

Evidence and practice briefing: Pre-court diversion for women

Introduction

Women represent a relatively small proportion of people who commit crimes in England and Wales, and they tend to commit less-serious crimes and pose a lower risk of harm to the public than men.¹² In 2021 they accounted for only 14% of those arrested and 5% of those in prison.³

However, women who offend can also be some of the most vulnerable in society. As the 2018 Ministry of Justice Female Offender Strategy notes, "Many experience chaotic lifestyles involving substance misuse, mental health problems, homelessness, and offending behaviour – these are often the product of a life of abuse and trauma."⁴ Moreover, we know that criminalising women can make it harder for them to access routes out of the issues driving their offending, creating barriers to them finding or maintaining employment and accommodation and pushing them towards crisis.

This is why pre-court diversion, which seeks to offer a swift and meaningful response to offending while reducing or avoiding harmful criminal justice system involvement,⁵ has been recognised as crucial for this cohort. As Baroness Corston observed in her landmark review of women in the justice system, women are different from men in terms of both the factors that cause them to offend and their paths to desistence.⁶ This means that, to effectively meet women's needs – and to reduce the number of women entering the criminal justice system, which is the first priority of the Female Offender Strategy⁷ – a gender-specific approach to pre-court diversion for women is essential.

This briefing aims to support practitioners seeking to develop or improve gender-specific pre-court diversion schemes. It will:

- Lay out the policy landscape around women's diversion;
- Outline the evidence on why diversion is especially important for women, including: i) the need for a gender-specific approach given women's distinct offending patterns and needs, ii) effective practice for working with women who offend and iii) outcomes from existing schemes;
- Provide a case study of a current successful diversion scheme tailored for women; and
- Distil this into overarching best practice principles for pre-court diversion for women.

Policy landscape

A consensus has developed in England and Wales, recognising that women in the criminal justice system need a different approach. Campaigners have long highlighted the distinct nature of women's offending and the needs which drive it, highlighting that these can be best addressed in the community through support and treatment. This is no longer a fringe position, with recent governments on both sides of the political divide committing to maximising early-intervention support for women.

The catalyst for this shift can largely be traced back to Baroness Corston's seismic review of vulnerable women in the Criminal justice system in 2007.⁸ The importance of early intervention featured heavily in the report, which called for more to be done to divert women who commit low-level offences not just from court, but also from prosecution.

In 2018, the Government under Theresa May took a step towards enacting Baroness Corston's vision with the introduction of the Female Offender Strategy. The Strategy committed to reducing the number of women entering the criminal justice system and, once again, identified early intervention and diversion as essential in making custody a last resort. This was shortly followed in 2019 by the introduction of a National Concordat on Women in or at risk of contact with the Criminal Justice System,⁹ which introduced obligations to be placed on statutory and non-statutory organisations to work together to reduce the number of women who are prosecuted and receive short custodial sentences.

In 2019, Part II of the Farmer Review was published,¹⁰ which linked strong and healthy family relationships with improved rehabilitation outcomes for women. While Part I had been commissioned by the Ministry of Justice to focus on prisons, the second part emphasised the importance of early intervention and called for the routine inclusion of family and relationship work in diversion and out-of-court disposal¹¹ programmes. Lord Farmer argued that support for the high levels of trauma and abuse, disproportionality experienced by women engaging with justice agencies, often comes too late, and is needed well before they come into contact with the police.

Despite the emergence of a unified policy position agreeing on the need to reduce women's contact with the justice system, this approach has failed to materialise in practice. The inability to turn political rhetoric into action is evidenced by the fact that the proportion of women in the custodial estate has remained consistent over the last five years.¹² This trend can be understood in part by the practical limitations of the Female Offender Strategy. The National Audit Office,¹³ the Public Accounts Committee,¹⁴ and the Justice Select Committee¹⁵ have all raised concerns about the Strategy's lack of tangible objectives for measuring progress, and the funding commitments to deliver them.

The Sunak Government responded to these concerns, particularly around funding, when it published a Delivery Plan in 2023. While the plan is too recent to enable assessment of its impact, a number of positive measures were cited in the "One Year On" Progress report in 2024, such as the Intensive Supervision Court for women in Birmingham, a new Women in the Criminal Justice System Expert Group, and funding to support alternatives to short-term custody.¹⁶

The election of a new Government in the summer of 2024 saw a renewal of commitments to reduce the number of women in the justice system. The establishment of a Women's Justice Board most directly speaks to this goal. The Board brings together senior leaders in the criminal justice system, charities and government departments to reduce the number of women in prison and increase the number supported in the community. An additional indicator of this Government's commitment to this aim is evident in the Independent Sentencing Review, which is seeking evidence on whether amendments to the sentencing framework are needed to "better take into account the needs and vulnerabilities" of women, that is, to reduce female incarceration.¹⁷

The evidence around pre-court diversion for women

The importance of diversion for women

Evidence clearly demonstrates that women's offending follows different patterns to men's. Women on average commit less-serious crimes and generally pose a lower risk of harm to the public than men.¹⁸ Much of women's offending – most commonly non-violent acquisitive crime – is typically suitable for diversion, which tends to be designed with lower-level offending in mind.

Moreover, the statistics suggest that more intensive levels of justice system involvement have greater impact in terms of increasing women's reoffending than they do on men's reoffending, suggesting that diversion is especially fitting for women. While women are less likely to reoffend than men generally, the difference is particularly pronounced for women with lower levels of justice system involvement. Reoffending statistics broken down by index disposal and sex indicate that women receiving cautions, discharges and fines were a quarter less likely to reoffend than their male counterparts.¹⁹ Women who received community sentences, by contrast, were only 10% less likely to reoffend than similar men, and women who were sent to custody were actually 20% more likely to offend.²⁰

In several critical areas, criminal justice system outcomes are worse for women than men. These include, for example: self-harm in prisons, with the rate in the female estate more than eight times higher than in the male estate in the year to June 2024;²¹ reoffending rates following short custodial sentences, with 73% of women released from a custodial sentence of less than 12 months reoffending within a year, compared to 63% of men;²² and employment upon release, with 87% of women either unemployed or unavailable for work six weeks following release from custody compared to 80% of men.²³ Furthermore, women are more likely to be primary carers of children, meaning their escalating involvement in the criminal justice system can cause greater disruption to families and children. This makes the opportunity of pre-court diversion – which reduces, and in some instances altogether avoids, harmful criminal justice system contact – particularly valuable for women.

There is a long-standing recognition that women in the justice system are much more likely to demonstrate a range of needs, including around trauma, substance misuse and mental health. Crucially, successful pre-court diversion services for women are designed to respond to these needs and vulnerabilities that so often underpin women's offending. This is achieved not only through the (ideally voluntary) interventions offered as an integral part of the diversion, but also through diversion schemes' signposting function and role as a gateway to ongoing support. Positively, the new Out of Court Resolution (OOCR) framework presents an opportunity for better diversion referral routes for women, and agencies are keen to leverage this. For example, one of the NPCC's (National Police Chiefs' Council) objectives around women in the criminal justice system is to "Review the use and effectiveness of Out of Court Resolutions in responding to the particular needs of women, including attaching women-specific conditions such as referral to a Women's Centre for support to address her needs."²⁴

Pre-court diversion is also important for women as it represents an opportunity to improve their trust in the criminal justice system. Too often, contact with the criminal justice system entrenches needs and extends crises, but by offering women a route out of the issues driving their offending behaviour, pre-court diversion can help address this.

Patterns of women's offending

Evidence incontrovertibly shows that women's offending follows different patterns to those of men. The Corston Report noted that women are more likely to commit acquisitive crime and less likely to commit serious violence and criminal damage and participate in professional crime.²⁵ These patterns have held true. For example, in 2021, theft from shops accounted for 21% of all female prosecutions for indictable offences, compared to 8% for males.²⁶ In 2022, more women were sentenced to prison for theft than for criminal damage and arson, drug offences, possession of weapons, robbery, and

sexual offences combined.²⁷ The offences in which women are disproportionately represented are also telling. In 2023, women accounted for 74% of defendants prosecuted for TV licence evasion, 69% of defendants prosecuted for truancy of a child, and 54% of defendants proceeded against for benefit fraud.²⁸ As noted by Sharpe, "[women] defendants outnumber men in only a small number of crimes, all of which are related to poverty and/or women's responsibilities for their children."²⁹

Women are also less likely to reoffend than men. The latest reoffending statistics show men reoffended at a higher rate of 26.4% compared to women, who reoffended at a rate of 20.2%.³⁰ Since 2010, these rates have fluctuated between 23.9% and 33.8% for males and 18.3% to 24.4% for females.³¹ As highlighted above, this difference in reoffending is particularly pronounced for women with lower levels of justice system involvement. Similarly, women's pathways to desistence can also be different from men's. For example, Part II of the Farmer Review noted that relationships affect women's likelihood of reoffending "significantly more frequently than is the case for men", making positive relationships "utterly indispensable" to women's rehabilitation.³²

Needs of women in the criminal justice system

Mental health needs appear more prevalent in women in the criminal justice system than for men. For example, 49% of women in prison suffer from anxiety and depression, compared to 23% of men, and 46% of women in prison have attempted suicide at some point, compared to 21% of men.³³ Women also report higher levels of substance use (46% compared to 27% for men) and alcohol use issues (28% compared to 17% for men) on entry to prison.³⁴ Many women who offend have also experienced trauma: 53% of women in prison report having experienced emotional, physical, or sexual abuse as a child, compared to 27% of men,³⁵ and a similar proportion of women in the system report having been victims of domestic abuse.³⁶

Indeed, the 2021/22 HM Inspectorate of Prisons survey flagged a high level and breadth of personal need among women, with a higher proportion than men reporting mental health problems, physical disability, issues with drug and alcohol use, money worries and housing worries.³⁷

Relationships are women's most prevalent criminogenic need:³⁸ nearly half of women prisoners (48%) report having committed offences to support someone else's drug use, compared to 22% of male prisoners.³⁹ Estimates suggest two-thirds of women in prison are primary carers of a child, and 17,000 children are affected by maternal imprisonment each year.⁴⁰ The distinctive needs profile of women in the criminal justice system demands a distinctive approach.

Effective practice with women

While it is clear that diversion can be particularly valuable for women, the opportunity for diversion is not enough. Crucially, to effectively meet women's needs, a gender-specific approach to diversion for women is essential. As Baroness Corston observed in her landmark review of women in the justice system, women are different from men in terms of both the factors that cause them to offend and their paths to desistance.⁴¹ The patterns of women's offending and the needs of women in the justice system point to the necessity for a "different and distinct" approach. This approach should be informed by what we know about effective practice with women.

Although dating back a decade, the National Offender Management Service paper, *Better Outcomes for Women Offenders, remains important, underpinning, for example, the Prison & Probation Service's approach to working with women.*⁴² Drawing on wide-ranging evidence on "what works" with women to enable them to live safe, offending-free lives, as well as promoting desistance and management of the effects of domestic violence, the paper identifies seven priority targets for support and intervention. These priority targets, which are worth considering when designing diversion schemes for women, are:

• Address substance use: Stabilise and address individual need; in particular address class A drug use, binge and chronic drinking.

- Address mental health needs: Expedite access to services that address mental health needs, in particular anxiety and depression, personality disorder, post-traumatic stress disorder, and trauma.
- Build skills in emotion regulation: Help women to build skills to control impulsive behaviour and destructive emotions.
- Help women to develop and maintain a pro-social identity: Be positive towards, about, and around women, and encourage them to help and be positive towards others.
- Help women to believe in their ability to control their lives and achieve their goals: Motivate women to believe that they belong and fit in to mainstream society, where they can work to achieve their goals.
- Improve family contact: Help women to build healthy and supportive family relationships, especially with their children.
- Help women to resettle and build their social capital: Help women to find somewhere safe to live, to learn how to manage their money, access education, and improve their employability.

For each target, the paper flags approaches that evidence indicates are likely to be effective and those that are less likely to work, making it an invaluable guide when designing diversion interventions or deciding on third-sector providers. For example, to address mental health needs, the following are highlighted as likely to be effective: advocacy interventions, social support, mentoring, trauma-focused cognitive-behavioural programmes, and short-term trauma-focused counselling. On the other hand, services that simply signpost to other services are noted as less likely to be effective.

The awareness of the differing needs of women has led to the development of a range of womenspecific services. In particular, we have seen the emergence of women's community services/ women's centres. Analysis from the Ministry of Justice's Justice Data Lab indicates that individuals who received support provided by Women's Centres throughout England experienced a statistically significant reduction in reoffending of between 1 and 9%.⁴³ Research suggests that, to best meet the needs of women facing multiple disadvantages, services should be designed according to the principles underpinning women's centres.⁴⁴ These principles, outlined below, may also be relevant to designing diversion schemes for women:

- Values-driven, gender and trauma-informed approaches that recognise and respond to the high incidence of trauma in clients.
- Relationship-based support that takes a non-judgemental and respectful approach, seeking to understand women's whole lives.
- Services provided in women-only spaces.
- Holistic, tailored and multi-agency support a "one stop shop" that deals with all of a woman's needs rather than requiring her to go to many different agencies.
- Empowerment, strengths-based and co-produced work, empowering women to support each other and take an active role in the service.

Evidence of the impact of women's diversion schemes

Advance's Women's Diversion Scheme, delivered in partnership with the Metropolitan Police, published a report in 2021 demonstrating its positive impact.⁴⁵ In terms of reoffending, just 7% of the women referred with conditional cautions were re-arrested after engaging with the service for two or more appointments, with 9.8% re-arrested prior to attending any or having attended only one appointment. Furthermore, women reported improvement in all areas of need that they were supported with, as well as sustainable impact after leaving the service. Of those surveyed while

receiving support, 89% reported improved mental health and wellbeing, 100% reported feeling safer from domestic abuse and 93% reported a reduced likelihood of reoffending as a result of the support. Furthermore, of those surveyed over three months after exiting the service, 100% stated that they were less likely to reoffend, 100% felt that the support they received had a positive impact on their children and 74% were in either employment or education.

In line with what we know about the needs of women in the criminal justice system, service users reported high levels of need despite their offending being low level. Of the 160 women supported who were arrested for low-level offences – 41% being first-time offenders – and eligible for conditional cautions: 62% reported four or more needs of the nine pathways to offending; 67% reported mental health needs and 65% experienced domestic abuse and gender-based violence; and 30% reported having needs around mental health, domestic abuse and substance use. Due to this high level of need, women required longer support than expected, with 63% receiving more than the three months' support anticipated by the scheme's model, and 20% receiving six to 12 months' support.

An evaluation of New Chance, a diversion scheme for women funded by the West Midlands Police and Crime Commissioner, found it reduced reoffending rates for participants with substance use issues by more than 50%.⁴⁶

While we have had sight of other promising outcomes from local women's diversion schemes, evaluations are often not in the public domain. This may be due, for example, to low referral numbers, pauses in funding or the evaluation period being short, with reoffending data therefore unavailable.

Women's diversion case study

New Dawn New Day Diversion Scheme

New Dawn New Day focuses on early intervention and diversion, through OOCRs, which aim to not only reduce women's reoffending but to divert women from the criminal justice system. Following arrest and police referral, New Dawn New Day acts as the single point of contact for all women served with a conditional caution, domestic abuse-related community resolutions and Outcome 22s in Leicestershire.

New Dawn New Day offers practical, emotional and therapeutic support to women following their referral, including:

- Holistic assessment and planning, tailored around the individual;
- Up to six one-to-one practical and emotional support sessions, advice and advocacy;
- Supported and co-ordinated referrals for specialist services;
- Group programmes that support women to become more confident, cope better with difficult emotions, recognise and recover from past trauma and use a range of coping strategies to work through negative patterns of thought and behaviour;
- Education and support to help women move into volunteering and employment;
- · Activities to promote mental health and wellbeing;
- Peer support through facilitated women's groups and peer mentoring.

The support sessions enable the individual to complete the caution, thereby avoiding being sent to court and ending up with a criminal conviction. New Dawn New Day also works with women referred by probation services if they are serving a community order or those that have been released on licence.

Jess's story

Jess was referred to New Dawn New Day following a conditional caution for criminal damage.

Initial challenges

Jess entered the intervention following an incident involving her ex-partner. The conflict arose over co-parenting arrangements for their daughter and his introduction of a new partner. Jess took responsibility for storming into his property and retaliating after being pushed. At the outset, she struggled with:

- Co-parenting conflicts and controlling behaviour;
- Emotional instability, including rumination, rejection, and feelings of inadequacy;
- Past experiences in abusive relationships and an anxious attachment style;
- Limited coping mechanisms, occasionally relying on alcohol to manage emotions.

Interventions and development

1. Understanding healthy relationships

- **Initial focus:** Jess explored the components of healthy versus unhealthy relationships, recognising unhealthy patterns in her past with her ex. She identified how intense and destructive dynamics had negatively shaped her perceptions of relationships.
- **Progress:** Jess developed insights into her anxious attachment style and began focusing on self-validation rather than seeking it from others.

2. Emotional wellbeing and self-regulation

- **Initial focus:** Introduced techniques to manage rumination, such as limiting rumination time and using grounding exercises to stay present.
- **Progress:** Jess practised these strategies, significantly reducing her rumination and learning to process her emotions constructively. She acknowledged the importance of self-care and began incorporating relaxation techniques.

3. Co-parenting and boundaries

- Initial focus: Addressed co-parenting challenges, including her ex-partner's inconsistency with contact arrangements and attempts to control her. Discussed setting boundaries and managing her reactions.
- **Progress:** Jess implemented clear boundaries and handled her ex-partner's disrespect calmly, seeking support from her network instead of reacting emotionally. She started exploring mediation and alternative communication methods.

4. Substance use awareness

- Initial focus: Identified alcohol as a coping mechanism and its impact on her emotional regulation.
- **Progress:** Jess created rules to limit her alcohol consumption and replaced it with healthier coping strategies, reporting improved control over her behaviour.

5. Self-reflection and personal growth

- Initial focus: Encouraged reflective writing exercises, including letters to herself, to process grief and validate her emotions.
- **Progress:** Jess deepened her self-awareness, realising she could acknowledge and manage her emotions without suppressing them. She began challenging negative beliefs about herself and embracing her own company.

Outcomes

By the end of the intervention, Jess demonstrated significant growth:

- **Emotional stability:** Reduced rumination, managed anger, and practised healthier responses to triggers.
- **Resilience**: Built coping strategies, strengthened her boundaries, and gained confidence in handling co-parenting challenges.
- Self-awareness: Developed insights into her relationship patterns and took steps towards self-validation and self-compassion.
- Feedback to the police that Jess had completed the conditions on her caution.

Future recommendations

- Continue counselling to sustain emotional progress and address attachment patterns.
- Follow up on mediation services or explore structured co-parenting tools.
- Maintain focus on self-care practices and coping mechanisms.

Conclusion

Jess's journey reflects substantial development from emotional instability and co-parenting conflicts to improved resilience, self-awareness, and emotional regulation. She is now equipped to navigate challenges more effectively and continue her personal growth beyond the conditional caution programme.

Best practice principles for pre-court diversion for women

We have distilled some best practice principles for pre-court diversion from women from the evidence base and insights from frontline practitioners. We hope these principles prove useful in developing and improving gender-specific diversion schemes. We will look to update these principles in line with emerging evidence and lessons from schemes.

- 1. A focus on diversion from custody must not detract from the need to divert further upstream. While, as recognised in the Female Offender Strategy, custody should be a last resort for women, a focus on diversion from custody must not detract from the need to divert further upstream – from court to an OOCR, from a higher-tier OOCR to a lower one, or out of the criminal justice system altogether.
- 2. Diversion interventions for women should be integrated into support in the community. Women involved in the criminal justice system often have multiple unmet needs that will not be resolved within the scope of a light-touch diversion intervention. Rather, the intervention should be used to help women access ongoing community support. However, given the barriers that some women may face in accessing services, it is important that this goes beyond simple signposting and includes support up to the point where a client has formed a relationship with a new service. Where an area has a women's centre, the diversion scheme for women should be delivered and implemented in partnership with the centre.
- 3. Diversion interventions for women should be gender responsive. While a brief pre-court diversion intervention will not offer the same opportunities for relationship building as a women's centre can in a community sentence, it should still draw on the evidence of effective practice in working with women. This evidence points to, for example, the importance of: addressing priority needs, including around substance use, mental health and emotion regulation; relationship-based support; holistic, tailored and multi-agency support; and work that is strengths-based and co-produced.
- 4. Staff of pre-court diversion schemes for women should, where possible, include women with lived experience, and all staff should be provided with a package of specialist training. Feedback from service users suggests they are better able to relate to and engage with workers with lived experience, enabling them to fully leverage the diversion scheme's benefits. To ensure they are robust, and trauma and gender responsive, assessments and interventions should only be delivered by those who have received specialist training.
- 5. Diversion should be trauma responsive and account for the complex realities of women's recovery. Many women who offend face multiple unmet needs, which can include deep-seated trauma. It is unrealistic to expect that a single diversion intervention will lead to instant behaviour change. Recovery is complex and takes time. Women should not be automatically limited to one chance for diversion, even where they have not fully complied. For the same reasons, a pragmatic approach to breach should be adopted.
- 6. Diversion schemes should account for the needs of women from minoritised backgrounds. Access to, and engagement with, diversion schemes for women should be facilitated in a way that ensures all women, regardless of their background, who are suitable can avail themselves of its benefits. For example, as the Lammy Review highlighted, black women are more likely to be overpoliced, criminalised, and receive disproportionately harsh treatment by the criminal justice system.⁴⁷ Diversion schemes for women should help address these disparities, rather than exacerbate them.
- 7. Comprehensive information-sharing agreements should be in place between police and service providers. These should extend beyond sharing details of compliance with the police, and include, for example, service providers sharing feedback from women about their experiences of police contact and of the diversion scheme as a whole.

Conclusion

While there is a longstanding recognition that women in the CJS require a "distinct and different" approach, there remains a persistent gap between this rhetoric and the actual outcomes for women in the system. Research indicates that diversion is of particular importance to women, with, for example, more intensive levels of justice system involvement proving more likely to increase women's reoffending than men's. Evidence of women's distinct patterns of offending and needs profile highlights the necessity for a gender-specific approach to diversion. The research around effective practice in working with women, together with lessons learned from existing successful women's diversion schemes, provides a strong base to inform this gender-specific approach. Our practice case study from New Day reflects the distinctive and gender-responsive support required to divert women from the justice system, often requiring a holistic approach to reducing harm and reoffending. We drew on lessons learned from research, policy and case studies to formulate our best-practice principles for women's diversion.

It is clear that when it comes to women's involvement in the CJS, the stakes are high, making opportunities for diversion crucial. As the Female Offender Strategy Delivery Plan highlighted, "Failure to intervene early and to divert where appropriate can result in convictions, which in turn can lead to a loss of accommodation and employment, disruption to families and children and the beginning of a cycle of intergenerational offending."⁴⁸ Indeed, a focus on diversion for women is vital if the strategy's priorities – including fewer women coming into the CJS and fewer women in custody (especially on short-term sentences) – are to be fulfilled.

With this in mind, we reiterate our call that "the Government should ensure that gender-specific pre-court diversion for women is available in every police force in England and Wales"⁴⁹ and echo the Justice Committee's recommendation that "the Government set out how it will prioritise gender-specific diversionary routes as part of its plans to improve OOCDs."⁵⁰

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Thanks to:

Barrow Cadbury Trust (Charity number: 1115476) for funding the work.

About the Centre for Justice Innovation

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