



Ministry
of Justice

Review of operational policy on pregnancy, Mother and Baby Units and maternal separation

Summary report of the review of
PSI 49/2014 and operational policy
on pregnancy and women separated from
children under 2 in prison

July 2020



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Foreword

I do not underestimate how hard it must be to be pregnant in prison or to be forced to leave your children behind when given a jail sentence. Unfortunately, for many women in this situation it often comes on top of other issues in their lives – domestic abuse, drug addiction, homelessness.

They are, of course, in prison because they have committed a crime and been sentenced by an independent judge for harming others or society. But many women in custody are serving short sentences for repeat, low-level offences. That is why this Government wants to see more of them instead given community sentences that are robustly monitored and which ensure these women get treatment for their drug habits, support to find work and places to live, and sanctuary from abusive relationships so they can end this cycle of reoffending.

Through the efforts outlined in our Female Offenders Strategy two years ago, fewer women who are pregnant or who have young children should end up behind bars. But those who commit the most serious crimes need to serve a custodial term and so they will end up in prison. In these circumstances, it is vital that they and their babies receive healthcare that is as good as they would get outside of prison.

In July last year my officials set out to review the policy for prison staff caring for those in Mother and Baby Units – specialist units where female prisoners can live with their children until they are eighteen months old – and broadened its scope to ensure consistent support for pregnant prisoners and those separated from children under the age of two.

I am pleased to publish a summary of that review today and to be making further improvements to the support such women receive in prison. Great efforts are already made to ensure women have access to good healthcare and antenatal services, and have plans in place for when labour sets in. We work incredibly closely with our healthcare partners and those in local authority social service departments. Independent inspectors routinely praise the care for pregnant prisoners and those in Mother and Baby Units. With the support around them in prison, it is likely that some women receive better care than they might have in the community, away from the influence of drugs and alcohol and with a safe and stable roof over their head.

But, without doubt, there is more we can do to improve care and I heard that first hand when I met with women who had experienced pregnancy in prison as part of this review. That is why we want to make the roles of prison, Children's Services and healthcare staff better defined so no tasks slip between the cracks. We want to ensure each pregnant woman has a care plan tailored to them and that more staff receive training on how to look

after pregnant prisoners and new mothers. We also want to speed up decision-making on Mother and Baby Unit applications, introducing a process to consider them before women are sentenced so they are not separated from their babies if sent to prison.

I also think we can do more to provide reassurance to the wider public that women and their unborn or young children are receiving the best possible support. To improve transparency, we intend to publish more data on the number of pregnant women in custody and births in prison. We also propose establishing an expert advisory group which will include prisoner and ex-prisoner representatives too. This group will hold us to account, ensuring that these improvements are being made and our policies remain up-to-date with the latest midwifery and child development advice.

Since this review began, two babies have sadly died during birth in prison. Investigations into both are ongoing and, while these tragedies have rightly spurred a debate about the treatment of pregnant women in the justice system, we should not rush to judge the care their mothers received before formal conclusions are reached. I asked the Prisons and Probation Ombudsman, Sue McAllister, to lead these investigations and when she reports back we will look to incorporate her recommendations in our updated guidance.

Pregnant women and those with young children who go to jail often have had huge struggles in their lives and for many their time in prison is an opportunity to turn things around. But it is also an opportunity for the Prison Service, Government and wider society to ensure that their children get a good start in life so they do not face the same fate.

Lucy Frazer QC MP, Minister for Prisons and Probation

Chapter 1: Context

1.1 Overview

The Female Offender Strategy¹ (June 2018) set out the Government's aims and commitments to improve outcomes for women at all points of the justice system. Since that time, in partnership with the Ministry of Justice (MoJ) Female Offender Policy team, two further key policy documents have been developed and published; the Women's Policy Framework,² and the Farmer Review for Women,³ which was commissioned as part of the Female Offender Strategy.

The Female Offender Strategy makes clear the Government's ambition to see fewer women serving short sentences in custody and more being managed in the community. It recognises, however, that there will always be some whose offences merit a custodial sentence, including some pregnant women and mothers with babies and young children. It is important that appropriate care and support is provided to these women.

In July 2019, we began a fundamental review of operational policy on all pregnant women, women and children on Mother and Baby Units and women experiencing separation from children under two. Our core objective was to measure the scope and effectiveness of current policy. Our aim was to create a streamlined Policy Framework of mandatory minimum requirements for all those managing these three cohorts, and also to develop an accessible and practical supplementary guidance document that provides tools for implementation and examples of best practice. Currently sitting in Annex L of the Women's Policy Framework, this component will be brought to the fore as a standalone resource.

There are three key changes resulting from our work. First and foremost, we want to extend the scope of the policy to include all those experiencing pregnancy or separation from children up to the age of two. This seeks to ensure that identified gaps for these cohorts are addressed. To date, the needs of these individuals have been addressed only in supplementary *guidance*, with no mandatory requirements attached.

¹ Ministry of Justice, (2018), *Female Offender Strategy*. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf

² Ministry of Justice, (2018), *Women's Policy Framework*. Available online: <https://www.gov.uk/government/publications/womens-policy-framework>

³ Ministry of Justice, (2019), *Importance of strengthening female offenders' family and other relationships to prevent reoffending and reduce intergenerational crime*. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809467/farmer-review-women.PDF

Secondly, we are also committed to improving the collection and use of data to inform our care of these women. We accept the finding of the Joint Committee on Human Rights (JCHR) in their report Article 8 the right to family life: children whose mothers are in prison, that improved central data monitoring is needed in order to understand how best to care for these individuals. We now intend to collect additional data centrally, which can be used to inform policy and practice and ultimately better our understanding of how to improve the care and support that we provide. We are pleased that the Committee welcomed this review and the Government's ongoing commitment to the care of pregnant women and mothers in custody.

Lastly, our review has benefitted from a wide ranging multi-disciplinary stakeholder consultation, including input from frontline staff and across the statutory and voluntary sectors, as well as a thorough literature consultation. The review has offered an opportunity for staff, criminal justice and third sector partners and stakeholders to reflect on practice, and to update the evidence base for this important area of work. We have also given individuals with lived experience a central voice in this review process, through focus groups with current and former prisoners. We are grateful to all those who have shared their time and experiences with us. Their input will enable us to make fundamental improvements to our management of these women. Therefore, we propose the introduction of a biannual Stakeholder Forum that will inform future policy and operational development in this area, and ensure that we uphold our accountability.

Throughout the review, we have sought consultation on how best to reflect considerations for diversity and inclusion in the Policy Framework and guidance, including a focused staff survey for equalities representatives in each establishment which we are using to inform both the framework and guidance. It will be important to keep our guidance for staff under review going forwards, and we are keen to continue benefitting from stakeholders' expertise and experience.

Tragically during the course of the review, there was the death of a new born baby at HMP/YOI Bronzefield and a stillbirth at HMP/YOI Styal. These are both subject to separate ongoing investigations, including an overarching review by the Prisons and Probation Ombudsman (PPO). We will carefully consider any recommendations made by the PPO when they are received and update our policy and guidance accordingly.

The following chapters summarise the review process, outlining the key consultation findings and highlighting the most significant reforms in the new operational policies, processes and guidance.

The publication of the revised Policy Framework and supplementary Operational Guidance has been paused whilst MoJ, HMPPS, our partners and stakeholders focus on the response to the pandemic and subsequent recovery. However, we have listened carefully

to the feedback gathered during the consultation, and in the interim would like to present the key reforms we have developed in response.

Before the Policy Framework is published, our colleagues, partners and wider stakeholder group, including unions, will have a final opportunity to feedback on the structure of the package, and the more detailed operational processes to ensure we are making the changes as accessible and impactful as possible.

We will look to publish the new policy package this Autumn and provide an implementation progress report in 2021.

1.2 Current operation

Before turning to our proposals, it is important to set out the current practice in our prisons and the frameworks to deal with women, pregnancy and separation.

The women's prison population accounts for about 5% (just under 4000) of the total prison population. Pregnant women make up a small proportion of that population, which at the last self-declared snapshot at 15:00hrs on 28 October 2019 stood at 47. This represented less than 2 percent of the women's prison population. The majority of pregnant women reaching their expected delivery date during their custodial sentence will give birth in outside hospital, however the unpredictability of labour means that some will give birth in transit or in a prison setting. Births in prison settings are rare; the latest snapshot for the year 2018 stood at less than 5 women. In these instances, prisons are supported by their onsite healthcare teams or the local hospital or maternity centre.

An estimated 17,000 children⁴ are affected by maternal imprisonment each year, and we know that these children are at risk of significantly worse outcomes than children not affected by parental imprisonment. These include, amongst others, an increased risk of future offending.⁵ We know that female prisoners are more likely to be a primary carer and imprisoned mothers are more likely to be living with their children prior to custody – around 60% of women compared with about 45% of men in prison who have children. Our experience shows that those experiencing separation from a child due to imprisonment or following time on an MBU can find the experience very difficult, and this can impact on them in different ways during the rest of their sentence.

There is already much work in prisons to help support pregnant women and young mothers, both in terms of mother and baby unit provision and existing healthcare.

⁴ Crest Research, 2017

⁵ Turney, K. (2018). Adverse childhood experiences among children of incarcerated parents. *Children and Youth Services Review*, 89, 218-225.

1.2.1 Mother and Baby Units

Mother and Baby Units (MBUs) are an important function in the Women's Estate and provide a safe and nurturing environment for mothers and their babies. MBUs are designated and separate living units, which enable mothers to have their babies with them whilst in prison, if appropriate. The purpose of MBUs is to allow the mother/baby relationship to develop if it is in the child's best interests to do so, whilst safeguarding the child's welfare. Nurseries are registered and inspected by Ofsted, and they have been positively referenced in all prison inspection reports. In addition, HMPPS officials regularly visit the sites and have close working relationships with operational delivery teams, to ensure policy compliance.

There are MBUs in six of the 12 women's prisons in England at HMP/YOIs Askham Grange,⁶ Bronzefield, Eastwood Park, New Hall, Peterborough and Styal. The national operational capacity of MBUs is 64 mothers and 70 babies (to allow for twins and triplets). MBUs are a national resource, and the decision to approve a place is binding on all units.

Applications for admission to an MBU must go through an independently chaired multi-disciplinary Admissions Board, and a place must be agreed in partnership with Children's Services. All MBU application considerations should be based on whether a placement is in the best interests of the child, on a case-by-case assessment of the circumstances and individual needs, for example sentence length, alternative care arrangements, the need for support from community agencies. All MBUs operate an 18 month-upper age limit, however for the cases in which it is in the best interests of the child, there is opportunity for an extension to be granted. In the majority of cases babies do not need to stay in a unit beyond the 18-month period, and they are resettled into the community at the same time as their mother. For those with long sentences, or with children who will turn 18 months before their mother is eligible for release, Release on Temporary Licence (ROTL), including Child Resettlement Leave (CRL), should be encouraged where applicable. This ensures mothers can play a central role in their child's resettlement into the community before they are released, which is in the best interests of their baby and the secure attachment relationship. Where ROTL or CRL has not been approved, mothers can still apply for an extension to the upper-age limit.

1.2.2 Access to healthcare

In accordance with Rule 20 of the Prison Rules 1999, prisons are required to work in partnership with NHS England NHS Improvement Commissioners and the commissioned health care providers to ensure that all prisoners have access to the same quality and range of NHS services as those in the community. The Prison Rules 1999 provide that special attention shall be made to the maintenance of relationships between prisoners and their families as desirable in the best interests of both. HMPPS owes a duty to take

⁶ Due to restraints put on the service by COVID-19, the Mother and Baby Unit at HMP/YOI Askham Grange has been temporarily closed and its residents have been re-located to HMP/YOI New Hall.

reasonable care of those in prison, including children who are with their mothers in an MBU. The Department for Education has policy responsibility for the children of imprisoned parents. Both Government Departments are required to work closely in promoting the best interests of these children, in partnership with statutory partners including the NHS and Local Authority Children's Services.

Health services for prisoners are commissioned by NHS England NHS Improvement (NHSE/I). These services cover Primary Care, (GP and Nurse led services including Public Health section 7a provision within which substance misuse services sit), Secondary Mental Health Care, Dentistry, Podiatry and Ophthalmology services for people in prisons. These services are delivered under the overarching principles of equivalence which means that no person in prison should have their access to healthcare and the quality of their healthcare services compromised because they are not in the community. All commissioned healthcare providers deliver services to meet the needs of a service specification template which can be tailored to fit the patient population. The Secondary Mental Health, Primary Care and Dentistry specifications have all undergone a significant review and rewrite in the last two years in order to improve the service offers being made to this patient population.

NHS England/NHS Improvement previously found that there were some discrepancies in practice due to some elements of maternity services which sit outside of the responsibilities of Health and Justice commissioned services for serving women prisoners. For example, the unborn and born child are not the patient of Health and Justice commissioned services but of Clinical Commissioning Groups (CCGs), meaning the way in which services are currently commissioned risk creating a gap in continuity of care. This discrepancy is already being addressed as part of the NHS England /NHS Improvement Long term Plan released in January 2019. In April 2019 a scoping exercise was done in relation to current perinatal service delivery across the Women's Estate and, using the successful Pathway developed at HMP/YOI Low Newton as a template for delivery, the Perinatal Pathway will be rolled out across the Women's Estate nationally. The Pathway was shown to significantly improve parity of care and support for pregnant women by collaboratively commissioning midwifery services with feet in both the community and the secure estate and identifying the need for dedicated specialist midwife roles in mental health and substance misuse. The standing up of these services across the estate was scheduled to roll out these bespoke pathways from April 2020. This has been impacted by COVID19 however is part of a prioritisation approach for NHS England / NHS Improvement's Restore and Recovery planning.

1.2.3 Operational Guidance

The current operational guidance for prison staff on the care and management of individuals experiencing pregnancy, pregnancy outcomes, and separation from children is contained in Annex L to the HMPPS Women's Policy Framework 2018 and sets out the operational requirements pertaining to the Female Offender Strategy.

Chapter 2: Overview of the Pregnancy, Mother and Baby Units and Mothers in Prison Policy Framework

We have carefully considered the stakeholder and literature evidence gathered throughout our consultation and used this to inform policy development. The new operational policy – **Pregnancy, Mother and Baby Units and Mothers in Prison Policy Framework** – will include a list of mandatory actions which will ensure that the Policy Framework attributes accountability to all establishments across the Women’s Estate and encourages access to parity of care across all prisons and in the community. The revised framework will act as the minimum operating standards for HMPPS staff.

The Policy Framework should be read in conjunction with the **Operational Guidance on Pregnancy, Mother and Baby Units and Mothers** which expands on mandatory actions with practical implementation advice and best practice examples, as well as more accessible visual aids for specific processes.

2.1 Operational Policy Remit

We are committed to ensuring that we build best practice not just for those on Mother and Baby Units but for all female prisoners with related experiences. We are therefore looking to address the needs of 3 specific cohorts through our new operational policy and guidance:

- Pregnancy during a custodial sentence, including those experiencing unplanned pregnancy, stillbirth, miscarriage, child bereavement, or abortion.
- Mother and Baby Units – those applying and those residing on them.
- Mothers – those separated from children under 2 in the last 2 years, whether as a result of imprisonment or following time on an MBU

We also heard that, to be as effective as possible, the Guidance should be accompanied by practical implementation materials that ensure compliance and consistency in delivery across the Women’s Estate.

Pregnancy and Mother and Baby Liaison Officers

To ensure that everyone in these groups get the support they need, we propose expanding the role of MBU liaison officers to cover the extended scope of the new policy, meaning every women’s prison would be required to have a named *Pregnancy and Mother and Baby Liaison Officer*. Part of their role will be to increase awareness of the provision of MBUs and be a single point of contact in each prison who can advise on perinatal support.

In order to ensure a consistent approach to this role across the Women's Estate, we want to set out an outline of their responsibilities for Governors/Directors, so that its purpose and value is strengthened. This can be shared with all staff, so that they can draw on this expertise, where appropriate.

2.2 Training for prison staff

We believe that we can provide better quality and ongoing support for staff. Specifically, we want to provide more practical training for operational staff at all grades on basic perinatal needs. The current training package is limited to the skills and knowledge needed in MBUs specifically, and this has contributed to the concentration of skills and knowledge in MBUs, and not across the whole of the estate. The review has shown that there is a lack of awareness of MBU provision across the Estate, and there needs to be better liaison within and between establishments on how pregnant women are managed.

We want to enhance the current training package to reflect the policy changes we are making. The new package, which we plan to roll out after publication of the new Policy Framework, aims to increase knowledge across the Women's Estate of how best to care for perinatal women in custody. This would be mandatory for the proposed Pregnancy and Mother and Baby Liaison Officers and available for the wider staff network according to the need at each prison, including a requirement to undertake refresher training every two years. We are looking at making the course mandatory for specific staff members, to ensure knowledge and skills are imbedded across the Estate. Going forward, staff will be better informed to provide the support for perinatal in women in prison.

The practical elements of the training will continue to be developed in collaboration with NHS E/I service providers to address, for example, the medical and emotional experiences pregnant women might have and how to respond to these in a custodial setting. Detailed advice will also be given to staff on managing perinatal women who do not wish to engage with perinatal support services.

Following publication of the new Policy Framework, we plan to hold launch and training events for both internal staff and representatives from partner agencies such as Children's Services and health service providers. Through these events, we aim to foster a sense of collective responsibility for the changes in policy, and to provide the basis for more effective partnership working. We are also looking to create a Mother and Baby Unit Virtual Tour Video for internal and external use to raise awareness and understanding of what the MBUs look like and how they function, as well as provide accessible information on the applications and appeals processes. Women will therefore have a better understanding of the MBU provision available, and increased staff awareness will help them to better support women throughout that process.

2.3 MBU Applications and appeals processes

We want to improve awareness of MBUs. During the review we learned that there was a lack of awareness of the role of MBUs across the criminal justice system – not just for prospective residents but also other agencies or organisations such as legal and court staff, Probation services, and Children’s Services. We heard during the review that some women are not accessing MBUs because they are not close enough to home, or information is not sufficiently available to them, or clear points of contact are not provided in some prisons. We are also concerned that the MBU application process can take too long – in some cases causing preventable short-term separations between children and their primary carers – and are not trauma-informed. Stakeholders told us that the membership of MBU Admissions Boards was too weighted to prison staff, and more encouragement for applicants to be supported by legal representatives or other support systems was needed.

As part of our longer-term implementation plan, we will be working with the National Court Strategy Group (NCSG) and Probation partners to establish pre-sentence admissions procedures for individuals who are likely to receive a custodial sentence and are suitable for a place on an MBU. This will speed up decisions and reduce distress to babies and their mothers caused by potential delays in the admissions process. We also propose a maximum membership to streamline attendance of Admissions Boards and that the guidance on MBU Boards requires boards to be held in person where possible so that applications and appeals processes are more accessible, and trauma informed. These changes will be supported by the changes noted above namely the revised suite of MBU literature that is more accessible; an MBU virtual tour video; a set of Frequently Asked Questions and a visual Appeals guide. We want to encourage the invitation of family members, peers and legal representatives if desired.

2.4 Separation of responsibilities and accountability between HMPPS and NHS E/I

We intend to better define the roles of different organisations, so no tasks slip through the cracks. Our review found that there was a need for greater clarity of the division of responsibilities between HMPPS and healthcare staff. Perhaps unsurprisingly, a significant amount of the feedback received on support for the cohorts is in relation to health provision, and this was shared with NHS E/I Health and Justice, as appropriate, to assist with their continued scoping of the perinatal pathway.

In summary, there were concerns that prison staff required more healthcare supervision or support when managing individuals in the perinatal cohorts outside of MBUs. In some cases, prison staff lack confidence in understanding the needs of the cohorts and how to adapt regimes appropriately to meet these needs. We heard that overall, staff needed

clarity about which agencies were responsible for each element of support for these women, including those in MBUs. The review found that HMPPS, and NHS E/I commissioned services needed to work together more closely to ensure effective coordination between prison management, healthcare processes and local authorities and to improve physical and mental health support for all cohorts of women.

As a consequence, in the new Policy Framework, we intend to publish a summary of respective responsibilities between HMPPS and NHS E/I. This will clarify for all staff where responsibility sits between each agency and enable staff to best support the women and direct them to the appropriate support service when needed.

We have now established a regular dialogue between HMPPS and health partners - the central NHS E/I Health and Justice team and the regional NHS E/I Health and Justice Commissioners responsible for funding support services for the cohorts in each prison. These services will include the new NHS E/I Perinatal Pathway, which will offer a strengthened provision of perinatal care. This regular dialogue will encourage future sharing of best practice and facilitate future policy and practice development, that will ultimately lead to better care and support for these individuals.

In the new policy, we want to provide a care plan template for each woman to have a tailored care plan. This will establish more effective and appropriate information sharing and joint accountability for prison and healthcare teams working on the ground, so women receive holistic support from all agencies. In this template, we are looking to include a recording process for joint decisions taken on prison management not currently available, such as factors to be considered when placing pregnant women in a certain wing, considering the need for increased welfare checks for those not engaging or experiencing high-risk pregnancy.

This joined-up working does not seek to supersede the discretion of Commissioners, health practitioners or individual Governors in assessing local needs and delivering services, but it will ensure alignment between the implementation of the perinatal pathway and the new operational policy and guidance, which will in turn prevent duplication and the risk of gaps.

2.5 Financial Support

The introduction of Universal Credit removed the entitlement of individuals with babies on MBUs to Child Tax Credits, which made up a substantial portion of their weekly income. Steps are being taken by HMPPS to ensure that babies on MBUs are not disadvantaged in comparison with their counterparts in the community.

Going forward, support for individuals no longer in receipt of benefits, and those who are experiencing financial hardship, will be provided on a discrete case by case basis via

prison budgets, to meet the basic needs of their babies as appropriate. Detailed advice for staff will be provided on this in the operational guidance adjoining the Policy Framework.

2.6 Data monitoring and publication

We fully acknowledge the importance of data for both transparency and informing policy. Currently, MBU data is published annually in the [MoJ Annual Digest](#). Publications include data on the number of applications received (including those approved and rejected), the number of women and babies residing on the units, and a breakdown of protected characteristics. All prisons in the Women's Estate collect data on pregnancy, however the processes for doing so are inconsistent, due to the variation in perinatal and family support structures in each establishment, and the information is not routinely collated centrally.

There is consensus across literature and stakeholder consultation on this point, too. On MBUs specifically, a review of information requests over recent years and stakeholder feedback on MBUs demonstrates a need for greater clarity in what is currently published on non-admissions decisions and appeals rates. The feedback via national publications such as the JCHR report on the Right to family life and the Royal College of Midwives' Position Statement consistently refer to the need for published datasets on births and pregnancy, as a minimum.

The revised policy and guidance will, therefore, be accompanied by publication of a wider range of data in the MoJ Annual Digest. This will meet the need for greater transparency that stakeholders have called for, and that we agree is necessary to demonstrate an understanding of our prison demographic, and therefore the scale and type of support they might require.

For the first time, we plan to extend published national data to include a quarterly snapshot of the pregnant population and the annual number of births taking place during women's sentences. We also plan to extend data we already publish on MBU residents to include reasons for refusal of admission and the outcome of appeals against decisions on admission; child resettlements; and upper-age limit extension cases. This additional data will provide context on the 'journey' of some of the applications that are received. The new datasets will address the most frequent information requests from parliament, the public and the national publications reviewed during our consultation. Subsets of this data, such as pregnancy outcomes, will not be published by HMPPS as this is confidential health information.

Centralised data collection on the dependants of primary carers was outside the scope of this review, however we acknowledge that greater access to this data is necessary for future policy and practice development of supportive provisions for primary carers in prison. We are looking into how to improve this as part of our wider commitment to improving family ties for mothers in custody.

2.7 Stakeholder Forum

We recognise that our work with the cohorts we have identified crosses departments and involves a wide range of organisations. This has not assisted in ensuring a consistent and joined up approach to the treatment of pregnant women and mothers across the prison estate. Joint working between HMPPS, NHS E/I and Children's Services is viewed as the key to improving support. Stakeholders and staff needed further guidance to ensure they were managing effective relationships with other agencies. It is suggested that prison staff are often not equipped to understand sufficiently the needs of the cohorts, and that practice should be more informed by evidence, experts and those with lived experience. Stakeholders feel it would be positive to enable reflective practice and the sharing of best practice. A range of stakeholders also emphasise the importance of involving individuals with lived experience in policy development in the longer term, to ensure practice is informed.

Stakeholder Forum on Pregnancy, Mother and Baby Units and Mothers in Prison

To address these issues, we propose the introduction of a bi-annual National Advisory Forum on Pregnancy, Mother and Baby Units, and Mothers in Prison for stakeholders in all disciplines, including current and ex-residents. This will bring together key stakeholders and individuals with lived experience, to consider and advise on changing dynamics, learning and opportunities for improvement and drive progress on addressing these. This new forum will ensure a culture of reflective practice and informed policy development, with regular opportunities for feedback.

Looking beyond the progress we have made as a result of this review, we acknowledge that the revisions we are delivering will require monitoring and ongoing development to ensure our approach to these cohorts continues to be improved in the future. We see the introduction of our National Advisory Forum as the main vehicle for identifying any gaps or obstacles to implementation of the new policy, but also future strategic priorities. This will provide ongoing opportunities to draw on the wide range of expertise available and ensure that we are continually held to account for the care of these cohorts.

Wider stakeholder engagement

We have developed a comprehensive Communications and Information Strategy that raises awareness and supports implementation of the policy. This will comprise a set of accessible communication tools that seek to raise the profile of the cohorts and their needs with stakeholders. These tools, tailored for use both internally and externally, will continue to raise awareness of the new policy after its publication, educate prison staff and external stakeholders on MBU provision and the admission and appeals process, and provide an opportunity for best practice to be shared and recognised across the Women's Estate. A summary of the strategy can be found at **Annex C**.

To improve the timeliness and quality of reports from Children's Services, we are exploring an agreement with Children's Services that reflects our joint commitments. This will set out respective responsibilities for prisons and for Local Authority Children's Services in order to clarify lines of accountability and ownership, which we hope will improve the experience of the admissions and appeals processes for the women.

2.8 Feedback on MBU provision and age limit

There were two areas we looked at where feedback was mixed. This was in the areas of location of MBUs and the age limit. We have considered both of these issues very carefully.

2.8.1 MBU provision

Overall provision

Stakeholders endorsed the Female Offender Strategy's key principle that prison should be a last resort for pregnant women or women with young children and agree that the system should be diverting perinatal women away from custody where appropriate. The provision of MBUs must ensure babies are given opportunities that reduce the chance of further disadvantage resulting from their mother's imprisonment, and the remit of the policy must uphold the best interest of the babies. All stakeholders agreed, however, that if a custodial sentence is necessary and proportionate, MBUs provide a very important and meaningful role in promoting the best interests of babies for whom the opportunity to develop and/or maintain a secure attachment relationship with their mother is vital. We consider the feedback generated on existence and remit of MBUs validates their fundamental principle and that provision should continue to be available.

Admission to an MBU is based on the best interests of the child, which includes taking into account the length of the sentence of the mother and whether this will necessitate separation of mother and child. In the new policy, we intend to provide greater clarity on the specific considerations that MBU Boards should consider when considering applicants with long sentences and encourage utilisation of home leave such as ROTL to allow mothers to play a central role where possible in their child's resettlement.

Location of MBUs

The location of MBUs is outside the scope of this policy review as it does not relate directly to the management of these cohorts. We acknowledge that, because there are only six Mother and Baby Units in England (and none in Wales), the current locations of these units mean that individuals may be held a significant distance from their home area and families.

Some stakeholders felt that MBUs should be available in all prisons as current distribution means MBUs are too far from home for some individuals. In some cases, the decision to apply for a place on an MBU means a choice between proximity to children in the community or parental responsibility for their child on an MBU. However, there were mixed

views on increasing capacity in MBUs as some suggested it might inadvertently increase the number of pregnant women and new mothers given custodial sentences. There would also be significant cost implications and less opportunity for economies of scale.

We will ensure that stakeholder feedback and our practice experience feature in future estate configuration work, and recognise that the provision of a unit is particularly needed in the central area of England. We are working with NHS E/I and Children's Services to ensure greater parity with community support services.

2.8.2 MBU Upper Age Limit

Stakeholder's views on the appropriate upper age limit of babies living in MBUs vary and reflects the range of conclusions reached in the literature review. Neither find a definitive consensus on a specific age. Many of our stakeholders feel decisions need to be made on an individual basis, taking into account the specific factors and circumstances surrounding individual cases. The existing application process includes the opportunity to apply for an extension to the 18-month limit when in the best interest of the child. However, some stakeholders felt that individuals on short sentences, for example, were reluctant to apply for a place particularly if their child was nearing the 18-month stage. Some prison staff were supportive of the current upper age limit and the flexibility it provides for the rare cases in which sentences exceed the 18-month limit, with others calling on HMPPS to endorse the two-year limit in the 1001 Critical Days Manifesto.⁷

Our own data analysis shows that the vast majority of children in MBUs are resettled with their mothers; during the year 2018–19 less than 5 separations took place for women who had been in an MBU (not counting those who did not apply for a place on an MBU due to the age limit in place). However, we acknowledge that these separations are incredibly difficult for both mothers and children and that the emphasis for operational staff should be support for individuals for whom a separation might be appropriate, for any reason. This is whether it is necessary due to the age limit, an individual's choice, Children's Services interventions, or following the removal of an individual from the unit due to behaviour that risks the welfare of others. In response to these concerns, we plan to extend the policy remit to set out requirements that Governors/Directors should implement to support women experiencing separation following time on an MBU, or indeed as a result of a sentence. This is in recognition of the additional challenges this group might experience and should be considered in their custodial care. For example, an appropriate period of time off work, education, and risk reduction work, and the ability to continue breastfeeding where appropriate.

Given the range of views held by stakeholders, and without strong conclusive evidence for it to be changed, we propose that we maintain the 18-month upper age limit, with the opportunity to extend the limit in cases where it is considered to be in the best interests of

⁷ 1001 Days Manifesto

children already on the unit or being considered for the unit. In situations where babies are due to be resettled before their mother is released, we intend to encourage greater use of ROTL and other home leave provision which is already available for eligible individuals, so that they are able to play a central role in their children's resettlement into the community. The MoJ's extension of Child Resettlement Leave (CRL) to primary carers in addition to sole carers in May 2019 will further increase the ability of women to play a role in their child's resettlement where this is required before they are released. Home leave provision will enable individuals to play a central role in new care arrangements, nursery placements, and in securing other practical arrangements as required.

Decision Panel

We propose that all MBU residents or incoming applicants can continue to apply for an extension to the upper age limit. Guidance on applying for these extensions will be made more prominent to ensure greater clarity on accessibility. Applications will be considered on a case-by-case basis, and we plan to strengthen the process by the introduction of a new central multidisciplinary Decision Panel, consisting of policy, Children's Services and Health Visiting experts to ensure that the individual needs of children and their best interests are at the forefront in every case. To ensure this process is more accessible, we want to provide new guidance materials on the extension process in our supplementary guidance for women and staff, that mitigate some of the misconceptions that came to light through the consultation.

Chapter 3: Stakeholder Consultation

3.1 Consultation Overview

The scale of this review provided the opportunity to engage with many interested parties. The consultation process was comprised of both routine consultation with a group of experts and wider consultation with prison and probation colleagues, Children's Services, The Children's Commissioner, professionals in the healthcare field, policy experts across HMPPS and MoJ, women with lived experience and third sector organisations.

Governance for the review process and the monitoring of key strategic developments were agreed through a central MBU Review Board. The Board was comprised of MoJ and HMPPS policy officials and prison Governor representatives. The feedback from the workshops was collated and analysed by the HMPPS Women's Team. A full list of the stakeholders consulted can be found in **Annex B**.

3.2 Consultation Structure

3.2.1 Thematic Stakeholder Workshops

We undertook a roadshow series of informal thematic workshops between October and December 2019, with internal and external multidisciplinary stakeholders. This was to enable a collective opportunity to explore policy compliance and ideas for development. We provided thematic papers setting out current policy positions and key considerations to focus on solutions. We invited stakeholders as appropriate – dependent on themes discussed but at all grades. To ensure maximum accessibility for contributors we allowed written or verbal feedback opportunities in advance of workshops, and we delivered sessions in a spread of geographical locations across the country. Locations included HMP/YOI Askham Grange, to enable stakeholders not familiar with the MBU environment (or prison environment in some cases) the opportunity to visit one themselves and meet the staff on the frontline.

Workshops were structured using specific thematic strands:

- Extending the operational policy remit
- MBU Existence and Remit
- MBU Locations
- MBU Upper Age Limit
- Data Monitoring
- Pre-Sentence and Post-Sentence MBU Admissions, Extensions and Separations Processes
- Central Review Process for MBU Decisions
- Independent Chair Employment

- Improving Stakeholder Relations
- Gaps in Operational Guidance

3.2.2 Focused Consultation Meetings

To supplement the wide-ranging thematic workshop discussions, we provided more focused opportunities to explore elements of the policy in more operational detail. These meetings included one-to-one sessions with academics on the evidence base and key research findings, discussions with the Department for Work and Pensions (DWP) on the impact of Universal Credit for MBU residents, and presentations to NHS E/I Commissioners.

3.2.3 Women's Estate Senior Operational Meetings (WESOM)

We attended two WESOM meetings attended by all Women's Estate Governors, the Prison Group Director for the Women's Estate and his team. We opened this strand of consultation in October 2019 with a presentation and verbal opportunity to feedback on the scope of the review and key themes. We followed up with a comprehensive consultation paper posing specific questions for consideration. Finally, we concluded the consultation at a further WESOM meeting, at which we put forward a final set of policy proposals for Governors to confirm.

3.2.4 Resident and Ex Resident Focus Groups

Giving women with lived experience a prominent voice within the review was a priority. Further to the feedback staff provided on behalf of residents, we engaged current and ex residents directly, in voluntary and informal focus groups at their prisons or on the phone. We spoke to a diverse range of women with different experiences in the various cohorts, including different sentence types offences, those on remand, Foreign Nationals and mothers reintegrating into main population following time on an MBU. It was valuable to gather 'live' reflections and those made retrospectively following release, as a way of observing the impact of prison support systems in both the short and long term.

3.2.5 Staff Diversity and Inclusion Survey

Diversity and inclusion were addressed throughout the consultation. We established a mechanism for staff to feedback on any obstacles they had observed for groups with different protected characteristics. We did this via a survey, which we disseminated to operational equalities representatives in the prison estate.

3.2.6 Ministerial Roundtable with Women with Lived Experience

A roundtable event for women with lived experience was hosted by Minister Frazer. This was organised with Birth Companions, a third sector organisation that supports women in some of our prisons. The lived experience team had previously spent time in prison and were trained peer mentors volunteering in prisons since their release, thus bringing a unique perspective that added another distinct dimension to the feedback gathered.

3.3 Literature Review

As part of the review process, we consulted a range of academic research and publications that evaluated and made recommendations for the management and support of perinatal women and their children. For literature directly relating to current provision, we conducted focused one-to-one discussion with authors. A summary of the works consulted can be found at **Annex A**.

Chapter 4: Response to COVID-19

4.1 Early Release Scheme

In response to the spread of COVID-19, HMPPS provided governors with guidance on caring for pregnant women and how to manage social distancing measures. On the 31 March the Lord Chancellor announced that some pregnant women in custody and mothers and babies living in prison Mother and Baby Units (MBUs) would be considered for early release from prison on licence, to protect them and their unborn children from coronavirus. Since the announcement, release on a special purpose licence (SPL) is being granted to eligible women on a rolling basis, once they have passed a risk assessment and once suitable accommodation and healthcare pathways have been identified.

As of 21 June 2020, 23 women have been released from custody in this first tranche of early releases. Of these, 17 women from Mother and Baby Units (MBUs) were resettled, and 6 pregnant women. 17 babies were resettled with their mothers. Women will return to custody once public health officials deem it safe, unless they are determinate sentence prisoners who have passed the automatic halfway release point.

From Friday 26 June we have been publishing weekly data on Covid-19 in HM Prison and Probation Service in England and Wales. This statistical publication will include updates on those being released early from custody and can be found on gov.uk: <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-covid-19-statistics>

4.2 Support for mothers in prison

For those not assessed as suitable for early release, recent HMIP reports have praised the level of continued support available to perinatal women and all MBUs but one (HMP/YOI Askham Grange) are open and able to safely accommodate eligible women and children. Access to family contact remains a priority – eight out of the 12 women's prisons have access to in-cell telephony or 24-hour access to wing phones, and the four that do not have been issued with secure handsets to contact with their families and significant others, and support services they might need at this time. In addition, video call technology has been rolled out across the women's estate. In the longer term we hope the new package will result in meaningful improvement in support for the cohorts.

Annexes

Annex A: Consulted Works

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Annex B: List of Stakeholders

Mother and Baby Unit Core Review Board

Claire Wiggins, NPS Deputy Director, Women's Team, HMPPS

Ingrid Wheeler, Head of the Women's Team, HMPPS

Tallulah Frankland, Senior Prisons Lead for Mothers and Babies, HMPPS

Maria Pinnock, Mother and Baby Unit Policy Officer, HMPPS (Secretariat)

Nicola Welsh, Families Lead, Office of Director of the Women's Estate, HMPS

Jane Trigg, Health and Drug Strategy Lead, Office of the Director for the Women's Estate, HMPS

Shena Clarke, Female, Older and Transgender Offender Policy, Vulnerable Offender Team

Policy, Communications and Analysis Group, MOJ

Izzy Goodman, Female, Older and Transgender Offender Policy, Vulnerable Offender Team

Policy, Communications and Analysis Group, MOJ

Suzy Dymond-White, Governor of HMP/YOI Eastwood Park, HMPPS

Carlene Dixon, Governor of HMP/YOI Send, HMPPS

Jessica Fairbairn, Head of Prison Equality, HMPPS

HMPPS Prison Staff

Suzy Dymond-White, Governor of HMP/YOI Eastwood Park

Carlene Dixon, Governor of HMP/YOI Send

Natasha Wilson, Governor of HMP/YOIs Downview and East Sutton Park

Danny Khan, Governor of HMP/YOI Styal

Andrea Black, Governor of HMP/YOI Foston Hall

Carl Hardwick, Governor of HMP/YOI Drake Hall

Gabrielle Lee/Rob Young, Governor of HMP/YOI Low Newton

Julia Spence, Governor of HMP/YOIs New Hall and Askham Grange

Damian Evans, Director of HMP/YOI Peterborough

Vicky Robinson, Director of HMP/YOI Bronzefield

Prison Equality representatives

MBU Governors/Managers

MBU staff

Central HMPPS Staff

Steve Bradford, Director of the Women's Estate, HMPPS

The Office of the Director for the Women's Estate

Diversity and Inclusion

Family Services

Central MoJ Teams

Prison and Probation Analytical Services

Reducing Reoffending Team

Probation

NPS representatives

CRCs representatives

MBU Independent Chairs

Karen Rogers, Independent Chair

Ian Milner, Independent Chair

John Wreford, Independent Chair

Alan Adamson, Independent Chair

Third Sector

Birth Companions

Born Inside

Hibiscus

Barnardo's

Family Action

Action for Children

The British Pregnancy Advisory Service (BPAS)

Prisoner Advice and Care Trust (PACT)

Academics

Dr Claire Powell, Research Fellow, Children's Policy Research Unit (CPRU), Population, Policy and Practice Programme, UCL Great Ormond Street Institute of Child Health

Dr Laura Abbott FRCM DHRes SFHEA, Senior Lecturer in Midwifery, Department of Allied Health and Midwifery, University of Hertfordshire

Dr Rachel Dolan, University of Manchester

Health – NHSE/I

Christine Kelly, Head of Adult Residential Secure and Detained Estate Team, NHSE/I
Regional Health and Justice Commissioners, NHSE/I

Sharon Fernandez, National Clinical Lead for Perinatal Mental Health, National Health Service Wales, NHS Wales

Claire Matthews, Deputy Head of Maternity, Clinical Safeguarding Lead Maternity / Domestic Abuse & Violence, NHSE/I

Claire Mee RM, Specialist Midwife for HMPPS Safeguarding Children, Manchester University NHS Foundation Trust, HMP/YOI Styal, NHSE/I

Andrea Bracewell, Specialist Midwife for HMPPS (County Durham & Darlington NHS Foundation Trust), HMP/YOI Low Newton, NHSE/I

Claire Weston, Head of Health and Justice (East of England), NHSE/I
Regional Health and Justice Commissioners

Amanda Jones, Practice Teacher, Health Visiting
Prison General Practitioners

Children's Services

The Association of Directors of Children's Services

Cheshire East Safeguarding Children's Partnership

Cheshire East Council

Children's Locality Safeguarding Service – Wakefield City/Osset Clusters, Wakefield Council

Families

HMPPS Family Services

PACT representatives

Other Government Departments

The Department for Work and Pensions (DWP)

The Department for Education

Youth Custody Service (YCS)

The Children's Commissioner for England

Government Legal Department

Women with lived experience

Current and past MBU residents

Individuals who have been pregnant or given birth during their sentence

Individuals who have been separated from children during their imprisonment

Individuals who have experienced miscarriage, stillbirth, or infant death during their sentence

Individuals who have or are looking to access termination support during their sentence

Individuals who have experienced pregnancy crisis during their sentence

Additional stakeholders we will be including in the written phase

Magistrates Association

Government Legal Department (GLD)

Prison Officers Association (POA)

Prison Governors Association (PGA)

National Association of Prison Officers (NAPO)

NTUS

GMB

UNISON

Her Majesty's Prison Inspectorate (HMIP)

Independent Monitoring Board (IMB)

Prison and Probation Ombudsman (PPO)

Annex C: Communication and Information Strategy 2020–21

Item	Description
1. Mother and Baby Unit Information Leaflet Suite	A suite of concise, accessible and high-quality information guides that include adapted and streamlined versions for external stakeholders in probation, Children’s Services, Adult Social Care, and NHSE/I, that aim to raises awareness and educate stakeholders
2. Mother and Baby Unit Newsletter	An informative, practical resource that enables information, knowledge and best practice amongst MBUs, and for non-MBU prison Pregnancy Liaison Officers.
3. Support to Mothers Intranet Page	To develop an accessible intranet page for internal staff, that houses all MBU and perinatal policy resources, including admissions forms and MBU map
4. Mother and Baby Unit Virtual Tour Video	A dynamic virtual video that demonstrates the environment provided for mothers and babies in prison MBUs, that can be used to raise awareness and educate internal and external stakeholders in probation and Children’s Services in particular. This will incorporate interviews with a prison Governor, a perinatal expert, a third sector Mother and Baby Unit nursery provider, a social worker, and a service user. Initially it will be used as an internal training tool, thereafter it will be used for external audiences we want to engage with.
5. MBU Policy Framework and Guidance Launch and Training Events	A series of engagement events that serve to launch the new Policy Framework and Guidance, and deliver implementation training to a range of internal and external stakeholders.
6. MBU Prison Radio Advert Campaign	A quality radio campaign for the women’s estate, that informs residents at all prisons of the remit of MBUs and the process for applying
7. Bi Annual Advisory Forum on Management and Support for Mothers in Custody	A routine forum in which stakeholders and service users can inform practice, respond to trends or changing dynamics, and monitor the evidence base.



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