always be able to provide all the information we require and where appropriate we have provided information as a percentage of data recorded. Equally, callers making contact on behalf of a young person may not be aware of other pressing issues that concern the young person which could have a legal solution. We have used case studies to illustrate our findings (the names of young people have been changed to protect their identity).

What follows clearly demonstrates that good quality legal advice and representation transforms young people’s lives, saving unnecessary prison costs, breaking expensive cycles of offending and ensuring access to the right help at the right time.

Breakdown of access calls

Around one-third of calls concerned the resettlement needs (plans for their release back to the community) needs of young people in prison. In a third of these cases, a lack of accommodation was prolonging the young person’s detention in prison.

Around 10% of young people needed representation for parole board hearings which would determine their liberty. This included those recalled to prison for breach of licence, those serving sentences of 4 years or more, including young people sentenced to indeterminate sentences for public protection (IPP).

Around 20% of calls concerned issues with the prison, including complaints or concerns about the way they were being treated, issues concerning the regime in prison or wishes to transfer to another prison. This may reflect the fact that the professionals closest to the young people are less likely to assist them in accessing justice to make complaints about the establishment.

Seven per cent of calls concerned requests for advice on appeals – mainly against the sentence imposed. A disproportionately high number of these calls concerned young people from non-white ethnic groups.

Only 4% of calls concerned assistance with prison disciplinary matters. Again, this may reflect that fact that there is a lack of established mechanisms for promoting access to justice for young people facing disciplinary matters. A disproportionately high number of these requests were made in relation to non-white prisoners.

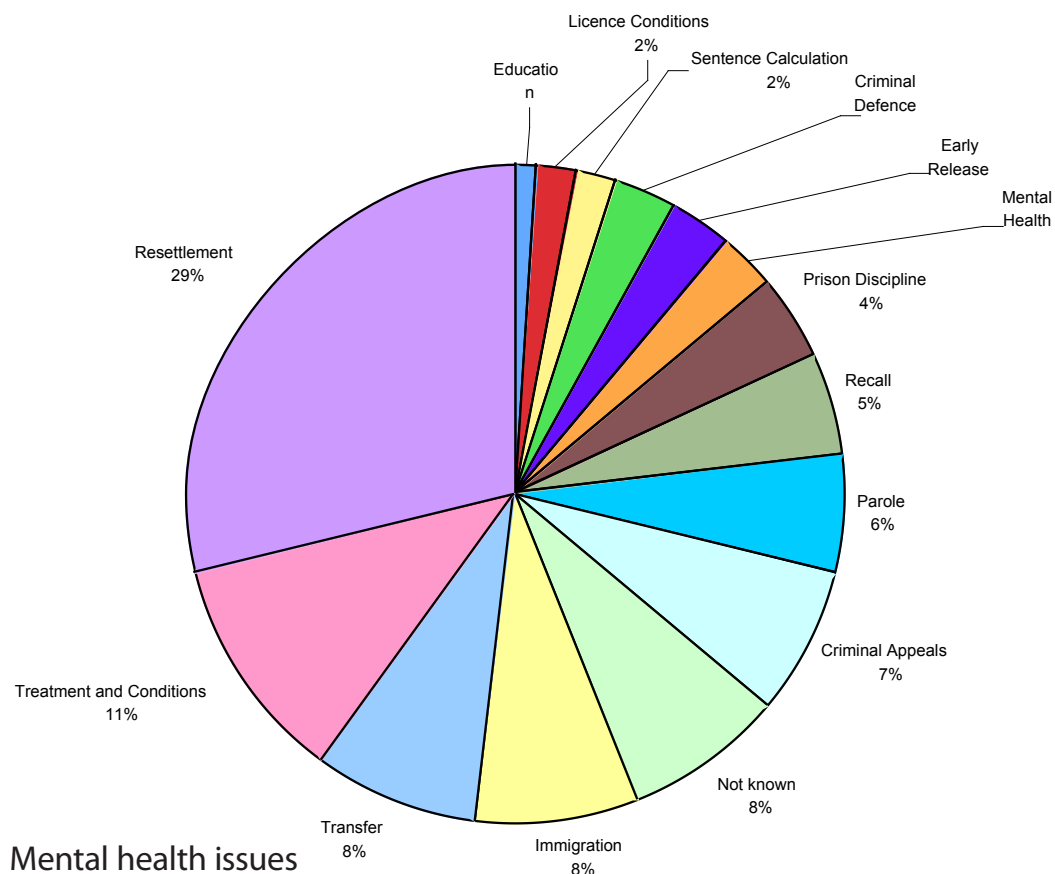
I am always surprised when attending with young clients at adjudication hearings, at the number of prisoners without legal representation - Howard League for Penal Reform Solicitor

The remainder of calls concerned, amongst other issues, the need to access education, immigration advice, advice on sentence calculations, transfer to other establishments and help with licence conditions on release.

Profile of young people using the access service

The data show that the calls we receive concern a disproportionately higher number of young women and non-white prisoners in comparison with the demographics of the prison population. Around a quarter of all access calls concerned young people with a known mental health issue. Our work with young adults suggests that this is not because young adults from these groups are more easily able to access justice. On the contrary, our work suggests that these groups face more extreme problems that eventually result in contact with our service through a mixture of contact with concerned professionals and chance.

Access Calls - Breakdown of Issues



Mental health issues

Out of the 286 access calls 67 (23%) were able to give confirmation that the person in question had a mental health issue. This suggests that prisoners with mental health issues are unidentified or struggle to access legal services.

In his review of mental health and criminal justice, Lord Bradley (Bradley 2009 page 8) noted that: 'over 90% of prisoners had one or more of the five psychiatric disorders studied (psychosis, neurosis, personality disorder, hazardous drinking and drug dependence)'.

Ethnicity

Access calls were received from a disproportionately high number of young adult black and minority ethnic (BME) prisoners. Ethnicity was recorded in around 80% of access calls. Where ethnicity was recorded, our data show that:

- 21% related to black or black British prisoners compared with the figure of 14% of the overall prison population (Ministry of Justice (2010b));
- 6% related to Asian or Asian British prisoners compared with the figure of 9% of the overall prison population (Ministry of Justice (2010b));
- 58% related to white prisoners compared with the figure of 73% of the overall prison population (Ministry of Justice (2010b));
- 8% of ethnicities were recorded as 'other'.

Of the access calls from black or black British young adult prisoners, 70% sought advice on disciplinary actions by the prison against them.

Half of all access calls relating to appeals against conviction or sentence concerned non-white young adult prisoners.

Gender

The referrals made to the Howard League for Penal Reform show that females used our service at twice the rate of the prison population. Gender was recorded in 98% of access calls:

- 9% of access calls were from females, compared with the figure of 4% of the overall prison population (Ministry of Justice (2010b)) .
- 91% of access calls were from males, compared with the figure of 96% of the overall prison population (Ministry of Justice (2010b))

Resettlement

Twenty-nine per cent of access calls related to resettlement, which was by far the most prominent issue.

Resettlement is the term used to describe the transition from custody to the community. This transition plan is essential to any prisoner's application for early release (like home detention curfew (HDC) and parole) and determines what support will be in place and the likely risk of recidivism (Howard League 2010, p.9).

Our data confirm that the resettlement needs of young people leaving prison are often unmet with devastating results, including exposure to harm in the community, prolonged and unnecessary detention and further offending. Our experience of working with young people on these issues demonstrates that legal intervention can transform young people's lives by ensuring that statutory agencies comply with their legal duties.

Resettlement needs

37% of callers said that accommodation needs were affecting their liberty.

33% of callers said that they had nowhere to live on release from prison.

32% of callers said that their social workers had not kept in touch since they came to prison.

30% of callers said that the accommodation planned for release was not suitable.

24% of callers had nowhere to live on release even though they had leaving care rights from social services.

21% of callers with resettlement needs had identified mental health issues.

Liberty affected by resettlement needs

Analysis of the resettlement access calls shows that in around one-third of cases, the young person's liberty was dependant on the provision of accommodation. In over one-third of all access calls on resettlement no accommodation was available for the young person prior to release.

Successful applications for early release depend upon the availability of suitable accommodation, which impacts on a person's liberty, and formed 37% of our access calls.

An advocate contacted us reporting that Andrew, aged 19 years, had mental health issues and suspected Asperger's Syndrome. He was working with the mental health service in custody to deal with his mental health. Andrew had been on the prison's 'gold regime', had behaved extremely well throughout his time in custody and complied fully with his sentence plan. Andrew had been granted HDC release where he could serve the remainder of his sentence in the community with an electronic tag attached. His mother agreed that he could live at her home but the probation service deemed his mother's home unsuitable without specifying why. Andrew had no alternative accommodation options so he could not be released on HDC. With the support of the Howard League for Penal Reform, Andrew accessed legal representation and obtained the early release he had been granted, rather than spending more time locked up unnecessarily.

An advocate reported that Matthew, aged 18 years, had problems with alcohol before entering custody and had not attended school since he was 11 years old. Social services accepted that Matthew was a 'care leaver' in light of his care history. Matthew had a history of being in unsuitable accommodation and would not benefit from accommodation through housing services. We ensured that Matthew had legal representation to assist the authority in making sure they provided suitable accommodation.

No support from statutory services

Lack of support from statutory services was a big issue for young people in need of accommodation and support on release from prison. In almost one-quarter of calls, the young person had resettlement needs despite having leaving care rights entitling them to additional support from social services. In over one-third of calls, the young person had been receiving support from social services prior to entering prison but this had ceased. In around a quarter of calls, it was considered that the young person's probation officer or youth offending team worker was not assisting with resettlement issues.

An advocate contacted us as James, aged 18 years, had been granted early release from custody but had no suitable accommodation. James was taken into the care of the local authority when he was 12 years old. Despite their obligations towards James, social services had made no efforts to ensure that James had accommodation for his early release. The Howard League for Penal Reform intervened to ensure that James had legal advice/representation in obtaining accommodation to avoid his spending more time in prison.

Terry was 20 years old and in custody at HMYOI Swinfen Hall. Terry had no support from his family; he had been in the care of social services since he was eight years old. He had not heard from anyone in social services for over a year. He had written numerous letters to social services but had not received any response. He had no accommodation for his release from custody and no idea of whether or not he would get any support from social services. Terry's case was referred by the Howard League for Penal Reform to another firm of solicitors who could provide him with the legal assistance he needed to make social services act in accordance with their legal duties.

Resettlement needs of young adults with complex problems

Around one-quarter of calls concerning resettlement needs also concerned young people with identified mental health problems. From working with young adults on resettlement rights, our legal team's experience is that problems accessing suitable accommodation and support on release from custody disproportionately affect the most vulnerable, such as those with substance misuse problems, mental health issues and those considered a high risk to the public ('sex offenders' or those with convictions for arson).

We were contacted by Kevin, an 18-year-old young man who was released from custody a few months earlier and had been homeless since then. In custody, Kevin was diagnosed with a psychotic mental illness and was prescribed heavy anti-psychotic medication.

After two months of homelessness, Kevin made an application to stay at a hostel; however, on the day his interview, Kevin hadn't taken his medication and so did not present well. It is difficult for Kevin to take his medication regularly when he is living on the streets and is constantly on the move.

The Howard League for Penal Reform discovered that before going into custody, Kevin had been identified by social services as a 'child in need'. The Howard League for Penal Reform referred Kevin's case to an external solicitor who would help Kevin get the assistance he needed from social services.

Twelve per cent of the calls were from women, higher than our access calls for this group (9%) and higher than the percentage of women in the prison estate overall (4%). Baroness Corston's (2007) report on women in the criminal justice system also raises this issue:

Because of the small number of women's prisons and their geographical location, women tend to be located further from their homes than male prisoners, to the detriment of maintaining family ties, receiving visits and resettlement back into the community (p.3)

The accommodation pathway is the most in need of speedy, fundamental, gender-specific reform and should be reviewed urgently, taking account of the comments in my report. In particular, more supported accommodation should be provided for women on release to break the cycle of repeat offending and custody and the intentional homelessness criterion for ex-prisoners should be abolished. (p.8)

A prison officer contacted us about Rachel, aged 20 years. She was extremely vulnerable and had attempted to commit suicide due to the stress of not knowing whether or not she would have accommodation and support from social services on release. Rachel had been taken into care after a horrific childhood consisting of domestic violence and alcoholic parents. Once in custody she received no further assistance from social services as they denied she was a 'care leaver' entitled to support and assistance. The Howard League for Penal Reform represented Rachel and obtained an injunction from the High Court requiring social services to provide her with accommodation and support on release.

Unsuitable accommodation

In just under one-third of resettlement calls, accommodation had been found but was considered unsuitable.

Recurring issues were the provision of bed and breakfast accommodation and the requirement to reside in probation approved premises.

In our experience, probation approved premises are poorly supervised and do not meet the support needs of our client base. Many young adults report struggling to manage their finances, prioritise appointments and feeling intimidated or otherwise negatively affected by the environment, especially being around older 'hardened criminals'.

Simon, aged 19 years, contacted us when he was recalled to custody. Before his recall he was in probation approved premises. He described feeling very depressed because all those around him were older people trapped in a cycle of drug use and crime. He tried to make a fresh start and move on with his life. His 7pm to 7am curfew meant that he was forced to spend all evening with others in the hostel. Despite the fact that Simon could have access to supported accommodation through social services, the probation service insisted on Simon staying in probation approved premises. Simon was referred by the Howard League for Penal Reform legal team to solicitors who helped him move away from the hostel and make a fresh start

Our concerns are corroborated by independent research. The Youth Justice Board (2010) commissioned an audit of accommodation provision for children and young people. The report found that the most common barrier (95%) to seeking suitable accommodation was the lack of availability or supply of accommodation, particularly

specialist accommodation and support for children and young people at high risk of offending.

These barriers appear to continue into early adulthood. Fewer than half of young adults surveyed by HM Chief Inspector of Prisons for England and Wales (2007) said that they knew where to get help to find accommodation, drug treatment, or continuing education when they left prison.

Recall and parole

In most cases following a prison sentence and after release to the community the released person will spend a period on 'licence' with specified conditions imposed by the probation service, youth offending team, or the Parole Board. They are liable to be 'recalled' back to prison if they breach the licence conditions or reoffend.

It is not only lifers who have to apply to the parole board for re-release, but the majority of sentenced prisoners. There are guidelines on the procedure and steps for all parties concerned.

Young adults who are recalled find the experience shocking and draconian, exacerbated by a lack of information and understanding about the process.

Recall

43% of access calls raised concerns about the lack of information regarding the recall procedure, the next steps and reason for recall.

36% of access calls about recall raised concern about the quality of their legal advice and representation relating to their recall to prison.

21% of access calls concerned the suitability of placement in approved premises.

15% of access calls related to the lack of information or misunderstanding about licence conditions.

David, aged 24 years, was deaf and had a difficult time in custody. David had limited access to a signer or adjustments to ensure he could access the prison regime. On release there was no interpreter provided to explain his licence conditions; although he was given his licence conditions it was indicated that they were not important, so he did not understand their importance. David's mother was able to sign and waited outside prison on his release date. No-one explained the licence to her either. David failed to attend his first appointment with his probation officer and was recalled to custody. David was (wrongly) told he had to serve the rest of his sentence in custody and was not informed about his right to apply for re-release. The Howard League for Penal Reform referred his case to an external solicitor to ensure he was properly represented.

We receive many calls on behalf of young people who can be released only at the direction of the parole board in the first place due to the length of their sentence (more than 4 years). Whilst this group of young people is not the majority of those serving a prison sentence, they are a significant part of the young adult prison

population and perhaps those with the most pressing legal needs. The parole process is complex. It brings together past work addressing offending behaviour and the future predicted risk of reoffending based upon the past and the future plans, including resettlement. This work requires written reports from prison officers, probation services external and internal to the prison and, from time to time, medical experts, the Ministry of Justice representative, and the parole board itself. Other witnesses, like relatives, social services and other figures of support for the prisoner may be relevant to this process.

The solicitor is a key player in this process, ensuring that paperwork is organised, witnesses and professionals attend hearings, resettlement plans are in place and offending behaviour work is provided and progressed.

Parole

53% of access calls indicated that young adult prisoners received no, or inadequate, legal representation.

33% of access calls raised the suitability of approved premises as an issue.

46% of the calls related to matters that impacted on the parole process including:

- delays in the transfer of cases from the youth offending services to the probation service when a person turns 18 years old;
- lack of contact by the prisoner's probation officer;
- the impact of adjudications on the parole process;
- mental health issues;
- lack of understanding of the final decision and means to challenge the decision, if any.

Treatment and conditions

The types of calls we receive about prisoners demonstrate real and genuine legal issues that prisoners have about their treatment and conditions. We rarely receive calls about 'frivolous' matters. Such calls can be dealt with quickly and at no cost to the public purse.

Nine per cent of the access calls related to issues around treatment and conditions. The calls covered a diverse range of problems though there were recurring themes:

26% of calls about treatment and conditions related to **inadequate health care** provision or failure to continue medical treatment and prescriptions. People in custody are entitled to the same quality of health care as in the community.

Sharon was a very disturbed and vulnerable 18-year-old who had been recalled to prison. She had previously been represented by the Howard League for Penal Reform's legal team and contacted us through the advice line: she had swallowed a razor blade and had asked to be taken to hospital. The prison refused to take her to hospital. The Howard League for Penal Reform's legal team represented her. We took advice from the NHS regarding best practice in these types of serious self-injury. We informed the prison that this was to take her to A&E immediately for a check-up and that failure to do so could be fatal. We threatened to issue judicial review proceedings if they failed to do this. As a result the prison then took her to a local hospital to receive medical assistance.

22% raised **mental health** issues as a problem. Singleton and others (2000) in their report on psychiatric morbidity among young offenders in England and Wales found that young adults are more likely than adults to suffer from mental health problems and are more likely to take, or try to take, their own life, than are both younger and older prisoners.

Andrew, aged 19 years, had recently been given a custodial sentence and was unlawfully placed in an adult prison while suffering Asperger's Syndrome and attention-deficit hyperactivity disorder (ADHD). We referred him to external solicitors to help him.

22% related to **lack of or inadequate regime and sentence planning**.

Adam's mother informed us that he was very hungry and looked unwell during a visit. It transpired that Alex, aged 18 years, had lost one stone and eight pounds. Further concerns were raised about under-staffing impacting on the prison's ability to provide a regime. Concerns were highlighted about racial tensions within the prison which meant that Adam could not go into the exercise yard due to fears for his safety. The Howard League for Penal Reform took on Alex's case and represented him to ensure his concerns were adequately dealt with.

22% related to **inadequate contact with family and the prisoner's distance from home**. This reflects well-documented concerns about the locality of custodial establishments being nearer prisoners' communities. Young adult prisoners were held an average of 50 miles away from their home or committal court address (Hansard (2008). Around 1,300 were held over 100 miles away. Fewer than half of the young people in surveys conducted by HM Chief Inspector of Prisons for England and Wales (2009a) said that they had two or more visits a month.

HM Chief Inspector of Prisons Annual Report (2010) commented that: 'these considerable distances from home compromises the resettlement and rehabilitation of young adults'.

19% related to **bullying**, either by prison officers or by other inmates.

Aiden contacted us about a restraint that had occurred when he was detained at HMYOI Feltham. He was restrained by three officers, during which time they broke his arm. He went to hospital and had a metal plate permanently fitted to his arm. On complaining, Aiden was informed that the injury was an 'accident'. Aiden suffered from mental health problems and was subsequently sectioned under the Mental Health Act to a medium secure hospital. The Howard League for Penal Reform ensured that he obtained legal advice about any potential remedies for the unlawful restraint.

7% related to an assault by another prisoner. YOIs and juvenile establishments have the highest assault rates of any prisons in England and Wales (Solomon 2003)

We were contacted by a relative of 21-year-old Richard, a remand prisoner with Asperger's Syndrome, ADHD, learning difficulties and a history of self-harm. He was placed on the vulnerable prisoners' wing where he was raped by an older male prisoner. Following the rape Richard became suicidal. The Howard League for Penal Reform took on his case and made representations to the governor asking for a full investigation of this serious incident. The prison refused to do this on the basis that the police had investigated it. We took Richard's case to the Prison and Probation Ombudsman (PPO). At the end of nearly one-and-a-half years of investigation, Richard's complaint was upheld. As a result of the complaint the Ministry of Justice has accepted the PPO's recommendation to change the rules and clarify that the prison has a duty to investigate serious incidents even where there is a police investigation.

15% related to self-harming or suicide attempts. Young adults account for 19% of individuals in prison who self-harm although they represent 12% of the population in custody (Ministry of Justice (2010).

Alex was vulnerable and remanded to an adult prison. As a child, he was a victim of domestic abuse and taken into the care of social services. Alex developed mental health issues and a history of self-harm and suicide attempts. He had been in and out of custody many times. In custody, Alex was beaten up and sexually abused by four other prisoners in front of officers who took no steps to intervene. Alex wanted to make a complaint to the police but his clothes had been destroyed, which prevented an investigation.

Alex seriously self-harmed in prison and there was regularly blood all over his cell.

The Howard League for Penal Reform obtained solicitors to represent Alex.

Twenty-two per cent of all the access calls were about conditions, treatment and problems experienced by prisoners at one establishment, HMYOI Aylesbury. This prison received by far the highest negative reports, with the second, HMYOI Brinsford, being at 11%.

Transfer to a different prison

Sixty-three per cent of access calls about a need to transfer to a different prison identified the ability of their family to visit as the main reason.

Jason, aged 20 years, needed to transfer prisons for two reasons. First, his family lived very far away from the prison and due to health issues they could not make the long journey to visit him. Jason had not seen his family for six months. Second, Jason had been the victim of two serious assaults, and on the second occasion he was stabbed seven times. His family found out about the attack via the media. Jason was attacked a third time suffering a stab wound that narrowly missed his spine. There were concerns that the attacks were racially motivated, for example, there was Swastika graffiti throughout the prison. The prison refused to take photographs of injuries, investigate the attacks or transfer Jason to another prison or transfer him off the wing where all three attacks had occurred. We ensured that he had legal representation to transfer and that the attacks were investigated.

In some cases, transfer was requested to deal with pressing health needs.

John had mental health problems consisting of ADHD and Asperger's Syndrome and he regularly self-harmed. John was in an adult prison that could not cope with his mental health issues and placed him on a restrictive regime locking him up for 23 hours each day. John wanted to transfer from this prison and after the Howard League for Penal Reform became involved he was transferred and the disabilities liaison officer took steps to help John.

Twenty-nine per cent of access calls concerning transfer related to the need to access offending behaviour work or other opportunities to enable successful resettlement for the prisoner.

Our legal team's experience is that the vast majority of young prisoners want to engage in education, training, or employment in custody, but the prison service fails to provide meaningful regimes targeted to their needs.

HM Inspectorate of Prisons recognised this problem in its annual report for 2008-09 (HM Chief Inspector of Prisons for England and Wales 2010):

Fewer than half the young adult establishments inspected this year were performing sufficiently well in activities, and only one, the open prison, was performing well. Young men aged between 18 and 21 years need access to activities, not only for their own development and to contribute to reducing reoffending among this high risk group, but also as an important part of dynamic security to reduce levels of violence and bullying. (p.46)

Other issues raised in relation to transfer between prisons included:

- riots and disorder in prisons making the prisoner feel unsafe;
- assaults by prison officers making the prisoner feel unsafe;
- issues around gangs controlling prisons and bullying;
- delay in a move to open conditions affecting parole and sentence progress;
- concerns about the age appropriateness of the establishment (e.g., 18-year-old prisoner in an under-18-year-old establishment);
- concerns about a proposed future transfer to a different prison;
- racism from officers in existing prison;

Criminal appeals

Requests for advice on criminal appeals accounted for around 7% of all calls. Forty-two per cent of these calls raised concerns about the adequacy of lack of advice on appeal. A disproportionately high number of these calls concerned young people from non-white backgrounds: one-third of all young people who wanted advice concerning a criminal appeal were recorded as black.

Changes to the way solicitors are paid for criminal work means that solicitors do not get paid anything extra for advising on appeal at the end of a criminal case. The Legal Services Commission (which manages funding for legal aid) has very strict rules about funding advice on appeal by a second solicitor and funding is only available to the point where the application is lodged with the Court of Appeal. Once an appeal is lodged with the Court of Appeal, funding must be sought directly from the Court.

In appeal cases, the application is initially considered by a judge on the papers. In a significant number of cases, the judge refuses the application. A person has a right to apply again at a court hearing. Legal aid is almost never granted for this and prisoners are not automatically entitled to attend the hearing in person. In these cases prisoners would have to apply to attend to represent themselves unless they can find a lawyer to act for free.

Even if permission to appeal is granted, the Court of Appeal very rarely grants funding for a solicitor acting for a young person, despite the fact that a lot of work often needs to be done to assist the young person and to prepare for the case. In certain circumstances, the Court will retrospectively grant funding, but this relies on the solicitor being able to risk undertaking the work without eventual payment. In the absence of any public funding the young person will be required to represent themselves, unless they can find a lawyer to act for free.

Other areas of unmet legal need

Analysis of our access data demonstrates unmet legal need in a wide range of areas including:

- immigration and asylum issues;
- internal and external disciplinary prison adjudications;
- treatment for mental health and transfer to psychiatric care;
- explanation of licence conditions and advice on lawfulness;
- clarification of sentence and explanation as to calculation;
- access to, and appropriateness of, education;
- advice on prison regime, including access to offending behaviour work;
- assistance with making a complaint or pursuing an unanswered complaint;
- no access to, unlawful refusal of, or no clear process for, release on temporary licence (which is likely to adversely affect successful rehabilitation).

Conclusions and recommendations

The Howard League for Penal Reform's work demonstrates the enormous financial, social and personal cost of unmet legal need for young adults in prison. It is perverse that young people remain in prison at great expense to the tax payer simply because they do not have a suitable place to live in the community.

Much of the need for legal intervention could be avoided by statutory services acting lawfully in the first place. As financial restrictions increase, this is likely to become an even greater issue and good legal intervention become all the more essential.

A joint study by the Legal Services Research Centre and Youth Access (Balmer et al. 2007) showed that young people in the community are more likely to suffer from clusters of severe problems and less likely to seek or obtain advice successfully. This report adds further evidence that access to justice is more difficult for young adult prisoners.

Our research suggests that within this group, those from BME backgrounds have a particularly high need for access to justice.

The need for good quality legal services is high but these services are under threat through changes to the legal aid system. The evidence of unmet legal need from our work and access call data show that legal aid provides a vital service in upholding the rule of law and, far from being a burden on the public purse, greatly reduces long-term social and financial cost.

Recommendations

We call on the Ministry of Justice to recognise the value of good quality legal services for young adults in prison by:

- ensuring that legal aid remains available to children and young people in custody;
- ensuring that LSOs are appointed in all prisons in line with PSO 2605 and that they receive thorough training, including in race and equality issues;
- promoting access to justice for young prisoners through public legal education
- legal services for young adults must be young-person-centred and services need to be adapted to their needs.

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