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# Evaluability Assessment for the Wales Women's Justice and Youth Justice Blueprints: Statistical Mapping

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Views expressed in this report are those of the researcher and not necessarily those of the Welsh Government

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## Glossary

Acronym/Key word	Definition
ACEs	Adverse Childhood Experiences
ALN	Additional Learning Needs (replacing SEN)
CCE	Child Criminal Exploitation
CJO	Criminal Justice Organisations
CJS	Criminal Justice System
CMS	Contact Management System
CRC	Community Rehabilitation Company
CRL	Childcare Resettlement Leave
CSE	Child Sexual Exploitation
ECM	Enhanced Case Management
ETE	Education, Training, and Employment
FTE	First Time Entrant
HMCTS	Her Majesty's Courts and Tribunal Service
HMPPS	Her Majesty's <sup>1</sup> Prison and Probation Service
IOM	Integrated Offender Management
LCJB	Local Crime and Justice Board
MAPPA	Multi-Agency Public Protection Arrangements
MBU	Mother and Baby Unit
MoJ	Ministry of Justice
NPS	National Probation Service
ONS	Office for National Statistics
PLASC	Pupil Level Annual School Census
SCH	Secure Children's Home
SEN	Special Educational Needs (replaced by ALN)
SMDS	Substance Misuse Dataset

<sup>1</sup> When this project's fieldwork was conducted, "HMPPS" was "Her Majesty's Prison and Probation Service". HMPPS has now changed to "His Majesty's Prison and Probation Service", to reflect that King Charles is now reigning monarch.

STC	Secure Training Centre
WYJI	Welsh Youth Justice Indicator
YJAF	Youth Justice Application Framework
YJB	Youth Justice Board
YJS	Youth Justice Services (replacing YOTs)
YOI	Youth Offender Institute
YOT	Youth Offending Team (replaced by YJS)

## 1. Summary

- 1.1 In order to evaluate the impact of the Youth Justice and Women's Justice Blueprints it is necessary to have an accurate baseline against which to measure. Whilst the Blueprints and accompanying Implementation Plans reflect the different extent to which the respective systems have evolved, there are also similarities in their aspirations and overarching principles. Fundamentally, both Blueprints articulate the aims of reducing the numbers entering the criminal justice system (CJS), reducing reoffending, and addressing criminogenic need through a whole system approach. The starting point therefore has been to consider what is currently available in the public domain to enable this picture to be compiled.

### **Youth Justice**

- 1.2 Following the recommendations from the UK Statistics Authority (2010), the annual *Youth Justice Statistics* bulletin guides the user through the flows of children aged 10-17 years through the justice system in England and Wales. The themes from the Youth Justice Blueprint have been mapped against the published data from this and the associated Ministry of Justice (MoJ) publications relating to the secure estate. Since the underlying data is largely drawn from the individual Youth Justice Services (YJSs), it is possible to aggregate these to create a picture of Wales offending. However, due to low numbers in different sub-cohorts including those defined by protected characteristics, it is not always possible to drill down below the headline figures. Notably, this particularly affects the presentation of Welsh data by sex / gender for this age group.
- 1.3 The most significant information gap relates to the diversion theme with publications focusing on those who have been charged. Locally, YJSs will capture workflow information about those that they have worked with who are considered to be at risk of offending. However, it has not be possible to establish the nature and extent of this.

## Women's Justice

- 1.4 The Secretary of State is obligated to publish criminal justice statistics relating to sex. The biennial publication *Statistics on Women and the Criminal Justice System* brings together information on the representation of women (and men) among victims, suspects, defendants, and offenders within the CJS System. It also provides details of practitioners within the CJS. To do this, it draws on a range of different administrative systems. This makes compiling the picture of Welsh women's offending more challenging.
- 1.5 There are mechanisms in place to collect personal information about the offending population to enable an intersectional approach to be taken which takes into account not just sex / gender, but also one or more of age, race, religion, sexual orientation, pregnancy and maternity, and disability. Of the protected characteristics, the more commonly used presentations are by age group, although this is frequently simply to differentiate between adults and juveniles, by sex, and by ethnicity<sup>2</sup>. The exception to this is custody data, which additionally reports on religion, sexual orientation (where disclosed) and disability. The only figures around pregnancy and maternity relate to mother and baby units, although the MoJ has committed to improving its reporting.
- 1.6 The phase of the CJS that the data relates to, and the volumes involved, influences the geographical level at which it is presented. As a result, it is possible to aggregate up to Wales by combining data published at a police force, court, probation, or local justice board area. However, custody data tends to be published by establishment. Since there are no women's prisons in Wales, this makes it difficult to establish the size of the Welsh women's prisoner population. The MoJ relies on the where the prisoner spent the night before reception to identify if the prisoner is Welsh. If this No Fixed Abode the location of the court is used. The situation is different in Youth Justice where there is a specific field within the contact

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<sup>2</sup> Race and ethnicity are both social constructs which are often erroneously used interchangeably. Whilst race is now the preferred term in Welsh Government policy documents, in the context of data collection and the presentation of statistics, the broader term 'ethnicity' continues to be used by the Ministry of Justice, Youth Justice Board and Office for National Statistics in their reporting to refer to long shared cultural experiences, religious practices, traditions, ancestry, language, dialect or national origins (for example, African-Caribbean, Indian, Irish). Further discussion is provided p25-27.



management system (CMS) for recording if the child or young person is 'local' to the YJS.

### **Minority and Priority Groups**

- 1.7 The Lammy and Laming Reviews respectively highlighted that whilst children looked after and minority ethnic groups are over-represented in the CJS, these are not homogenous groups. By treating these two groups as homogenous, it masks the levels of disparity that exist. As a result of these reviews there is now a greater emphasis on presenting data around race and ethnicity and an increased awareness around the need to adopt an intersectional approach.
- 1.8 Routinely collecting data about the protected characteristics in a consistent manner allows comparisons to be made both between agencies but also across the CJS and beyond. This is particularly important where there are commissioned services and/or multi-agency approaches such as working with health, social services, or education. Two mechanisms exist for this: the use of the harmonised questions developed by the Office for National Statistics (ONS) and the Criminal Justice System Exchange Data Standards Catalogue. The latter sets out the commonly agreed set of data standards to support ICT communications between the systems used by criminal justice organisations.
- 1.9 Since date of birth is captured for identification purposes, the age of the offender is typically known or can be calculated. However, the MoJ utilises sex rather than gender, reflecting the way in which individuals are treated within the different phases of the justice system. Ethnicity, religion, sexual orientation, and disability tend to rely on self-identification. This is also the case with membership of priority groups. Whilst there are legislative and statutory obligations associated with the IOM Cymru priority groups, the effectiveness of initiatives aimed specifically at these groups is similarly dependent on the accurate and consistent recording of membership so that progress against metrics can be monitored relative to other groups.

## **Vulnerability**

- 1.10 Both Blueprints acknowledge the complexity of the needs of the offending population, identifying strategies for promoting awareness of these needs and developing appropriate, timely responses. As such, there are specific actions within the respective Implementation Plans associated with introducing commissioning evaluations of key initiatives. These will inform the evidence base especially in the context of the diversion/early intervention and prevention, and community-based themes where there are currently very few official statistics.
- 1.11 Assessments of vulnerability form part of the youth justice and women's justice assessments made by practitioners at different stages of the CJS. In the context of youth justice, the published data around needs includes a specific breakdown for Wales giving the number and proportion experiencing the concern types by age, gender, and ethnicity. More detailed information is held by individual Welsh YJSs. Probation also captures information about criminogenic needs using OASys. However, this information is not published. The experimental Liaison and Diversion data published alongside the which formed part of the release *Statistics on Women and Criminal Justice System* gives an indication of what could be possible. However, this is based on data from NHS England.
- 1.12 If the individual is to be supported as they travel through the CJS, it is important that information about their needs should flow with them. Having to repeatedly collect this information places a considerable burden on practitioners and the individual. Therefore, an appropriate balance needs to be struck between sharing information between (and within) agencies and ensuring that systems reflect how circumstances have changes over time. There are opportunities to assess the flow of information and identify where there are opportunities improve the effectiveness and timeliness of the information being shared. The starting point for this is key transition points, for example, between the police and the courts and upon release from prison. However, it is just as important to understand how effective the flow of information is between the CJS and other agencies, especially in relation to offenders with mental health and/or substance misuse needs.

## Indicators and Metrics

- 1.13 In addition to the workflow data which exists at different points in the CJS providing trends around the numbers involved and rates of reoffending, a raft of different indicators are reported on by the various agencies involved in the administration of justice. These provide a starting point for thinking about which metrics might be the most important to measure the effectiveness of the activities set out in the Youth Justice and Women's Justice Blueprints. Having identified a number of sub-cohorts and priority groups, an important part of the baselining process will be to establish the profile of these groups and getting a sense of reoffending rates by sentence and/or offence type.
- 1.14 A key challenge here is the comparatively small numbers involved, since this could mean that the reported figures, especially when presented at a local level, could fall to a level where they would be subject to statistical suppression. Converting small numbers into rates can also be problematic over time since month on month (or even annual) trends can be highly variable. Lammy has advocated the use of the relative rate index to make comparisons of the relative difference in rates between two fixed populations. Whilst he did this in the context of considering the experiences of racially and ethnically diverse groups, this approach can also be applied when comparing any minority or priority groups to the 'majority'.
- 1.15 Given the emphasis on a whole system approach, there are also opportunities to adapt existing metrics from other policy areas. For example, until recently there was a Welsh Youth Justice Indicator (WYJI) which relates to young people accessing timely support for their substance misuse issues<sup>3</sup>. However, this did not reflect the 'success' of this support. There is, however, a public health performance measure which could be adapted to do this. A similar WYJI existed in relation to referrals for mental health support. There is scope for these measures to be adapted for the women's offending population and/or for these to be used as a template for other forms of intervention.

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<sup>3</sup> A review of indicators used in the youth justice system is currently underway, led by the Youth Justice Board

## **Opportunities**

- 1.16 Data from the Census 2021 will be available from March 2023 providing an opportunity to establish the extent to which different groups are under-/over-represented at different points in the CJS. In addition to questions being asked about the protected characteristics, enabling an intersectional approach to be adopted, questions were also asked about use of the Welsh language and for the first time, if the individual is ex-armed forces. Having detailed data at a local level will help in the targeting of resources.
- 1.17 Considerable strides are also being made in relation to the linkage of routinely collected data including data from the CJS. Two developments provide opportunities to enhance the evidence base using anonymised data linked to health, education, social services, housing, and potentially, benefits data. The first of these is the MoJ-DfE data. However, this is England only. The second is Data First. Funded by ADR-UK, Data First is currently a three-year project running until March 2022, with plans to share different criminal, civil and family justice datasets throughout its duration. There are plans to bring the Data First data into SAIL to enable it to be linked to Welsh data.
- 1.18 Data is collected to enable a picture of the Welsh youth and CJS to be formed. However, there is more that could be done to put pressure on MoJ to present this in a way which makes it possible to drill down to gather the information required to baseline the two Blueprints. Utilising locally collected data, especially around diversion/early intervention and prevention, and community-based solutions, could help to fill some of the evidence gaps. However, this will require issues around data governance, data security, and oversight to be resolved.

## 2. Youth Justice Data

- 2.1 Following the recommendations from the UK Statistics Authority (2010), the annual Youth Justice Statistics bulletin guides the user through the flows of children aged 10-17 years through the justice system in England and Wales. Separate statistics are also produced about the numbers in the secure estate.
- 2.2 The Youth Justice Board (YJB) is responsible for publishing the *Youth Justice statistics* and experimental statistics, such as *Assessing the needs of sentenced children in the Youth Justice System*. Much of the data in reported in these publications comes from data submitted to the YJB by the 154 Youth Justice Services (YJSs) in England and Wales. However, data is also provided by the Home Office, the Ministry of Justice (MoJ), the Youth Custody Service and youth secure estate providers. Youth Custody Service is responsible for producing statistics relating to the numbers and safety of those in the secure estate.
- 2.3 Data about children and young people in the youth justice system is also available in a number of Home Office and MoJ publications including:
- Police Powers and Procedures (Home Office)
  - Criminal Justice Statistics (MoJ)
  - Offender Management Statistics (MoJ)
  - Proven Reoffending Statistics (MoJ)
  - HMPPS Equality Statistics (MoJ).

Since these ‘parent’ publications span the whole of the CJS, these are considered in the chapter on women’s offending.

### **The Availability of Published Data on Youth Justice in Wales**

- 2.4 Tables 2.1 and 2.2 summarise how the themes from the Youth Justice Blueprint map across to the various chapters in the annual report on *Youth Justice Statistics* (Ministry of Justice & Youth Justice Board, 2022) and the new publications providing data on youth custody numbers (HMPPS & Youth Custody Service, 2022) and safety in the secure estate (Youth Custody Service, 2021).

- 2.5 Included within this is an indication as to whether the data is available for Wales either as a country, a former Government Office Region (GOR) or 'region' of England and Wales, or whether it is necessary to aggregate data say by police force, court, or Youth Justice Service (YJS) in order to create a national picture. As would be expected given the source of the underlying data, a high proportion of the aggregate data in the public domain is available for Wales.
- 2.6 Whilst the Monthly Youth Custody Report provides details of the custody population (including and excluding 18-year-olds) by age, gender and ethnicity, with breakdowns by type of accommodation, the legal basis for detention, offence group and distance from home, it does so only at an England and Wales level. The supplementary table allows a pivot table to be constructed to consider the breakdown in a given year by different permutations of age, gender and ethnicity. It is, however, possible to consider the size of the custody population going back to April 2015 for the headline number of Welsh children in custody (by region of YJS) and the numbers in Welsh establishments (by region of establishment). The latest figures from March 2022 suggest that there were eight Welsh children in custody (HMPPS & Youth Custody Service, 2022) although not all would be in custody in Wales.

**Table 2.1: Thematic Mapping: *Youth Justice Statistics 2020-21* compared to themes in the Youth Justice Blueprint**

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
Prevention							
Pre-court diversion	Gateway to the Youth Justice System	Stop and Search	Number and proportion of stop and searches by outcome type				Yes
		Arrests and youth cautions given to children aged 10-17	Arrests of children for notifiable offences				Yes
			Youth cautions				Yes
			Youth cautions by offence group				
	First Time Entrants (FTEs) to the Youth Justice System	FTEs to the Youth Justice System	Number of FTEs (10–17-year-olds who received their first youth caution or court sentence recorded on the Police National Computer (PNC))		Yes	Yes	Yes
			Types of offences committed by FTEs				
			Number of offences committed by FTE by offence group				
		Number and proportion of first and further caution or sentencing occasions					

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
<i>[see also Assessing the Needs of Sentenced Children]</i>	Demographic characteristics of children in the YJS	Children who received a caution or sentence	Number and proportion of children who received a caution or sentence		Yes	Yes	Yes
	Proven offences by children	Proven offences (indictable and summary) committed by children	Number of proven offences by children Number of proven offences by children by offence group and gravity score		Yes	Yes	Yes
		Trends in cautioning and sentencing of children for knife and offensive weapon offences	Knife and offensive weapon offences committed by children Disposals given for knife and offensive weapon offences				
	Sentencing of children	Children proceeded against and sentenced after being found guilty of proven offences	Children proceeded against	Children proceeded against			
Sentence Type							Yes
Court type							
Children sentenced by offence type							



Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
Custody  <i>[see also the Youth Custody Data and the Safety in the Children and Young People Secure Estate statistics]</i>	Proven offences by children	<i>See above re knife and offensive weapons offences</i>	Disposals given for knife and offensive weapon offences				
	Sentencing of children	<i>See above</i>	Average custodial sentence length				
	Use of remand for children	Use of remand and characteristics of the custodial remand population	Types of remand given		Yes	Yes	Yes
			Average monthly population of children on remand				
			Outcomes following remand (non-custodial / immediate custody / acquittal / not guilty)				Yes
	Children in youth custody	Children in youth custody	Average monthly youth custody population, by sector		Yes	Yes	Yes
		Legal basis for detention					

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
Custody continued	Children in youth custody continued		Offences resulting in children going into custody				
			Region of home YJS				
			Distance from home				
			Length of time spent in youth custody including breakdowns by legal basis for detention				Yes
			Deaths in custody				
	Behaviour management in the youth secure estate	Behaviour management and use of restraint in the secure youth estate	Number and type of behaviour management incidents				
			Use of restrictive physical intervention		Yes	Yes	Yes
			Number of injuries requiring medical treatment by severity of injury resulting from an RPI				

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
Custody continued	Behaviour management in the youth secure estate continued		Monthly rates of self-harm		Yes	Yes	Yes
			Number of Assault incidents: assailant or fighter involvements		Yes	Yes	Yes
			Separation in SCHs and STCs		Yes	Yes	Yes
			Use of force incidents Characteristics of use of force incidents (MMPR techniques) Use of force incidents involving injuries requiring medical treatment		Yes	Yes	Yes
Resettlement & Transitions							
System Oversight	Demographic characteristics of children in the youth justice system – <i>see above</i>						
	Proven offences by children	Proven offending by children entering the relevant cohort	Children in the cohort, children and young people who reoffend and reoffences				
			Reoffending rates and frequency rate		Yes	Yes	Yes

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
System Oversight continued	Proven offences by children continued		Reoffending by criminal history				
			Reoffending by index offence				
			Reoffending by index disposal				
	Criminal histories of children	Number of previous cautions and sentences of children aged 10-17	Average number of previous cautions or sentences of children cautioned or sentenced for any offence including comparisons of those with and without a criminal history, and summary compared to indictable offences				Yes
	Proven reoffending by children and young people – <i>see above</i>						

**Table 2.2: Thematic Mapping: Other Youth Justice Publications compared to themes in the Youth Justice Blueprint**

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
Community	Assessing the Needs of Sentenced Children	Number of concerns present per child assessed and number of concerns present per child assessed as a proportion of total children assessed by sentence type including a breakdown by type of concern, care status and ratings of risk	Assessed concerns as a proportion of children assessed by sentence type	Yes	Yes	Yes	Yes
			Assessed care status as a proportion of children assessed by sentence type	Yes	Yes	Yes	Yes
			Assessed Risk of Serious Harm and Safety and Wellbeing by sentence type	Yes	Yes	Yes	Yes
Custody continued	Youth Custody Report	Custody Population across the secure estate	Population including a breakdown by type of accommodation, legal basis for detention, offence group and distance from home	Yes – by region of YJS and region of establishment	Yes	Yes	Yes

Blueprint Theme	Chapter	Topics	Metrics	Welsh Specific Data?	Characteristics Recorded		
					Age	Sex	Ethnicity
			Occupancy rate	Yes - by region of establishment	No	No	No
Custody continued	Safety in the Children and Young People Secure Estate statistics	The number of assaults, self-harm incidents and deaths	Assault incidents and involvements	Yes – by establishment	Yes	Yes	Yes, along with religion
			Assaults and fights resulting injuries				
			Self-harm incidents	Yes – by establishment	Yes	Yes	Yes, along with religion

- 2.7 The second publication produced by the Youth Custody Service, *Safety in the Children and Young People Secure Estate statistics* covers assault, self-harm and deaths in the Children and Young People Secure Estate in England and Wales. This has a wider coverage than *Youth Justice Statistics* which only reports on figures in YOIs. The rationale for introducing this particular report was to provide a holistic view of safety incidents across the Children and Young People Secure Estate and to provide a more frequent and consistent measure of the level of incidents within the Children and Young People Secure Estate.
- 2.8 The data table provides a breakdown by establishment within the secure estate of the annual figures along with a separate breakdown by protected characteristic i.e., age [10-14, 15, 16, 17 and 18+], gender, race/ ethnic group, and religion. Whilst this enables the figures by establishment to be aggregated to give a sense of the picture for Welsh establishments, it does not give a figure for Welsh children. Given the comparatively small numbers across England and Wales who are part of the custody population, there would be issues around statistical disclosure should the establishment figures be broken down by geography and/or establishment.
- 2.9 As with the supplementary tables available for *Youth Justice Statistics*, whilst it may be possible to get a more detailed breakdown of the characteristics of the children and young people, it is not always possible to get this level of detail for Welsh children. This limits the extent to which it is possible to determine where there may be issues around disparity within the youth justice system. However, it does allude to what may be possible in terms of bespoke statistics for evaluation purposes especially if intended for a more restricted / internal audience.

### **The Rationale for Adopting an Intersectional Approach in Relation to Youth Justice**

- 2.10 Intersectional theory asserts that people are often disadvantaged by multiple sources of oppression: their race, class, gender identity, sexual orientation, religion, and other identity markers. Intersectionality recognises that identity markers (e.g., “female” and “black”) do not exist independently of each other, and that each informs the others. In keeping with a children’s rights-based approach, it is recommended that the metrics upon which the Youth Justice Blueprint are

evaluated include equality and diversity impact measures. As a minimum, these should reflect the protected characteristics set out in the Equalities Act 2010. In addition to age, these are sex, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation. Although it is recognised that legislation prevents for example those under the age of 18 from getting married or entering a civil partnership without parental permission whilst NHS Guidance prevents gender reassignment surgery until age 18, the need to adopt an intersectional approach has been highlighted by both the Lammy and Laming Reviews.

- 2.11 Whilst recognising that children looked after are over-represented in the youth justice system, Lord Laming (Prison Reform Trust, 2016) and the accompanying literature review (Staines, 2016) highlight that there are a number of minority groups within this cohort. Specifically, they identify the need to understand more about the experiences of looked after children from minority groups e.g., those from Black or from other minority ethnic backgrounds, and children and young people of Muslim faith; looked after girls; children with disabilities, learning difficulties and speech, language and communication needs; foreign national children including asylum seekers and those who have been trafficked.
- 2.12 Lammy (2017) looked more generally across the CJS, emphasising the diversity of the Black, Asian and minority ethnic community, including the potential to investigate differences by age, gender, and heritage, with looked after children who are Black or from other minority ethnic groups and looked after girls identified as being minority groups with particular needs. Notably, he highlighted two specific blind spots in the justice system. The first of these concerned Gypsies, Roma and Travellers, prompting the refinement of the self-defined ethnicity codes (HM Government, 2018). The second data gap concerns religion, with a rising number of Muslims in the prison system. Whilst Lammy also called for a more consistent approach to collecting data on religion, the MoJ report that this is dependent upon the Police collecting this data which is Home Office-led (Ministry of Justice, 2020d).
- 2.13 Baseline the average numbers/proportions within the Welsh youth justice population and the different cohorts within this based on their protective



characteristics will be an important step in identifying where disparity may exist at different points in the youth justice system. A similar approach should be taken with respect those who prefer to communicate in Welsh and who are members of specific cohorts by virtue of their circumstances.

### **Protected Characteristics**

#### *Age*

- 2.14 Since date of birth is typically recorded for identification purposes and to ensure that those below the age of criminal majority are handled by the youth justice system, there is scope for meaningful age groups to be formed. For example, for offender management statistics, juveniles refer to those aged 15 to 17, young adults are those aged 18 to 20, and adults are those aged 21 and over at the date of sentence.
- 2.15 The youth offending cohort is typically divided into two sub-groups: those aged 10 to 14 and those aged 15 to 17. Until its abolition in English law by section 34 Crime and Disorder Act 1998, *doli incapax* operated as a defence based on the presumption that a child under 14 years old was incapable of committing a crime. This presumption could be rebutted for children between the ages of 10 and 14 if the prosecution could satisfy the court that the child knew that what he was doing was seriously wrong, not “merely naughty or mischievous”. Age remains a determining factor when determining the type of establishment that a child or young person serves a custodial sentence.
- 2.16 Whilst the emphasis here is on youth offending, it is important to acknowledge that some of these will be girls, and hence the aims and objectives of the Women’s Justice Blueprint are also pertinent.

#### *Sex versus Gender*

- 2.17 The YJB requires that YJSs ensure that the gender of each child is recorded on their case management system (Youth Justice Board, 2021a).
- 2.18 The MoJ reports on sex rather than gender, relying upon the physiological definition. A binary male-female classification tends to be used since this is

considered to better reflect how individuals are generally reported or managed through the CJS. For example, prisons are either men's or women's institutions, with prisoners normally placed based on their legally recognised gender. However, it is acknowledged that gender is a social construct or sense of self that takes a wider range of forms. Recording practices therefore can vary and hence most recording includes a mixture of physiological and personal identity. Levels of missing or unreported sex are also typically reported.

### *Sexuality: Identity and Orientation*

#### *Sexual Orientation*

- 2.19 Sexual orientation is one of the equality strands covered by legislation. Sexual orientation is an umbrella term which encompasses several dimensions including sexual identity, attraction, and behaviour. For the purposes of the legislation, sexual orientation is not defined in terms of any specific dimension.

#### *Sexual Identity*

- 2.20 Sexual identity is one part of the umbrella concept of "sexual orientation". Sexual identity does not necessarily reflect sexual attraction or sexual behaviour – these are separate concepts which the Office for National Statistics (ONS) currently does not measure. Sexual identity estimates are based on social survey data from the Annual Population Survey (APS). The questions collect information on self-perceived sexual identity from the household population aged 16 and over in the UK and were additionally asked as part of the Census 2021. Currently no further breakdown of the category "Other" is collected.
- 2.21 There is no requirement for YJSs to record sexual identity as part of their mandatory case level data.

#### *Gender: Identity and Re-assignment*

- 2.22 Under the current NHS guidance, gender reassignment surgery is not possible until someone is 18 and has been on cross-sex hormones for at least a year, or six months for chest reduction surgery among trans men. For those under 18 experiencing gender dysmorphia, specialist psychological support is available following referral to the Gender Identity Development Service (GIDS). Due to a

recent court ruling, GIDS need to apply to the Court for permission to start puberty blockers for children and young people under the age of 16 with decisions being made on a case-by-case basis based on what is considered to be in the best interest of the young person. Different arrangements apply for those aged 16 and 17, as the law presumes that they can give informed consent.

- 2.23 It is possible for those under the age of 16 to be prescribed ‘puberty’ blockers to pause the physical changes of puberty, such as breast development or facial hair. From the age of 16, teenagers who have been on hormone blockers for at least 12 months may be given cross-sex hormones, also known as gender-affirming hormones.

#### *Ethnic Group, Religion, National Identity and Language*

- 2.24 The ONS observes that collecting data on ethnic group, religion and national identity can be complex because of the subjective and multifaceted nature of the concepts. Membership to each of the concepts is something that is self-defined and subjectively meaningful to an individual. However, these concepts are measured, in particular, ethnic group and national identity, they tend to evolve in the context of social and political attitudes or developments.
- 2.25 In terms of data collection, one of the key challenges is that many of the questions around identity have been designed for use with over 16s. As a result, guidance may be needed for the child’s parent, guardian, or carer, particularly in relation to those aged under 12. YJSs are encouraged to make every effort to accurately determine the ethnicity of all children. Where YJSs are unable to do so, they should record the ethnicity as ‘Not known’, i.e., that the answer was not given by the child. YJSs must not record the ethnicity of a child using the 18+1 categories if the child has only been asked to self-define their ethnicity at the 5+1 level. Where YJSs have determined the ethnicity of a child only at the 5+1 level, they must also record ‘Not known’.

#### *Race and Ethnicity*

- 2.26 Since ethnicity is a multifaceted and changing phenomenon, various possible ways of measuring ethnic groups are available and have been used over time. These

include country of birth, nationality, language spoken at home, skin colour (an aspect for consideration for some and not for others), national/geographical origin and religion. What seems to be generally accepted, however, is that ethnicity includes all these aspects, and others, in combination. In contrast, race is a categorisation that is based mainly on physical attributes or traits, assigning people to a specific race simply by having similar appearances or skin colour (for example, Black or White).

- 2.27 Whilst there is a requirement for the MoJ to produce statistics on *Race and the Criminal Justice System* (Ministry of Justice, 2019a), low numbers, especially in smaller geographical areas means that there is a tendency to aggregate ethnicity into headline groupings. This obscures racial disparity with Lammy (2017) emphasising that within categories such as ‘Asian’ or ‘Black’ there is considerable diversity, with some groups thriving while others struggle.
- 2.28 In seeking to identify where there is disparity at different points within the youth justice system, it is necessary to have also have an accurate picture of the composition of the general population. Estimates based on ethnicity by single year of age do exist based on the Annual Population Survey. However, the most reliable measure of ethnicity for school age children has been the Pupil Level Annual School Census ‘PLASC’<sup>4</sup> with the most recent data suggesting that 8.7 per cent of school pupils identify as an ethnic group other than white (Stats Wales, 2021a). As the school leaving age in Wales is 16, this means that estimates of the numbers aged 16 and 17 are typically based on rolling the cohort figures forward from the previous year. Data from the 2021 Census is anticipated to be released over the course of the next two years, providing more detailed breakdowns.<sup>5</sup>
- 2.29 YJSs are also required to record the self-defined ethnicity of each child on their CMS according to the 18+1 classification. The Youth Justice Application Framework

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<sup>4</sup> Typically, PLASC is collected in January each year. As a result of Covid-19, the 2020/21 collection was taken on 20<sup>th</sup> April 2021. These figures relate to over 5s in Welsh schools.

<sup>5</sup> The timetable for Census 2021 outputs released in May 2022 suggests that intersectional data around race, national identity, religion and the Welsh language will be released in 2023. [Ethnic group, nationality, language and religion analysis plans - Office for National Statistics](#)

(YJAF)<sup>6</sup> the calculates the ethnicity according to the 5+1 classification and holds this as the child's ethnic group (Youth Justice Board, 2021a).

### *Religion*

- 2.30 It is important to note that religious affiliation is defined by ONS as 'how respondents connect or identify with a religion, irrespective of whether they actively practise it'. Religious belonging can be interpreted as both loose self-identification and active or formal belonging to a religious group. This can produce problems of ambiguity as some people may respond that they have a religious affiliation but not belong to a religion.
- 2.31 In both the 2011 and 2021 Census, questions were asked about membership of the main religious groups. This question was voluntary with just over 7 per cent of the population of England and Wales opting not to answer it in 2011. As such, the figures that we have to determine the profile of the general population may not give use a true picture. The voluntary nature of the question is an important principle in taking a human rights-based approach to data collection allowing individual to choose whether to disclose their identity.
- 2.32 The YJB requires that YJSs record the religion of each child on their CMS according to the CMS drop down list. Details of the options available are not included in their specification (Youth Justice Board, 2021a). However, based on the breakdown presented in *Safety in Children and Young People in the Secure Estate*, it appears to be consistent with the main religious groups asked about in the Census with the option also not to say.

### *National Identity*

- 2.33 Whilst national identify is not identified as a protected characteristic, it is necessary to be aware of the intersection between ethnicity and national identity. As with

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<sup>6</sup> The Youth Justice Application Framework is an online platform created for YJSs and the secure estate to communicate effectively (including sharing AssetPlus, case diary entries etc) and download formal documents and templates from the YJB that are not suitable for sharing with the wider public. The YJAF replaced YJMIS in April 2015. The system also contains summary and case level data on children and young people cautioned or sentenced for an offence.

religion, this is subjective, with individuals being able to express a preference as to which country or countries, nation, or nations that they feel most affiliated to. There has been an increasing interest in “national” consciousness and many people wanting acknowledgement of their national identity. This includes identifying as Welsh rather than British.

- 2.34 Although YJSs are required to record the nationality of each child on their CMS, details of the options available to each YJS are not provided. However, in line with CMS guidance, the YJS must record the residence of the child on each legal outcome date. This is largely to differentiate between ‘local’ children who the YJS is responsible for on the legal outcome date and ‘other’ children where caretaking on behalf of another YJS is occurring. Some YJSs have the choice of naming one or more local areas in this field. This mechanism supports the identification of Welsh children in the secure estate.
- 2.35 PLASC includes questions around national identity, giving the option for over fives to be identified as being Welsh (54 per cent), English (7 per cent), Scottish/Irish (<1 per cent), British (33 per cent) or Other (5 per cent). National identity was either refused or no information was supplied for 1 per cent of pupils (Stats Wales, 2021b).

### *Language*

- 2.36 Language and identity are closely associated with language being used to express individual personal identity and establish collective identities and solidarities. The ‘Welsh Language Act 1993’ places a duty on public organisations in Wales to treat the Welsh and English languages equally. In addition to this, the Welsh Language Standards (No.1) (Wales) Regulations 2015 confirms the requirement for Welsh Ministers and public authorities to take account of the Welsh language when developing policies and services.
- 2.37 YJSs are required to record the preferred language of each child on their CMS as per the standard list, although details of this are not provided (Youth Justice Board, 2021a).

- 2.38 Questions about national identity and main language were asked as part of the 2021 Census. Additionally, those living in Wales were asked about their proficiency in speaking, reading and writing Welsh, and/or understanding spoken Welsh. Estimates have been produced based on the Annual Population Survey to update the figures from the 2011 Census. However, these do not provide a breakdown by age group and are not considered to be reliable enough to plan services at a local level. The most reliable source of information about language use amongst the school age population is PLASC. In addition to recording the first language of those for whom it is not English or Welsh, this provides details of the numbers attending Welsh medium schools, speaking Welsh at home and ability to speak Welsh.
- 2.39 Given the duty placed upon public authorities, simultaneous translation is available in Welsh courts and tribunals. This is co-ordinated by a specific Welsh Language Unit within HMCTS who ensure that all translators and interpreters are appropriately qualified<sup>7</sup>. There will also be members of the judiciary and practitioners at different stages of the criminal justice process who are proficient in Welsh. Since language is not a protected characteristic, this does not feature in the HMPPS Annual Staff Equalities Report (Ministry of Justice, 2020a) or the HMPPS Workforce Statistics (Ministry of Justice, 2021d). However, Welsh YJSs are required to provide a breakdown of the number of staff, by role type who are Welsh speakers.
- 2.40 It is understood that the Welsh Language Standard has yet to be enacted on Crown Property which has implications for prisoners whose preference is to communicate in Welsh, especially when placed outside Wales.

### *Pregnancy and Maternity*

- 2.41 Although proportionally the number of girls in the youth justice system is low, it is plausible that across Wales there may be those for whom this is an issue especially given that there are overlaps in the risk factors for teenage pregnancy and offending behaviour. It is anticipated that this presents a challenge when commissioning support services. It is unclear whether data is systematically collected in relation to pregnancy and maternity by YJSs - in the year to March 2020, the completeness

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<sup>7</sup> The Welsh Language Unit only uses interpreters who have successfully passed the Cyfiethas Cymru (Association of Welsh Translators and Interpreters) examination.

rate with respect to concerns around parenting across Wales was 96 per cent compared to 88 per cent in England (Ministry of Justice & Youth Justice Board, 2021a). (A fuller discussion around the collection of data around concerns can be found in section 2.53 to 2.56)

- 2.42 Whilst the 15-17 year old conception rate has continued to fall in Wales (Royal College of Paediatrics and Child Health, 2020) there is a need to ensure that there is timely access to age appropriate reproductive and sexual health services. Where the pregnancy has come about as a result of abuse or exploitation, there is a need for appropriately trained professionals to be involved in providing support hence the need for an accurate assessment of supply and demand.

#### *Marriage and civil partnership*

- 2.43 The legal minimum age to enter into a marriage in England and Wales is 16 years, although this requires consent of parents and guardians if a participant is under 18. However, the UK Government has recently pledged to increase the minimum age to 18. The Marriage and Civil Partnership (Minimum Age) Bill had its first reading in June 2021 and is currently at Report Stage in the House of Commons. Whilst the numbers of under 18s who are married or are civil partnerships is very low, the motivation for seeking to end child marriage is that they are often used as a mechanism for abuse.

#### *Disability*

- 2.44 The Equality Act 2010 extended the definition of disability to include mental ill health such as depression, schizophrenia, and bipolar affective disorder, with the emphasis being on the individual needing to demonstrate that their mental health problem is a disability i.e., that it has a substantial, adverse, and long-term effect on the individual's ability to carry out normal day-to-day activities.
- 2.45 Questions are asked about disability at different points throughout the CJS and can have a bearing on the types of interventions and support that are available to the offender. Depending upon the nature of the disability there may be implications for the individual in terms of accessing justice (e.g., learning disabilities/difficulties,



sensory and communication impairments) whilst other conditions may necessitate ongoing medical support.

2.46 The self-defined disability codes which are included in the CJS Data Standards Catalogue are:

- D Dyslexia
- HD Hearing Difficulties
- LD Learning Difficulties
- D Dyslexia
- HD Hearing Difficulties
- LD Learning Difficulties
- MI Mental Illness
- OD Other Disability
- ND No Disability
- PC Progressive Condition
- RD Refusal to Disclose
- RC Reduced Physical Capacity
- RM Reduced Mobility
- SD Severe Disfigurement
- SI Speech Impediment
- VI Visual Impairment

2.47 The YJB Data Recording Requirements (2021) do not appear to require YJSs to record details of the child's disability as part of the case management information submitted each quarter. However, there are a number of pertinent questions within AssetPlus, the answers to which will be recorded locally. These include:

- Physical health concerns
- Mental health concerns
- Speech, Language, Communication and Neuro-disability concerns
- Any special educational needs

2.48 One of the particular challenges here is that many of the young people who come into contact with the YJS have suspected or undiagnosed developmental conditions which practitioners are not medically trained to diagnose although referrals can be made to specialist services. Where they are in an education setting, they may well be receiving additional support for meet their learning needs. Information about this, where provided informs pre-sentence reports and the ongoing intervention planning with the young person.

- 2.49 Within the specific Welsh youth justice performance indicators there is a need to take into account disability and the additional learning needs (ALN) of the child:
- WYJI 4: Engagement in education, training, or employment (ETE)
  - WYJI 5: Access to suitable accommodation for children in the Youth Justice System
  - WYJI 6: Access to appropriate specialist assessment and treatment services for children in the Youth Justice System with identified substance misuse needs
  - WYJI 7: Access to appropriate specialist assessment and treatment services for children in the Youth Justice System with identified mental health needs.
- 2.50 In the case of WYJI 4, there was not a specific need to submit data around the appropriateness of the ETE provision, although the guidance indicated that should only be included if it had been identified in the individual's learning plan. Similarly, accommodation should only be considered suitable if it met the needs of the child, including their health needs and any needs arising from any disability. Again, it is anticipated that this would have been recorded locally. However, it may not have been recorded in a systematic manner which aids analysis.
- 2.51 In the case of WYJI 7, as with the equivalent indicator around substance misuse (WYJI 6), the emphasis was on recording the numbers of referrals made; the timeliness of receiving assessments; if the child had been identified as requiring treatment and the timeliness of receiving that treatment. The outcomes of the assessment and nature of the treatment (if appropriate) would be recorded within the appropriate health dataset.

#### *Membership of Priority Groups*

- 2.52 The guiding principles of the Youth Justice Blueprint include taking a child first approach, recognising and responding to the impact of trauma, Adverse Childhood Experiences (ACEs) and indicators of complex need. Significant work has already been undertaken in the Welsh youth justice system to enhance understandings of ACEs and develop appropriate responses trauma-based approaches including the Enhanced Case Management (ECM). What is less clear is the extent to which the detail of this is captured not only in the case management systems of the YJS but

also of the different partnership agencies that work with these young people at different stages of the youth justice system.

- 2.53 The publication *Assessing the Needs of Sentenced Children in the Youth Justice System* (Ministry of Justice & Youth Justice Board, 2021a) draws on data from the AssetPlus assessment process. It is highlighted in the technical guidance (Ministry of Justice & Youth Justice Board, 2021b) that whilst AssetPlus was designed to provide a holistic end-to-end assessment and intervention plan, recording practitioner assessments through multi-staged interaction with children and the underlying data provide a systematic descriptive resource, it is an operational assessment tool. As a result, data is not recorded for the specific purpose of statistical or internal performance reporting. Consequently, caution should be exercised when interpreting figures from the data.
- 2.54 The AssetPlus fields utilised in the publication focus on the high-level Concerns, Care Status, Safety and Wellbeing, Risk of Serious Harm to children and Desistance Factor categories. However, YJS practitioners are able to record significantly more detailed information within assessments either in further explorative fields or free text. Whilst not available to the YJB, there would be scope locally to drill down to consider the more specific, low-level details underlying the concerns. This includes for example being able to establish whether substance misuse concerns relate to tobacco use or class A drugs etc. Theoretically, this information could be used to identify sub-cohorts based on need for whom specific metrics around reoffending or other measures of success could be baselined and evaluated.
- 2.55 The published data around needs includes a specific breakdown for Wales giving the number and proportion experiencing the concern types by age, gender and race. Concern types refer to factors that practitioners judge to be affecting the child. The types of concerns cover their wellbeing (e.g., Mental Health, Physical Health and Safety and Wellbeing), how they relate to other people (e.g., Significant Relationships and Relations to Others), social factors and issues at home (e.g., Accommodation, Local Issues, Learning, Education, Training and Employment,

Parenting or Family Behaviour) or their own behaviours (Substance Misuse, Offence Justification or Attitudes to Offending).

2.56 The same information is available with respect to care status factors, practitioner assessed ratings and desistance factors. These reflect the child's current and previous care history (e.g., whether they are subject to a care order or child protection plan, whether they have siblings in care or are remanded to local authority accommodation or youth detention accommodation). Practitioner ratings include Risk of Serious Harm which looks at the imminence and likelihood of death or serious personal injury whether physical or psychological. The ratings for Safety and Wellbeing look at the risk that a child's safety and well-being is now or in the future potentially compromised through his or her own behaviour, personal circumstances or because of the acts or omissions of others. Desistance factors look at issues that may be either a barrier to stop a child offending or issues which may play a positive role in stopping a child offending.

2.57 Since the publication is based on bespoke analysis of the YJAF which itself relies upon data from the individual YJSs, there is scope to reproduce similar analysis for each geography, including aggregating to say force area.

2.58 The Youth Justice Blueprint acknowledges the need to align preventative services offered to children including those aimed at:

- reducing the number of children looked after
- the prevention of school exclusions, and
- homelessness.

recognising that these cohorts have similar / overlapping needs and vulnerabilities. It is therefore important that common definitions and recording practices are used across agencies to support the sharing of information across different IT systems. Being able to readily identify which children in the YJS cohort are at risk of being taken into care or who are already care experienced; are at risk of exclusion or are being educated in settings other than school; or who have precarious / unsuitable living arrangements will support this multi-agency working.

2.59 The aspirations of the Youth Justice Blueprint include reducing the number of children in the youth justice system through effective diversion to prevent offending and re-offending. Despite this, there will be a core group who transition into the adult system. This is likely to include a high proportion of those with more complex needs such as involvement with social services, substance misuse, or mental health services. The timely sharing of information about individuals forms an integral part of the transition arrangements which need to be put in place. Therefore, it is advocated that the effectiveness of the mechanisms and governance arrangements should form part of any evaluation of the Blueprint. This should focus not only on the perspectives of the different agencies involved, but also on the perceptions of the individuals who experience these transitions.

2.60 Whilst the Integrated Offender Management Cymru priority groups relate to those over the age of 18, it is necessary to be mindful that some of those who transition into the adult system will fall into one or more of these groups:

- Women in the CJS
- Domestic Abuse Perpetrators
- Ex-Armed Forces Personnel
- Young Adults (aged 18-25) / Care Leavers
- Offender's Families
- Minority ethnic groups.

2.61 Being able to identify membership of these specific groups is integral to identifying whether they are adequately supported especially at the point of transition, have any additional needs as a result of their experiences, or if they are likely to have already been adversely treated within the CJS. The latter will have implications when it comes to forming effective working relationships with practitioners.

#### *Ex-Armed Forces Personnel*

2.62 The minimum age for enlisting in the UK armed forces is 16 years old. Those who sign on when 16 or 17 must serve until they are 22.

2.63 Under the Armed Forces Act 2011, there is a requirement for the Secretary of State (for Defence) to prepare an armed forces covenant report each year to record the

effects of membership, or former membership, of the armed forces on service people in different fields, including healthcare, education, and housing. The report must state whether armed forces personnel are at a disadvantage when compared with other persons and should comment on whether the making of special provision for the affected people would be justified.

### *Domestic Abuse Perpetrators*

2.64 The legal definition of domestic abuse is:

“any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality”. This includes psychological, physical, sexual, financial and emotional abuse (Home Office, 2013).

2.65 In extending the definition to include those under the age of 18, there is an acknowledgement not only that those aged 16 or 17 can be the victims of domestic abuse that they can also be perpetrators. Identification of perpetrators may be as a result of an offence being alleged or committed, or through disclosure during the course of discussions about relationships with others. It should not be overlooked that those of both sexes can be perpetrators of domestic abuse.

### **Adopting a Harmonised Approach for Data Relating to Under 18s**

2.66 ONS has undertaken considerable work to harmonise questions around the various protected characteristics – see Annex A for the codes used when collecting data on sexual identity, ethnicity, and religion. Having questions asked in the same way enables comparison with for example figures from the Census and large-scale surveys to gauge the extent to which specific groups are under- or over-represented within the CJS. Having this consistency also facilitates the aggregation of data from across a number of different sources.

2.67 The Welsh Government is involved in ongoing relating to the way in which an individual's sex, gender identity, national identity and ethnicity can be recorded and collected in a better way with respect to PLASC. This work has included discussions with ONS, the Government Equalities Office (GEO) and the Department for Education (DfE) to ensure there is a considered and compatible harmonised

standard being used by all organisations. This will likely result in changes to how these will be recorded in future school data collections.

- 2.68 The Additional Learning Needs and Education Tribunal (Wales) Act 2018 came into force in September 2021 with transitions being made from special educational needs (SEN) system to the ALN system in the year to August 2022. Changes will be phased in over a 3-year period and include the introduction of individual development plans (IDP). The new system will be reflected in PLASC from 2022 collection onwards. As with building a more comprehensive picture of the school age population on the basis of Welsh language and protected characteristics, having timely information about the prevalence of ALN will enhance understandings of the extent to which those with these needs are over-represented in the youth justice system.
- 2.69 The Data Requirements for YJSs in England and Wales (Youth Justice Board, 2021a) set out the items that should be recorded in terms of mandatory case level data along with the field type and available values. As a result, the data which is submitted to the YJB are systematically recorded in a consistent manner. There are also a number of items which are calculated within the YJAF e.g., age at arrest.
- 2.70 Given the number of different agencies that may potentially be involved either in supporting the young person as they navigate the justice system or in the administration of justice, there is a need not just to share information between the YJSs and the secure estate, but also with the police, the courts and where applicable health. Having common definitions and data standards supports the timely flow of information. In the context of the CJS, the Criminal Justice System Exchange Data Standards Catalogue (Ministry of Justice, 2021a) sets out the commonly agreed set of data standards to support ICT communications between the systems used by criminal justice organisations (CJOs). These data standards are designed specifically to support the operation of the CJS. They are to be used with open data standards as defined in the government's Open Standards Principles. The government's open standards are selected by the Cabinet Office standards hub. These will be discussed further in the Chapter Three on the Women's Justice Blueprint.

### **Other data sources**

- 2.71 There are a number of administrative sources which are used by the MoJ (and others) to compile statistics about the performance of the CJS and characteristics of offenders. These are considered in more detail in the next chapter.
- 2.72 Given the aspirations articulated under the various themes with respect to commitment to enhance multi-agency working, the flow of timely and pertinent information both to facilitate the administration of justice and to support the individual is key. This includes ensuring that there are appropriate mechanisms and governance arrangements in place between the youth justice system, education, social services and health. Specific addition needs to be given as to how these can be reproduced with respect to commissioned services and/or where the third sector are involved in delivery of interventions.
- 2.73 The way in which the Welsh Youth Justice Indicators around substance misuse and accessing mental health (WYJI 6 and 7) were constructed to enable the following workflow information to be captured should serve as a template for monitoring other forms of referrals including for example speech and language therapists. This includes:
- the number of referrals to be determined
  - timeliness of receiving assessments
  - if the child has been identified as requiring treatment
  - the timeliness of receiving that treatment
  - whether a successful outcome has been achieved.
- 2.74 The nature of success will need to be determined by the nature and type of intervention. Ideally reasons for non-completion should also be recorded to support the robust contract management of the provider.

### **Flows of Information**

- 2.75 If there is to be a whole system approach, then the flow of information between agencies needs to be considered. The mechanisms for doing this need to place an



emphasis on timeliness whilst also ensuring compliance with all appropriate data security measures. There are a number of key transition points where the effective and timely flow of pertinent information can be used to support the offender. For example:

- when transitioning from youth to adult services (criminal justice and health)
- police to court
- court to youth justice teams to facilitate the supervision of community sentences
- court to the secure estate
- resettlement into the community following time in the secure estate
- from the secure estate to community-based support services.

2.76 Given the chaotic lifestyles of some offenders and the higher incidence of vulnerabilities, there is a need to reduce the burden on offenders having to retell their story at each transition. However, this needs to be balanced against the fact that circumstances can change and hence records should be 'living' and include both positive and negative change as well as assessments of risk.

2.77 Here there are opportunities to agree a minimum level of information that is practicable to transfer between agencies. Appropriate information governance arrangements would also need to be put in place.

2.78 At a strategic level, data sharing agreements such as that recently announced between the YJB and the Association of Police Crime Commissioners (APCC) with respect to information about the ethnicity of children coming into contact with the youth justice system provide an opportunity to boost partnership working (Youth Justice Board, 2021c). This particular data share will provide intelligence which can be used to increase understanding of disproportionality by enabling police and crime commissioners to analyse the characteristics of the cohort of children in their areas and hence inform the commissioning of services.

### **3. Women's Justice Data**

3.1 Section 95 of the Criminal Justice Act 1991 states that:

'The Secretary of State shall in each year publish such information as they consider expedient for the purpose... of facilitating the performance of those engaged in the administration of justice to avoid discriminating against any persons on the ground of race or sex or any other improper ground...'

3.2 Documents fulfilling this requirement have been published since 1992, in the form of statistical information. The most recent of these relating to sex is the biennial publication *Statistics on Women and the Criminal Justice System 2019* (Ministry of Justice, 2020c) which brings together information on the representation of women (and men) among victims, suspects, defendants and offenders within the CJS. It also provides details of practitioners.

#### **What is available in terms of published data on women's offending?**

3.3 Table 3.1 summarises how the themes from the Women's Justice Blueprint map across to the various chapters in the bi-annual report on *Statistics on Women in the Criminal Justice System* (Ministry of Justice, 2020c). The data presented in this report is a sub-set of that reported in the various annual or quarterly parent publications produced by the MoJ. The accompanying technical guidance (Ministry of Justice, 2020e) provides an indication of how sex has been recorded. This has been supplemented by information from *Statistics on Race in the Criminal Justice System* (Ministry of Justice, 2019a) around how ethnicity has been recorded (Ministry of Justice, 2019b). Where an age breakdown has been provided in these two publications, it tends to differentiate between children and adults.

**Table 3.1: Thematic Mapping: *Women in the Criminal Justice System, 2019* compared to themes in the Women’s Justice Blueprint**

Blueprint Theme	Chapter	Topics	Parent Publication	How the characteristic is recorded	
				Sex	Ethnicity
Early Intervention & Prevention	Police Activity	Out of Court disposals (PNDs and Cautions)	Criminal Justice Statistics	Mix: self-reported & officer identified	5+1 4+1
		Arrests			
		Stop and Search	Police Powers and Procedures	Mix: self-reported & officer identified	5+1
		Detentions under section 136 of the Mental Health Act (1983)			
		Liaison and diversion services	N/A – experimental pilot data	Self-reported	Not Applicable
Courts & Sentencing	Police Activity	Individuals formally dealt with by the CJS Prosecutions and convictions (prosecutions, part of Crown Court committal, pleas at the Crown Court, convictions) Remands Sentencing	Criminal Justice Statistics	Mix: self-reported & officer identified	5+1
	Defendants	Prosecutions, convictions and sentencing (including community sentences or suspended sentence requirements)	Criminal Justice Statistics	Mix: self-reported & officer identified	5+1

Blueprint Theme	Chapter	Topics	Parent Publication	How the characteristic is recorded	
				Sex	Ethnicity
Courts & Sentencing continued	Defendants continued	Prosecuting authority, part of Crown Court committal, representation at Crown Court, Case management, Appeals	Criminal Court Statistics	Mix: self-reported & officer identified	5+1
		Criminal Legal Aid	Legal Aid Statistics Quarterly	Unknown – provided by the legal aid provider firm, which is based on information they would have completed with the client when they opened the case	5+1
		Pre-sentence reports	Offender Management Statistics	Self-reported	5+1
Community-based solutions			<i>See below</i>		
Custody & resettlement	Offenders under Supervision or in Custody	Prison population	Offender Management Statistics	Sex of establishment	5+1 (except Chinese in Asian)
		Receptions Releases Probation	Offender Management Statistics	Sex of establishment	5+1 (except Chinese in Asian)

Blueprint Theme	Chapter	Topics	Parent Publication	How the characteristic is recorded	
				Sex	Ethnicity
		HMIP Prisons Inspectorate Survey Report	HMP Annual Report	Self-reported	5+1
		Safety in prison custody	Safety in Custody Statistics	Sex of establishment	5+1
		Youth custody	Youth Custody Data	Sex of establishment	5+1
Research & Evaluation	Offender Characteristics	Offending Histories (including first time offenders / entrants)	Criminal Justice Statistics	Officer identified	4+1
		Proven reoffending	Proven Reoffending Statistics	Officer identified	4+1
	Offence Analysis	Prosecutions, convictions and sentences for specific offences	Criminal Justice Statistics	Mix: self-reported & officer identified	5+1
	Practitioners	Police	Police Workforce England and Wales statistics	Self-reported	5+1
		Crown Prosecution Service	Crown Prosecution Service Data – Equality and Diversity	Self-reported	5+1
		Ministry of Justice	MoJ Workforce Monitoring Report	Self-reported	5+1
		HMPPS (formally NOMS)	HMPPS Workforce Quarterly Statistics	Self-reported	5+1

Blueprint Theme	Chapter	Topics	Parent Publication	How the characteristic is recorded	
				Sex	Ethnicity
Research & Evaluation continued	Practitioners continued	Judiciary	Judicial Diversity Statistics	Self-reported	5+1 (except Chinese in Asian)
		Magistracy	Judicial Diversity Statistics	Self-reported	5+1 (except Chinese in Asian)

## **The Rationale for Adopting an Intersectional Approach in Relation to Women's Offending**

- 3.4 In keeping with a human rights-based approach, it is recommended that the metrics upon which the Women's Justice Blueprint are evaluated include equality and diversity impact measures. As a minimum these should reflect the protected characteristics set out in the Equalities Act 2010. In addition to sex, these are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation.
- 3.5 Given that across England and Wales, women appear to be substantially underrepresented throughout the CJS compared to men, the numbers who share the minority characteristics is likely to be low. However, baselining the average numbers/proportions within the Welsh women's offending population will be an important step in identifying where disparity may exist at different points in the CJS. A similar approach should be taken with respect to membership of the IOM Cymru Priority groups and those who prefer to communicate in Welsh.

### *Protected Characteristics*

#### *Age*

- 3.6 Whilst the emphasis here is on women's offending, it is important to acknowledge that some of these will be under the age of 18 and hence the aims and objectives of the Youth Justice Blueprint are also pertinent.
- 3.7 The youth offending cohort is typically divided into two sub-groups: those aged 10 to 14 and those aged 15 to 17. The adult offending cohort is segmented slightly differently depending on the part of the CJS. Since date of birth is typically recorded for identification purposes, there is scope for meaningful age groups to be formed. In doing this, there is the need to think about milestones where statutory obligations cease, e.g., in the case of care leavers, age 21 or 25 depending upon their category under Section 104 of the Social Services and Wellbeing (Wales) Act. During the life course, it is also anticipated that marriage and civil partnership, pregnancy and maternity, and disability will be relevant.

- 3.8 For offender management statistics, adults are those aged 21 and over at the date of sentence, young adults are those aged 18 to 20 and juveniles refer to those aged 15 to 17.
- 3.9 For prison population statistics, adults include those aged 21 and over at the date of sentence and those sentences to detention in a youth offender institution have had their sentence converted to adult imprisonment. Young adults are prisoners aged 18 to 20, but also include those aged 21 who were aged 20 or under at conviction who have not been reclassified as part of the adult population.

#### *Sex vs. Gender*

- 3.10 The MoJ reports on sex rather than gender, relying upon the physiological definition. A binary male-female classification tends to be used since this is considered to better reflect how individuals are generally reported or managed through the CJS. For example, prisons are either men's or women's institutions, with prisoners normally placed based on their legally recognised gender. However, it is acknowledged that gender is a social construct or sense of self that takes a wider range of forms. Recording practices therefore can vary and hence most recording includes a mixture of physiological and personal identity. Levels of missing or unreported sex are also typically reported.

#### *Sexual Identity*

- 3.11 As previously highlighted, sexual identity is one part of the umbrella concept of "sexual orientation". Sexual identity does not necessarily reflect sexual attraction or sexual behaviour. Whilst ONS does not measure these separate concepts, questions about sexual identity were asked as part of the Census 2021 with harmonised questions having been developed as to how best to ask individuals about their sexual identity.

#### *Gender: Identity and Re-assignment*

- 3.12 Transgender prisoners are defined as those individuals known within prison to be currently living in, or are presenting in, a gender different to their sex assigned at



birth and who have had a case conference (as defined by PSI 17/2016 The Care and Management of Transgender Offenders<sup>8</sup> ).

- 3.13 The number of prisoners who have already transitioned and have a full Gender Recognition Certificate are thought to be excluded. Statistics on the number of all applications to the Gender Recognition Panel are published in [Tribunals and gender recognition statistics quarterly](#).
- 3.14 The figures are an estimate of the number of transgender prisoners and are likely to underestimate the true number. There might be some transgender prisoners who have not declared that they are transgender or had a local transgender case board, and some who have a Gender Recognition Certificate.
- 3.15 Outside the prison setting, questions around gender identity typically take the form of asking whether the gender that the individual identifies with is the same as their sex registered at birth. Respondents can then answer “Yes” if:

- they identify as female and their sex registered at birth was female
- they identify as male and their sex registered at birth was male

Or "No" if:

- their gender identity is different to the sex recorded on their birth certificate when they were born, for example if they are transgender or non-binary

In the 2021 Census, those who answered “No” were given the option to provide the term that they use to describe their gender. Again, there was the option to leave this question blank if preferred.

#### *Ethnic Group, Religion, National Identity and Language*

- 3.16 As highlighted in Chapter Two, collecting data on ethnic group, religion and national identity can be complex because of the subjective and multifaceted nature of the concepts. Membership to each of the concepts is something that is self-defined and subjectively meaningful to an individual. However, these concepts are measured, in particular, ethnic group and national identity, they tend to evolve in the context of

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<sup>8</sup> This replaced PSI 07/2011 – Care and Management of Transsexual Prisoners in January 2017. Information about the review which led to new guidance is available at: [Care and management of transgender offenders](#)

social and political attitudes or developments. Details of the harmonised questions around ethnicity and religion as asked in the Census 2021 can be found in Annex A.

### *Ethnicity*

- 3.17 Whilst there is a requirement for the MoJ to produce statistics on Ethnicity and the Criminal Justice System (Ministry of Justice, 2019a; 2021c), low numbers, especially in smaller geographical areas means that there is a tendency to aggregate ethnicity into headline groupings. This obscures racial disparity with Lammy (2017) emphasising that within categories such as ‘Asian’ or ‘Black’ there is considerable diversity, with some groups thriving while others struggle.
- 3.18 The HMPPS Offender Equalities Report is one such publication which presents data using the 5+1 ethnic groupings (Asian or Asian British, Black or Black British, Other ethnic group, Mixed ethnic group, White, Not Stated). However, data is collected on the basis of the 18+1 classification used in the 2011 Census. A small number of cases will still be based on the old 16+1 2001 Census classifications. However, these align to the same 5+1 classifications meaning there is no impact on comparability.
- 3.19 There are signs however, of progress towards the consistent reporting of ethnicity. For example, police forces have transitioned to the Workforce Data Standards which were agreed between the Home Office, National Police Chiefs Council and College of Policing. The Standards have meant that many forces have had to introduce new fields to HR systems or change the categories previously collected. However, it has meant that the collection of data on protected characteristics has been expanded to include religion or belief, gender reassignment, sexual orientation and disability as well as gender and ethnicity which were already collected. This has been done using the harmonised categories for each variable. In the case of ethnicity, data has been collected on 18+1 ONS 2011 Census classifications, meaning that more detailed data are now available (they were previously collected at the aggregated 5+1 level). Direct comparisons to previous years for the Asian and Other ethnic groups are difficult, since under the updated model persons identifying as Chinese are classified under the Asian group rather than Other. Previously, those identifying as Chinese would have been counted in this release

under “Other”, and not separately identifiable. See Annex B for further information on comparability.

3.20 Advances such as this will help to shed light on the two blind spots highlighted by Lammy with respect to the data gap around religion, and information about Gypsy, Roma and Travellers. However, in addition to the comparability issue identified above, in the short-term the changes have resulted an increase in the number of ‘not knowns’ where additional information has been requested but the fields have not yet been updated. To minimise the impact of this a hybrid system has been used. Should changes be made to other systems across the wider CJS, then this will have implications for monitoring long term trends.

3.21 In seeking to identify where there is disparity at different points within the CJS, it is necessary to have also have an accurate picture of the composition of the general population. The ONS has recent published experimental statistics for 2019 population estimates by 18 ethnic groups and eight religions by age group, sex, country and region for England and Wales (Coates, 2021). However, since these estimates are based on the 2011 Census, three years of the Annual Population Survey and the Mid-Year Population estimates, they are not considered to be robust enough to produce local authority level estimates. To get this level of detail it will be necessary to wait until the Census 2021 data is released. This is anticipated to be released over the course of the next two years with scope to produce tables which provide ethnicity by gender and other protected characteristics such as age, marital status and disability.

### *Religion*

3.22 The main religious groups asked about in the 2021 Census in England and Wales were:

- No religion
- Christian
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
- No religion

- 3.23 Only the Prison system appears to routinely collect data on self-reported religion on reception and this information is not checked by prison establishments before being entered on their ITC system. It is unclear how many 'find' religion during their sentence. However, unlike other criminal justice settings there is a greater need to be able to accommodate facets of religious belief and practice eg specific dietary requirements and observance.
- 3.24 In both the 2011 and 2021 Census the question on religion was voluntary with just over 7 per cent of the population of England and Wales opting not to answer it in 2011. As such the figures that we have to determine the profile of the general population may not give use a true picture. The voluntary nature of the question is an important principle in taking a human rights-based approach to data collection allowing individual to choose whether to disclose their identity.

#### *National Identity*

- 3.25 Whilst national identity is not identified as a protected characteristic, it is necessary to be aware of the intersection between ethnicity and national identity. As with religion, this is subjective with individuals being able to express a preference as to which country or countries, nation or nations that they feel most affiliated to. There has been an increasing interest in "national" consciousness and many people wanting acknowledgement of their national identity. This includes identifying as Welsh rather than British.
- 3.26 Offender management statistics commonly report on nationality, ethnicity and race. All of these types of data are obtained from self-reports of prisoners; this information is not checked by prison establishments before being entered on Prison-NOMIS. The work by Rob Jones has highlighted however, the difficulties in identifying 'Welsh' prisoners. Typically, this is based on the 'home' address of the prisoner at the time of reception.

#### *Language*

- 3.27 Language and identity are closely associated with language being used to express individual personal identity and establish collective identities and solidarities. The 'Welsh Language Act 1993' places a duty on public organisations in Wales to treat

the Welsh and English languages equally. In addition to this, the Welsh Language Standards (No.1) (Wales) Regulations 2015 confirms the requirement for Welsh Ministers and public authorities to take account of the Welsh language when developing policies and services.

- 3.28 Questions about national identity and main language were asked as part of the 2021 Census. Additionally, those living in Wales were asked about their proficiency in speaking, reading and writing Welsh, and/or understanding spoken Welsh. Estimates have been produced based on the Annual Population Survey to update the figures from the 2011 Census. However, these do not provide a breakdown by age group and are not considered to be reliable enough to plan services at a local level.
- 3.29 Given the duty placed upon public authorities, simultaneous translation is available in Welsh courts and tribunals. This is co-ordinated by a specific Welsh Language Unit within HMCTS who ensure that all translators and interpreters are appropriately qualified<sup>9</sup>. There will also be members of the judiciary and practitioners at different stages of the criminal justice process who are proficient in Welsh. Whilst data on this does not feature in the HMPPS Annual Staff Equalities Report (Ministry of Justice, 2020a) or the HMPPS Workforce Statistics (Ministry of Justice, 2021d), the MoJ reports annually to the Welsh Language Commissioner on its deliver of commitments under the 2018 MoJ Welsh Language Scheme. The 2020-21 self-assessment report includes details of the numbers of court cases held in Welsh, efforts to recruit more Welsh speakers to the judiciary and efforts to promote Work Welsh and hence the take up of Welsh language training for staff (Ministry of Justice, 2021e).
- 3.30 According to the self-assessment report, any organisation which applies to the MoJ for a grant for activities which involve the delivery of services to people in Wales is expected to address in their application, where appropriate, how they intend to provide those services in Welsh as well as English. This is then incorporated as one of the funding conditions. Despite the MoJ's current standard terms and conditions

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<sup>9</sup> The Welsh Language Unit only uses interpreters who have successfully passed the Cyfiethas Cymru (Association of Welsh Translators and Interpreters) examination.

including clauses that require suppliers to comply with the Welsh Language Act 1993 and the Welsh Language Scheme 'as if they were the Authority', it is understood that the Welsh Language Standard has yet to be enacted on Crown Property which has implications for prisoners whose preference is to communicate in Welsh, especially when placed outside Wales.

### *Pregnancy and Maternity*

3.31 The Royal College of Midwives released a position statement about perinatal women in the CJS calling for a specific Prison Service Instruction to be developed for perinatal women to cover every women's prison in the UK, taking a First 1001 days approach (The Royal College of Midwives, 2019). They also asserted the need for,

'...all national justice and health organisations across the UK to take a collaborative and partnership approach to caring for perinatal women, being mindful of the journey across criminal justice system services and jurisdictions that perinatal women make at this vulnerable time in their lives. They must adhere to the principle of equivalence of care, where all women in the criminal justice system should have the same access to healthcare as anyone else.'

3.32 In this they noted that at that time there were still no routinely collected statistics on the number of women who give birth whilst in custody, who are pregnant or new mothers when sentenced, or who are given custodial sentences when pregnant or caring for their babies. As a result, they asserted that,

'In order to help shape services and improve accountability, data on the number of perinatal women experiencing contact with the criminal justice system must be recorded and published, along with data on the outcomes for pregnant women in prisons, including the number of miscarriages, stillbirths and serious incidents while in custody. The National Probation Service's data recording on pregnancy and maternity as protected characteristics should be standardised in order to improve transparency and accountability.'

3.33 The Government responded in July 2020 with its Review of operational policy on pregnancy, mother and baby units and maternal separation (Ministry of Justice,

2020b). This sets out its plans to build upon the Mother and Baby Unit (MBU) data which is currently published on an annual basis. It acknowledges that whilst all prisons in the Women's Estate collect data on pregnancy, the processes for doing this are inconsistent due to variations in perinatal and family support structures in each establishment.

- 3.34 The intention is 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. The data already published on MBU residents<sup>10</sup> will also be expanded 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 their consultation. Subsets of this data, such as pregnancy outcomes, will however, not be published by HMPPS since this is viewed as being confidential health information.
- 3.35 The Prisons and Probation Ombudsman report (McAllister, 2021) into events surrounding events in September 2019 at HMP Bronzefield which resulted in the death of a teenager's baby after she gave birth alone in her cell has highlighted the need for improvements to the care received by women in custody to ensure that expectant mothers in prison get the same support as those in the community. Whilst numerous failings were identified, the case highlights the importance of having access to pertinent information with McAllister finding that:
- 'Information sharing within the prison and health agencies was poor and the approach to managing Ms A in Bronzefield was uncoordinated.
- No one responsible for Ms A's care had a full history of her pregnancy. None of the multiple record systems involved spoke to each other, none of the separate

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<sup>10</sup> MBU data are collected from prison establishments by means of a monthly return submitted via the HMPPS Performance Hub: a secure web-based data collection and management information reporting system.

records contained sufficient information on their own for proper oversight and no one person had access to them all.’

### *Dependent Children*

- 3.36 The Female Offending Strategy (Ministry of Justice, 2018) set out its ambition that fewer women who have young children should end up behind bars. However, MBUs currently have an 18-month upper age limit which can only be extended where it is believed to be in the best interests of the child. In situations where babies are due to be resettled before their mother is released, the intention is that greater use of ROTL and other home leave provision will be encouraged for those who are eligible, so that they are able to play a central role in their children’s resettlement into the community.
- 3.37 Centralised data collection on the dependants of primary carers was outside the scope of the review on pregnancy, MBUs and maternal separation. However, the MoJ acknowledge that greater access to this data is necessary for future policy and practice development of supportive provisions for primary carers in prison. They are looking into how to improve this as part of their wider commitment to improving family ties for mothers in custody.
- 3.38 Crest Advisory (Kincaid et al., 2019) suggest that potentially there are 17,000 children affected by maternal imprisonment and that these represent a hidden population. Information gathering and assessments are undertaken at numerous points during offenders’ journeys through the CJS. However, information relating to the families of offenders is collected inconsistently, for different purposes and is not used in any systematic way neither to understand the wider family picture nor to engage with services who are best placed to support families while the family member is in prison.
- 3.39 Data from the Prison Reform Trust (2017) suggests that 95 per cent of children have to leave the family home as a result of maternal imprisonment, with 40 per cent being cared for by grandparents, and a greater proportion are put into foster care compared to those affected by paternal imprisonment. The family impact of custodial sentencing is particularly acute for black mothers as more than half of



black African and black Caribbean families in the UK are headed by a lone parent, compared with less than a quarter of white families and just over a tenth of Asian families (Prison Reform Trust, 2012). Having to move from the family home will often result in other disruptive changes such as changing schools, and having to form new social networks. The number of Welsh children taken into care each year as a result of maternal imprisonment is not known.

- 3.40 For Welsh women prisoners, the distance from home can mean that contact with their family, including dependent children can be more problematic. Women are more likely to be held further from home than men, making visiting difficult and expensive, which in turn has an adverse effect on maintaining family relationships. Whereas men are on average held in prisons 50 miles from home, women are held an average of 64 miles away, with many held at significantly further distances. For example, as there are no women's prisons in Wales, 20 per cent of women held in HMP Eastwood Park (the closest prison for women from South Wales) are over 150 miles from their homes (Prison Reform Trust, 2017).
- 3.41 The MoJ's extension of Child Resettlement Leave (CRL) to primary carers in addition to sole carers in May 2019 is intended to further increase the ability of women to play a role in their child's resettlement where this is required before they are released. The onus here is on the applicant to show they are a primary carer of a child under 18, for example providing documents from school, nursery, GP, social services, etc to support their claim. Decisions are also informed by evidence about the claimed relationship based on contact during the current period of custody and information from probation in some cases. There is also a requirement that social services are consulted (Ministry of Justice & HM Prison and Probation Service, 2021).

#### *Marriage and civil partnership*

- 3.42 Marriage and civil partnership discrimination as defined by the Equality Act 2010 relates to the workplace therefore this characteristic does not have a direct bearing on the Women's Justice Blueprint. Inferences can however, be made on for example about an offender's support network as a result of their marital status

although it is important to acknowledge that being in an enduring, supportive relationship and marital status are not mutually exclusive.

- 3.43 Marital status confers various protections e.g., around tenancies which are not available to those who are living together but are not married or in a civil partnership. This can have implications for the stability of accommodation in the event of separation which could increase the vulnerability of the offender.

#### *Disability*

- 3.44 The Equality Act 2010 extended the definition of disability to include mental ill health such as depression, schizophrenia, and bipolar affective disorder, with the emphasis being on the individual needing to demonstrate that their mental health problem is a disability i.e., that it has a substantial, adverse, and long-term effect on the individual's ability to carry out normal day-to-day activities.
- 3.45 Questions are asked about disability at different points throughout the CJS and can have a bearing on the types of interventions and support that are available to the offender. Depending upon the nature of the disability there may be implications for the individual in terms of accessing justice (e.g., learning disabilities/difficulties, sensory and communication impairments) whilst other conditions may necessitate ongoing medical support.
- 3.46 The self-defined disability codes which are included in the CJS Data Standards Catalogue are:

- D Dyslexia
- HD Hearing Difficulties
- LD Learning Difficulties
- D Dyslexia
- HD Hearing Difficulties
- LD Learning Difficulties
- ND No Disability
- PC Progressive Condition
- RD Refusal to Disclose
- RC Reduced Physical Capacity
- RM Reduced Mobility
- SD Severe Disfigurement

- MI Mental Illness
- SI Speech Impediment
- OD Other Disability
- VI Visual Impairment

Whilst some conditions may be amenable to medication / treatment, others may become progressively more debilitating over time. There is also an interaction between age and disability. Whilst there are significantly more older men than women in prisons, the aging prison population represents a challenge for the CJS.

- 3.47 Notably, there is evidence to suggest that the health-related needs of prisoners are advanced by around 10 years, relative to people in the general population. For example, a 50-year-old prisoner could have the healthcare needs typically associated with a 60-year-old person in the community. There is also research evidence showing that health and care needs of prisoners aged 50–59 are very similar to those in their 60s, suggesting that it is appropriate to include the former age group within the older prisoner cohort. The accelerated ageing process may be caused by both lifestyle choices and social deprivation affecting a prisoner prior to custody, and by the effects of incarceration itself (House of Commons Justice Committee, 2020).

#### *Membership of Priority Groups*

- 3.48 In addition to the women in the CJS, the Integrated Offender Management Cymru priority groups are:
- Domestic Abuse Perpetrators
  - Ex-Armed Forces Personnel
  - Young Adults (aged 18-25) / Care Leavers
  - Offender’s Families
  - Minority ethnic groups
- 3.49 Some of these groups have been considered above. However, being able to identify membership of these specific groups is integral to identifying whether they are adequately supported, have any additional needs as a result of their experiences, or if they are adversely treated within the CJS. Women, young adults, and those from

minority ethnic groups are covered by the protections afforded by the Equality Act 2010 with questions about sex, age and ethnicity now being routinely recorded across the CJS. However, members of the other priority groups will typically need to self-identify.

#### *Ex-Armed Forces Personnel*

- 3.50 Under the Armed Forces Act 2011, there is a requirement for the Secretary of State (for Defence) to prepare an armed forces covenant report each year to record the effects of membership, or former membership, of the armed forces on service people in different fields, including healthcare, education, and housing. The report must state whether armed forces personnel are at a disadvantage when compared with other persons and should comment on whether the making of special provision for the affected people would be justified.
- 3.51 It has previously been possible to derive information about those currently serving in the armed forces as part of the Census by using their occupation. However, the 2021 Census asked about whether individuals had previously served in the UK armed forces for the first time.

#### *Care Leavers*

- 3.52 As alluded to in the previous chapter, there are statutory obligations as defined under Section 104 of the Social Services and Wellbeing (Wales) Act<sup>11</sup> to remain in touch with care leavers until the age of 21 or 25 depending upon their category and their engagement in education and training. However, the experience of being in care can have lasting impacts on the individual with evidence to suggest that an increased likelihood of longer term emotional and mental health problems. Care leavers have fewer social connections which has an effect as many prisoners view the support of their families as important in preventing them of reoffending.
- 3.53 Whilst administrative records are held within local authorities, agencies are likely to be dependent upon the individual self-identifying as a care leaver.

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<sup>11</sup> These categories replace those previously referred to under the Children Act 1989 of relevant, eligible, former relevant child and qualifying.

### *Domestic Abuse Perpetrators*

- 3.54 It should not be overlooked that women can also be perpetrators of domestic abuse. It is assumed that perpetrators will come to the attention of the CJS following a report. However, there may also be a small number of disclose that they are perpetrators.

### **Adopting a Harmonised Approach for Data Relating to Adults**

- 3.55 As highlighted with respect to the discussion about under 18s, ONS has undertaken considerable work to harmonise questions around the various protected characteristics. Increasingly data about offenders is used not just within the CJS but is also shared with partners agencies such as health, housing, and social services to provide more holistic support for the individual. To facilitate the timely flow of information which underpins this more whole system approach it is necessary for the different partners to have common definitions and data collection processes.
- 3.56 In the context of the CJS, the Criminal Justice System Exchange Data Standards Catalogue (Ministry of Justice, 2021a) sets out the commonly agreed set of data standards to support ICT communications between the systems used by CJOs. These data standards are designed specifically to support the operation of the CJS and are used by CJOs, their ICT suppliers and potential suppliers wishing to bid for CJS contracts. They are also used to support the data analytics of criminal justice information.
- 3.57 However, unlike the data requirement set out by the YJB with respect to the collection of the mandatory case level data, the CJS Exchange data standards do not have to be used within CJOs. Rather each CJO can decide how to implement the standards. It can either
- map its internal data standards to the criminal justice data standards when sending information to a different CJO
  - adopt one or more of the CJS data standards as its internal data standard. This avoids the costs and performance impacts of mapping to the CJS data standards when sending information to a different CJO.

- 3.58 The guidance suggests that each CJO should make its decision on how to use the CJS data standards based on the contribution those standards make both in terms of the system's functional and non-functional requirements and in the context of a total cost of the ownership model. A crucial starting point for determining the potential of a shared set of definitions and data standards across the various partners in Wales, is to establish the extent to which each currently adheres to the CJS Exchange Standards. These should also form the basis of any new commissioning of systems and be reflected in the ways in which statutory and commissioned agencies undertake their data collection.
- 3.59 Given the prevalence of substance misuse and mental ill health within offending populations, there is also a need to work with health to agree a shared set of data standards. The starting point for this is the NHS Wales Data Dictionary which includes the indicators and associated definitions which have been approved by the Welsh Information Standards Board (WISB). This includes specifications for data items relating to patient characteristics such as date of birth, sex, gender identity, sexuality, country of birth and ethnicity. Information about some characteristics is only collected within specific data sets. For example, marital status is only collected for patients under the care of a consultant in a psychiatric specialty whilst the substance misuse dataset includes a question about being ex forces personnel.
- 3.60 The Data Dictionary also includes details and definitions of the Maternity Indicators; the Healthy Child Wales Programme (Health Visitors); the Substance Misuse Data Set (SMDS) along with the Removal of a Suspected Mentally Disordered Person to a Place of Safety (s.135 and s.136 Mental Health Act 1983).

### **What is Available in terms of Published Data on Women's Offending in Wales?**

- 3.61 A summary of the relevant data about women's offending was provided in Table 3.1. Tables 3.2 and 3.3 summarise the availability of relevant data in Home Office and MoJ Parent publications flagging where data is presented firstly in a way that it can be possible to derive statistics specific to Wales, and secondly whether there is a sex split available. It should be noted that the publication *Police Powers and Procedures* (Home Office, 2020) is part of a wider series which includes Police

workforce; Police powers under the Terrorism Act 2000; Police use of force statistics; Police use of firearms; Seizures of drugs; Firearms and shotgun certificates; Football-related arrests and banning orders; Police funding for England and Wales and Police Officer uplift statistics.

- 3.62 These tables have been compiled to give a sense of what is currently available to inform our understandings about the nature of women's offending. Notably, whilst it may be possible to obtain Welsh specific data and to focus specifically on women's offending, this does not necessarily mean that it is possible to do both in the same table.

**Table 3.2: Home Office Publication: Police Powers and Procedures**

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
Police Powers and Procedures	Statistics on stop and search, arrests for notifiable offences, detentions under the Mental Health Act 1983, fixed penalty notices for motoring offences, breath tests, and other PACE powers.	<p>Number of stops and searches carried out under a range of legislative powers, including:</p> <ul style="list-style-type: none"> <li>• section 1 of the Police and Criminal Evidence Act 1984 (PACE)</li> <li>• section 60 of the Criminal Justice and Public Order Act 1994</li> <li>• section 44/47A of the Terrorism Act 2000</li> </ul> <p>Reason given by the officer for conducting a search</p> <p>Number of searches that led to an arrest</p>	<p>Stop and search statistics</p> <p>Best use of stop and search statistics</p> <p>Stop and search open data tables</p>	Returns from the 43 local police forces in England and Wales	Yes – by police force and region	No – but does have self-defined ethnicity
		<p>Number of arrests for notifiable offences</p> <p>Reason for which persons were arrested</p>	Arrest statistics data tables	Returns from the 43 local police forces in England and Wales	Yes – by police force and region	Yes – along with age and ethnicity



Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		Number detained under a warrant for further detention	Other PACE powers data tables	Returns from the 43 local police forces in England and Wales	Yes – by police force and region	No
		Number of intimate searches made under section 55 of PACE				
		Endorsable and non-endorsable FPNs issued - a range of motoring offences	Fixed penalty notices for motoring offences data tables	Returns from the 43 local police forces in England and Wales, PentiiP	Yes – by police force and region	No
		FPNs issued - camera-detected offences				
		Cases where the penalty was paid				
		Motoring offences that resulted in a driver retraining course, or court action				
		Number of alcohol screening breath tests carried out	Breath test statistics	Returns from the 43 local police forces in England and Wales	Yes – by police force and region	No
		tests that were positive or refused.				

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		Number of detentions under section 136 of the Mental Health Act 1983 Type of place of safety used to detain individuals, and the reason for using a police station (where applicable) Method of transportation used to transport an individual to a place of safety, and the reason for using a police vehicle (where applicable) Number of detentions under section 135 of the Mental Health Act 1983	Detentions under the Mental Health Act (1983)	Returns from the 43 local police forces in England and Wales	Yes – by police force and region. However, not all forces able to provide a breakdown of s136 and s135 detentions.	Yes – along with age-group and ethnicity
		Pre-charge bail			Yes – by police force and region.	

**Table 3.3: Ministry of Justice Parent Publications and Sources**

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
Criminal Court Statistics	Type and volume of cases received and processed through the criminal court system of England and Wales, inc statistics on case timeliness.	• Magistrates Courts caseload: Receipts, disposals, outstanding	Magistrates' courts cases received, disposed and outstanding tool	Libra	Yes – individual courts, region and local LCJB	No
		• Crown Courts caseload: Receipts, disposals, outstanding	Trial effectiveness at criminal courts tool	Libra and Xhibit	Yes – individual courts, region and local LCJB	No
		• Trial efficiency (listed and vacated trials)	Crown Court cases received, disposed and outstanding tool	Xhibit	Yes – individual courts, region and local LCJB	No
		• Age of outstanding cases	Crown Court plea tool	Xhibit	Yes – regions	No
		• Guilty plea rate	Crown Court average waiting and hearing time tool	Xhibit	Yes – regions	No
		• Average waiting and hearing times at the Crown Court	Crown Court outstanding case duration tool	Xhibit	Yes – regions	No
		• Timeliness (time from offence to completion)	Crown Court timeliness tool	Xhibit	Yes – regions	No
		• Enforcement of financial impositions	Magistrates court timeliness tool	Libra	No	No

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
	Statistics on Failure to Appear Hearings and Warrants for cases in the magistrates' courts in England and Wales by offence type and initiation type	<ul style="list-style-type: none"> <li>• FTA Warrants</li> <li>• Hearings</li> </ul>	Failure to Appear (FTA) warrants.	Libra	Yes – local LCJBs	No
	Statistics on the use of language interpreters and translation services in courts and tribunals, England and Wales	<ul style="list-style-type: none"> <li>• Number of language service requests completed</li> <li>• Success rate</li> <li>• Complaints and complaint rate</li> </ul>	Language interpreter and translation services tool		<p><i>Welsh language interpretation in court and tribunal hearings located in Wales is provided simultaneously, with interpreters booked through the HMCTS Welsh Language Unit. This service is not part of the MoJ's Language Services Contract.</i></p> <p><i>Any data included in the publication on the use of Welsh relates only to the provision of Welsh interpreting that takes place in England or Scotland.</i></p>	

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
Criminal Justice Statistics	Statistics on defendant level activity in the criminal justice system, including out of court disposals, court proceedings and convictions, remands, sentencing and offending histories.	<ul style="list-style-type: none"> <li>• Out of court disposals (OOCs)</li> <li>• Numbers and type of defendants by offence group</li> <li>• Outcome by offence type inc breakdown of proceedings and outcome</li> <li>• Remand status</li> <li>• Committals</li> <li>• Detailed Sentences inc custodial sentence length</li> <li>• Convicted (Y/N)</li> <li>• Sentenced (Y/N)</li> </ul>	<p>Out of court disposals data tool</p> <p>Prosecutions and convictions data tool</p> <p>Outcomes by offence data tool</p> <p>Remands: Magistrates Court data tool</p> <p>Remands: Crown Court data tool</p> <p>Sentencing data tool</p> <p>Court outcomes by Police Force Area data tool</p> <p>Magistrates Court data tool</p> <p>Crown Court data tool</p> <p>Principal offence proceedings and outcomes by Home Office offence code data tool</p> <p>Motoring data tool</p>	<p>PNDs - Collated by Home Office, from police forces, PNC or the Penalty Notice Processing (PentiP) system</p> <p>Court Proceedings Database</p>	Yes –Some of the tools include a breakdown by Police Force area. However, the overview tables are England and Wales only	Yes – along with age and ethnicity

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
HMPPS Equalities Reports	Annual and quarterly reports providing headline data re HMPPS Staff	<ul style="list-style-type: none"> <li>• HMPPS Staff in post by protected characteristics</li> <li>• New joiners</li> <li>• Promotions</li> <li>• Appraisal markings</li> <li>• Special awards and bonuses</li> <li>• Grievances</li> <li>• Subject to special investigations</li> <li>• Facing conduct and discipline action</li> <li>• Sickness Absence</li> <li>• Leavers</li> </ul>	<i>Includes an indication of the declaration rate re race, disability status, religion and sexual orientation</i>	HMPPS – Oracle HRMS and Single Operating Platform	No	Yes – along with age group, race, disability status, religion and sexual orientation
	Annual report providing headline data re HMPPS Offenders	<ul style="list-style-type: none"> <li>• Prison population profile by protected characteristics</li> </ul>	Prison Population Electronic monitoring Mother and Baby Units Transgender Prisoners	HMPPS Performance Hub and Prison reporting systems	No	Yes – along with age, ethnicity, religion,

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		<ul style="list-style-type: none"> <li>Starts and completions of accredited programmes</li> <li>Applications/approvals for MBUs, profile</li> <li>Incentives</li> <li>Electronic monitoring</li> </ul>	Accredited Programmes Sexual Identity Sexual Orientation			marriage/ civil partnership
Prison Performance	Supplement to the HMPPS Annual Report and Accounts	<ul style="list-style-type: none"> <li>Costs per prison place per prisoner</li> <li>Costs per prison place per prisoner, by individual prison</li> </ul>		Compiled by MoJ accountants	By establishment. However, no women's prisons in Wales	Yes – based on type of establishment
HMPPS Annual Digest	A supplement to HMPPS Annual Report and Accounts 2019/20.	<ul style="list-style-type: none"> <li>Prisoner escapes</li> <li>Abscond</li> <li>Temporary release failures and releases in error</li> <li>Prison population and crowding</li> </ul>	Escapes, absconds, failure to return from ROTL, releases in error Prison crowding Foreign national offenders Prisoners working in custody	Unspecified administrative IT systems	No – establishment location only	Yes – based on type of establishment

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		<ul style="list-style-type: none"> <li>• Foreign and national offender referrals</li> <li>• Prisoners working in custody</li> <li>• Prisoner earnings</li> <li>• Accredited programmes</li> <li>• Random mandatory drug testing</li> <li>• Protecting behaviour</li> <li>• Finds in prison</li> <li>• Incentives and earned privileges</li> <li>• Mother and baby units</li> <li>• Electronic monitoring</li> <li>• Bail accommodation and support services</li> <li>• Staff in post</li> <li>• Staff sickness absence</li> </ul>	<ul style="list-style-type: none"> <li>Prison earnings</li> <li>Accredited programmes</li> <li>Random mandatory drugs testing</li> <li>Protecting behaviour</li> <li>Finds in prison</li> <li>Incentives and earned privileges</li> <li>Mother and baby units</li> <li>Electronic monitoring</li> <li>Bail accommodation and support services</li> <li>Staff in post</li> <li>Staff sickness absence</li> </ul>			



Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
Offender Management Statistics	Key statistics relating to offenders who are in prison or under Probation Service supervision. It covers flows into these services and flows out as well as the caseload of both services at specific points in time.	<ul style="list-style-type: none"> <li>Type of sentence</li> <li>Release provisions</li> <li>Prison Population</li> <li>Receptions</li> <li>Adjudications</li> <li>Releases</li> <li>Home Detention Curfew</li> <li>Release on Temporary License</li> <li>Probation</li> </ul>	Prison population Prison population data tool Prison receptions Prison releases Probation Adjudications	Unspecified administrative IT systems	Probation: Yes - regions  Prisons: No – establishment location only  <i>Note - Prison receptions are available by nationality. However, there is no breakdown for British nationals.</i>	Yes, but not for regions. Age and ethnicity  Yes – along with age, ethnicity and religion
		<ul style="list-style-type: none"> <li>License Recalls</li> </ul>	License recalls	Unspecified administrative IT systems	License recalls: Yes – regions and partnership areas	Yes, but not for supervising bodies. Age and ethnicity

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
	Restricted Patients Bulletin -	<ul style="list-style-type: none"> <li>Population</li> <li>Admissions and recalls</li> <li>Discharges and disposals</li> </ul>	Restricted patients	Unspecified administrative IT systems	No	Yes – along with age group
Reoffending Statistics	Key statistics on proven reoffending including those who were released from custody, received a non-custodial conviction at court, received a caution, reprimand warning or tested positive for opiates or cocaine	<ul style="list-style-type: none"> <li>Number of offenders</li> <li>Number of proven reoffenders</li> <li>Number of proven reoffences</li> <li>Proportion of offenders who are proven reoffenders (ie the proportion of offenders who reoffend)</li> <li>Adjusted proven reoffending rate for adults</li> <li>ORGS4/G average score for adults</li> </ul>	<p>Proven reoffending tables (3 months)</p> <p>Proven reoffending tables (annual)</p> <p>Geographical data tool</p> <p>Proven reoffending overview data tool</p> <p>Index disposal data tool</p> <p>Prison, youth secure accommodation and probation data tool</p>	<p>Offenders who were released from custody or commenced a court order are matched to the PNC database.</p> <p>nDelius</p> <p>Prison-NOMIS</p>	<p>Yes – regions, local authority and YJS.</p> <p>However, overall figures are only available for England and Wales.</p>	Yes – along with age band (adult / juvenile)

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		<ul style="list-style-type: none"> <li>• Average number of proven reoffences among reoffenders (ie the average number of reoffences per offender)</li> <li>• Proportion of proven offenders who committed a proven indictable reoffence</li> <li>• Reoffending by disposal type</li> </ul>				
MAPPA Annual Report	Key statistics relating to offenders who are managed by MAPPA	<ul style="list-style-type: none"> <li>• Eligible offenders</li> <li>• Registered sex offenders</li> <li>• Sexual Offences Prevention Orders (SOPOs), Sexual Harm Prevention Orders (SHPOs), Notification Orders (NOs) and Foreign Travel Orders</li> </ul>	Area tables	Unspecified administrative IT systems	Yes – police force	No

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
		<p>(FTOs) imposed by the courts</p> <ul style="list-style-type: none"> <li>• Return to custody following breach of licence / SOPO</li> <li>• Eligible offenders charged with Serious Further Offences</li> <li>• Serious Case Reviews resulting from Serious Further Offences</li> </ul>				
Community Performance	Performance statistics for the National Probation Service (NPS), Community Rehabilitation Companies (CRCs) and Electronic Monitoring Service. Including annual	There are a number of payment by results metrics against which the National Probation Service, Community Rehabilitation Companies and Electronic Monitoring Service are judged against. The performance frameworks measure	Community Rehabilitation Companies table National Probation Services tables Electronic Monitoring Service tables Accommodation Circumstances tables	Not specified	Yes – supervising bodies  Note – Wales CRC ceased offender management from December 2019 after which point only a limited number of	No

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
	annex on Accommodation and Employment Circumstances.	delivery throughout the offender journey, including: <ul style="list-style-type: none"> <li>• Court Work and Allocation (NPS only)</li> <li>• Starting the Sentence</li> <li>• Completion and Compliance with the sentence of the court</li> <li>• Delivery of Programmes and Requirements</li> <li>• Through the Gate</li> <li>• Enforcement and Risk Escalation</li> <li>• Assurance Metrics and Other Custodial Services</li> </ul>	Employment Circumstances tables  <i>Note - The intention is to produce a re-designed publication to better fit the new performance monitoring arrangements that will be in place under the Unified Probation Model. Details have not yet been announced.</i>		service level metrics have been reported upon	
Safety in Custody Statistics	Statistics on death, self-harm and assault incidents	<ul style="list-style-type: none"> <li>• Deaths including cause</li> <li>• Self-harm</li> <li>• Assaults</li> </ul>	Self-harm in prison custody Assaults in prison custody Deaths in prison custody	HMPPS Deaths in custody database HMPPS incident reporting system	No – establishment location only.	Yes – along with ethnicity, nationality and religion

Publication	Description	Indicators	Supplementary Tables	Source	Wales?	Sex Split?
	whilst in prison custody		Deaths data tool			

Note: To avoid duplication, the Youth Justice specific publications have been excluded from this summary

## **Data Sources**

3.63 There are a number of administrative sources which are used by the MoJ (and others) to compile statistics about the performance of the CJS and characteristics of offenders. This section provides an overview of these systems. The extent to which information about protected characteristics is held within these systems is summarised in Tables 3.2 and 3.3.

### *The Police*

3.64 The Police have various administrative systems for recording incidents / crimes including details of the victim and, where known, the perpetrator. Typically, this will also record where arrests have been made with arrest records then being used to inform custody records. Information held within the custody record is used when processing arrestees and monitoring performance. Detailed information about the individual is captured both for identification purposes and to support the administration of justice. This includes whether a decision has been made to charge.

3.65 As a result of having a universal code of practice, arrests are standardised across forces, both in terms of the processes involved and the data recorded. However, in 2021 North Wales Police were unable to separately identify the primary arrest in a series of reasons for arrest as a result, their data included all arrests for notifiable offences and is not directly comparable with other Welsh forces.

3.66 There is also a need for forces to accurately record their use of other powers including stop and search to provide greater transparency around how these are used. Data is also collected around breath tests, and fixed penalty notices and other outcomes following motoring offences; pre-charge bail and detentions under the Mental Health Act 1983.

### *The Police National Computer*

3.67 The Police National Computer (PNC) is the police's administrative IT system used by all police forces in England and Wales and managed by the Home Office. The PNC largely covers recordable offences – these are all indictable and triable-either-way offences plus many of the more serious summary offences. Information

regarding the proven reoffending behaviour of offenders has been compiled using the MoJ's extract from the PNC. The process involves matching offender details from the prison and probation data to the personal details recorded on the PNC.

### *The Courts*

#### *Libra*

- 3.68 Data on the **magistrates' courts** is principally sourced from the magistrates' court case management system (Libra) reports which are hosted on Her Majesty's Courts and Tribunals Service (HMCTS) Performance Database OPT (One Performance Truth).
- 3.69 The workload data held on the Libra system is good quality and provide reliable estimates of the magistrates' courts' caseloads. The data provided by the courts must be checked and verified at case level by court staff before being submitted on OPT. Additionally, the centrally collated data are subject to further checks by HMCTS staff including the investigation of: apparent anomalies, missing data returns and any unexpected changes in the data.
- 3.70 Since April 2007 the HMCTS Performance Database OPT has been used to collect data on magistrates' courts activity. OPT is a web-based performance system which enables aggregation of underlying data to national level. In most cases the 2008 data is comparable with earlier data, but this does not apply to workload data – as such caution should be taken when seeking to compare volumes prior to 2008.

#### *Xhibit*

- 3.71 Data on the **Crown Court** is produced using the Crown Court management information system (MIS), a data warehousing facility drawing data directly from court-based administrative systems.
- 3.72 Xhibit was rolled out during 2019 as part of the reforms to the administration of the Crown Courts and is used by court staff for case management purposes. This contains information about the incidences and dates of major events as each case proceeds in the Crown Court. Being from an administrative system, data is subject to clerical and input errors. The volume of these errors is low and assumed to be



random across all cases. As such they are not believed to impact on the integrity of the overall trends in the data.

- 3.73 Changes to the underlying operational systems at the Crown Court during 2019 have necessitated updates to the underlying methodologies for statistical measures published in previous releases of the data. Cases from 2014 are available on a consistent basis following methodological improvements to the Crown Court estimates.
- 3.74 Note – end to end timeliness estimates are created by matching magistrates' courts and Crown Court records to calculate the number of days taken from the date an alleged offence was committed to the dates of a final decision in court. New experimental statistics using a data linkage methodology has been developed using the MoJ open-source statistical 'Splink' package to provide updated end-to-end timeliness estimates for the first time since December 2019. The previous 'rule' based linking methodology linked records based on a combination of variables including given name, middle name, family name, date of birth, sex, postcode, a committal date, and two identifiers (Arrest/Summons Number (ASN) and Pre-Trials Issue Unique Reference Number (PTIRRN)).

#### *Automated Track Case Management System*

- 3.75 From May 2017, certain cases have been derived from the Automated Track Case Management System (ATCM). These cases are those proceeded in the absence of the defendant through the Single Justice Procedure (SJP) where no "not guilty" plea was received. These include Transport for London offences, TV licencing offences (from December 2018) and certain DVLA offences (from October 2020).

#### *The Court Proceedings Database (CPD)*

- 3.76 Records are extracted directly from CREST/Xhibit and LIBRA systems and are filtered and validated as part of their translation into the MoJ Court Proceedings Database (CPD). The CPD holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. Significant information is held on individual court files but is not reported to the MoJ due to its

size and complexity. Examples of information that is commonly asked for but is not held are listed below:

i. Information is not held regarding the characteristics of the defendant except for age, gender, ethnicity, and whether they are a person or corporation. Information regarding the defendant that is NOT held includes, but is not limited to:

- a. Nationality,
- b. Occupation,
- c. Social class,
- d. Location of residence, and
- e. Religious belief

ii. Information is not held regarding the victim of an offence unless the legislation relating to that offence refers to a specific class of victim (in which case all we hold is what can be inferred from the use of that offence).

iii. Information is not held concerning the crime itself except for what can be inferred from the legislation relating to that offence. Information that is NOT held includes, but is not limited to:

- a. The location,
- b. The date or timing of the offence,
- c. Whether the offence was carried out online or offline,
- d. Whether a weapon was involved, and if so, what type of weapon,
- e. The relationship of the defendant and victim

For example, offences involving domestic violence or “honour-based” violence cannot be separately identified from violent offences in general, because they are not covered by separate legislation.

iv. Information is not held regarding pleas in magistrates’ courts.

v. Information is not held regarding which organisation prosecuted the case e.g., cases cannot be separately identified as to whether they were prosecuted by the Crown Prosecution Service, the police or by some other authorised body.

vi. Because individuals cannot be tracked between courts and cases in the CPD, we are not able to use it to consider offending histories – offending histories are derived from the Police National Computer. This also means that we are not able to determine the original offence for which those tried or sentenced at the Crown Court were prosecuted’.

3.77 Historically the recording of ethnicity data for defendants at magistrates’ courts has been poor, with high proportions of unknown ethnicity. The recording of ethnicity data for indictable offences has been more complete than summary offences because in charged cases the defendant will have been seen by the police and asked about their ethnicity. (In cases where the defendant received a summons, they will not have been seen by the prosecutor, and may not have appeared in court.) After a considerable programme of work, a substantial improvement in the data has been noted in the recording of ethnicity for indictable offences, with approximately 14 per cent having an unknown ethnicity annually since 2010, compared with 44 in 2004, so this is now shown. However, we still do not report on ethnicity for summary offences due to the prevalence with which this is missing.

3.78 The Criminal Justice Statistics quarterly bulletin includes high level trends on the ethnicity of defendants and offenders given cautions, PNDs, and those proceeded against, convicted and sentenced at court. Where available self-identified ethnicity has been used, this is presented using the 5+1 ethnic classification – White, Black, Asian, Mixed, Chinese and other, and Unknown – based on the 16+1 classification used within the 2001 census. The ethnic breakdown presented for cautions and offending histories data is based on the 4+1 classification – White, Black, Asian, Other and Unknown – derived from officer identification.

## *Offender Management*

### *nDeilius*

- 3.79 The case management infrastructure for probation services, used by the public sector and a range of contracted out providers. It contains all adult offender related information, pre-sentence, community orders, custodial sentences pre and post release, offenders in approved premises and some young offenders with UPW requirements.

### *The Offender Assessment System (OASys)*

- 3.80 Used by probation to measure the risks and needs of adult offenders under their supervision. It includes tools to assess how likely an offender is to be re-convicted; identifies and classifies offending-related needs, including basic personality characteristics and cognitive behavioural problems; and assists in determining the risk of serious harm, risks to the individual and other risks, and how to manage these. These assessments can then be linked to the supervision or sentence plan with responses helping to indicate the need for further specialist assessments.

### *Youth Justice data - See Chapter Two*

- 3.81 Demographic data along with the details of the offence and disposal are captured by the YJS as part of the AssetPlus assessment processes. Within the assessment is a comprehensive process for collection information about the circumstances and needs of the young person.
- 3.82 Information about young offenders released from secure training centres (STCs) and secure children's homes (SCHs) comes from the eAsset database owned by the Youth Custody Service in HMPPS.

## *Prisons*

### *HMPPS Administrative Systems*

- 3.83 Data in the HMPPS Offender Equalities Report are drawn from both administrative IT systems and manual data collection returns. These include the HMPPS Performance Hub, Case Management systems, and in the case of transgender

statistics, a specialised annual data collection administered by individual prison systems.

- 3.84 There were several areas where data is unavailable for some protected characteristics. Data coverage for sexual orientation and marriage and civil partnership continue to be limited in some areas, and thus cannot be published. Disability data for offenders also continues to be limited. Efforts are being made to improve the coverage of these data.

#### *Prison-NOMIS*

- 3.85 Prison establishments record details for individual inmates on the prison IT system (Prison-NOMIS). It contains offenders' personal details such as date of birth, sex, religion, nationality, ethnic origin, type of offence(s), type of custody (including those remanded on bail and sentenced), sentence length, prisoner movement data (internal and external), case note information, addresses of the prisoners (release, reception and curfew) and involvement in breaches of prison discipline. It also includes full details of the prisoners' visits history, activities (both paid/unpaid and offender rehabilitation programmes) and details of the prisoners' financial records whilst in prison. custody type, offence, reception and release dates and, for sentenced prisoners, sentence length.

- 3.86 The data from individual prison establishments then feeds through to a central computer database, called the Inmate Information System (IIS), from which data extracts are used to produce the various analyses of prison population.

#### *The Public Protection Unit Database*

- 3.87 Data on the discharge of prisoners on indeterminate sentences, i.e., prisoners given a life sentence or an Indeterminate Sentence for Public Protection (IPP), is held in the Public Protection Unit Database (PPUD). This holds data jointly owned by the Offender Management and Public Protection Group (OMPPG) in HMPPS and by the Parole Board.
- 3.88 PPUD records details of all indeterminate-sentence prisoners at the point of conviction, those engaged in the Generic Parole Process and prisoners (determinate and indeterminate) who have been recalled from licence. It also covers

those who have received a restricted hospital order/direction from a Crown Court, and those convicted and on-remand prisoners who have been transferred from prison/detention centres to psychiatric hospital under the relevant sections of mental-health legislation.

- 3.89 All decisions taken by the HMPPS casework sections and the Parole Board are recorded on the system.
- 3.90 Personal information recorded includes (but is not limited to) name, date of birth, gender, identifying numbers, ethnicity, last known address, probation area and sentencing information.

### **Data from Individual Agencies / Community Based Solutions**

- 3.91 Individual criminal justice agencies collect their own administrative data, providing a rich resource for monitoring activity. This typically contains a higher level of detail than that supplied to the MoJ. For example, in the process of investigating crimes will capture details of the offence including apparent motivating factors; characteristics of the victim and perpetrator including where there is a relationship between the two; and based on intelligence reports can build up a very detailed picture of the offender's lifestyle and the risk that they propose to others. Some of this will be reflected in pre-sentencing reports shared with the courts but may not be captured in a systematic way within court systems. Similarly, those working with individual offenders whether it be probation or the youth justice service, within prisons or in other settings are able to gain insights into thought processes and behaviours. As a result of the direct contact, practitioners' knowledge and understanding of the complex lifestyles and vulnerabilities of those who they are working with are likely to be far more detailed than can be captured either on referral forms or assessment tools. This represents a challenge for those wishing to understand how best to support those in the CJS at a strategic level.
- 3.92 The use of standardised tools allows for data to be collected in a consistent way and hence in theory should facilitate (1) the monitoring of activity in relation to specific groups and/or interventions and (2) the flow of information about the individual as they navigate the CJS. The CJS Exchange Data Standards Catalogue

(Ministry of Justice, 2021a) has previously been identified as being intended to support the flow of information between CJOs whilst the work by ONS to harmonise the way in which key questions around personal characteristics is asked should be used to inform the design of these tools.

#### *Monitoring Activity*

3.93 Whilst there are requirements to make returns to the MoJ (or Home Office) in the case of the police, individual agencies have the scope to develop and report on their local performance. Measures include (but are not limited to):

- Stock and flow statistics i.e., the number of referrals and the take up of places on interventions. This can also include the number of successful outcomes – for example how many (or what proportion) completed the intervention with a positive outcome.
- Non-compliance e.g., non-attendance, positive drugs tests, breaching
- Grievances and complaints.

3.94 Using data routinely collected about the characteristics and circumstances of the offenders that they deal with there is scope to explore the extent to which treatment is equitable and fair (hence the inclusion of grievances and complaints), and to identify if there is any evidence of disparity. Depending upon the remit of the individual agency, it may be appropriate to work with other to determine the reoffending rates of those who have participated in particular interventions or for specific priority groups.

3.95 In the case of commissioned services, the Police Crime Commissioners have responsibility to oversee the contract and hence there are opportunities for value for money assessments to be made of particular initiatives and to insist on appropriate monitoring mechanisms to be put in place.

#### *Populating the profile of activity across Wales*

3.96 Although many initiatives are designed to respond to local need, agreeing a common reporting framework and shared definitions will facilitate analysis to

enhance understanding of what works in different geographies and with different groups.

- 3.97 Notably, there are opportunities here to aggregate data from individual agencies to monitor Welsh specific indicators / metrics if common definitions are used. In the context of multi-agency working, this raises questions around oversight and consideration needs to be given as to how to ensure that there is adequate analytical capacity within the individual agencies to produce timely and accurate data to feed into developing a national picture. Some co-ordination would be required at a strategic level.

#### *Flows of Information*

- 3.98 If there is to be a whole system approach, then the flow of information between agencies needs to be considered. The mechanisms for doing this need to place an emphasis on timeliness whilst also ensuring compliance with all appropriate data security measures. As with the youth justice system, there are a number of key transition points where the effective and timely flow of pertinent information can be used to support the offender. For example:

- when transitioning from youth to adult services (criminal justice and health)
- police to court
- court to probation
- court to prison
- release from prison -> resettlement into the community (at the Gate)
- prison to community supervision

- 3.99 Given the chaotic lifestyles of some offenders and the higher incidence of vulnerabilities, there is a need to reduce the burden on offenders having to retell their story at each transition. However, this needs to be balanced against the fact that circumstances can change and hence records should be 'living' and include both positive and negative change as well as assessments of risk. Whilst the case of Baby B (section 3.34) is dire, it highlights the importance of information sharing for safeguarding purposes.



3.100 Here there are opportunities to agree a minimum level of information that is practicable to transfer between agencies. Appropriate information governance arrangements would also need to be put in place.

## **4. Criminal Justice Indicators and Metrics**

- 4.1 A number of performance measures already exist which reflect the aims and objectives of the different agencies which make up the CJS (see Tables 2.1, 2.2, 3.1, 3.2 and 3.3). The sheer volume of these is such that together they provide a very detailed picture of what is happening in terms of police activity, in the courts, offender management and in prison as well as providing information about the characteristics of offenders and the offences that they have committed. To differentiate between these measures which are released on a quarterly or annual basis by the Home Office and MoJ respectively, and those which could be used to evaluate the effectiveness of the Blueprints, for the remainder of this document, these will be referred to as ‘indicators’.
- 4.2 Many of these indicators are available as time series enabling trends to be identified and crucially in the context of evaluation, there is scope to baseline the current position so that progress can be monitored moving forwards. However, there remain a number of challenges not least how to isolate the data for Wales.

### **The availability of Welsh specific data**

- 4.3 In the case of police activity, the courts and community-based offender management i.e., probation and the YJSs, it is possible to aggregate up from the smaller geographical units such as local criminal justice boards or the location of the court to create a picture of Wales. There is also some data which the MoJ reports on at a regional level with Wales being treated as a ‘region’ of England and Wales. The most problematic area relates to prison data where there remain issues in identifying the number of Welsh prisoners across the prison estate – this is distinct to identifying the number of prisoners in Welsh prisons. The method used by the MoJ is based on the home address prior to entering custody. In cases where the prisoner entered custody with No Fixed Abode, then the address of the committal court is used to determine their origin (Jones, 2018; 2020).
- 4.4 The MoJ has acknowledged the need to improve the way in which its data collection and publishing practices reflect the distinctiveness of Wales, where possible disaggregating data to give a clear picture of how justice in Wales functions’

(Ministry of Justice, 2017). A commitment was also made to ensure that 'Welsh-only' data is made more easily available to the public (Jones, 2018). Despite growing calls for the UK Government to make Welsh-only criminal justice data more freely available (Commission on Justice in Wales, 2019; House of Commons Welsh Affairs Committee, 2019; Public Health Wales, 2019) the most comprehensive picture of Welsh imprisonment remains the work of Dr Rob Jones at the Wales Governance Centre who has now made more than 500 requests for information under the Freedom of Information Act 2000. This includes asking for supplementary breakdowns by sex / gender, offence, and ethnicity.

### **What could currently be done in terms of establishing a baseline?**

- 4.5 Both the Youth Justice and Women's Justice Blueprints reflect the aspiration to reduce the numbers entering the CJS and to prevent re-offending. In seeking to establish the 'success' of the various activities set out in the respective implementation plans, a key step is going to be to compile a comprehensive picture of the 'current' position. This is advocated so that it is possible to make comparisons between position pre- and post- the launch of the Blueprints.
- 4.6 In the case of the activities set out in the Women's Justice Blueprint, many of these reflect the need to gain a greater understanding of the baseline position and include the commissioning of evaluations to assess the effectiveness of particular interventions. Both qualitative and quantitative intelligence gathered from these will shape the development of the whole system approach to women's offending across Wales. As a result, the information gathered as part of this exercise will largely fall under the Research & Evidence theme of the Women's Justice Blueprint and can be used to target resources more effectively to ensure that the approach is fair and equitable.
- 4.7 The Welsh youth justice system in comparison is well established. Hence the emphasis both in the Youth Justice Blueprint and its implementation plan is more on how the current system can be enhanced to make it more effective. In particular, it is underpinned by the principle of Child First and the need to further develop multi-agency working to provide more holistic support for children and young people who come into conflict with the law. As a consequence of this, there is a need for more

monitoring to determine the effectiveness of the aspirations and goals set out in the Youth Justice Blueprint and to identify where there are opportunities for improvement.

- 4.8 As described in Chapter Two, data about the youth justice system is largely drawn from the 154 YJSs from across England and Wales. The inclusion of a field to denote whether the individual is 'local' means that it is also easy to identify Welsh children and young people in the youth justice system and to aggregate the data up so that it can be presented for Wales. The position is, however, quite different and considerably more complex in relation to women's offending.
- 4.9 Taking as a benchmark the publication *Statistics on Women in the Criminal Justice System* (Ministry of Justice, 2020c), the information provided in Tables 3.2 and 3.3 highlight where there are likely to be difficulties in reproducing this using data currently in the public domain in order to get a picture of Welsh women's offending.
- 4.10 In terms of criminal court statistics although it is possible to obtain the figures for Wales, it is not currently possible to get a breakdown by sex. However, some of the information to baseline the activity relating to early intervention and prevention, and courts and sentencing themes is available at a force area and hence can be aggregated up to give a Welsh picture. Sex, age and ethnicity breakdowns are available of this data enabling an intersectional approach to be taken.
- 4.11 The HMPPS Equalities report is currently only produced for England and Wales. Whilst it provides information about the prison population by protected characteristics, it is not possible to identify Welsh prisoners in the data on the MoJ website.
- 4.12 The custody and resettlement, and community-based solutions themes are in part covered by the Offender Management statistics, Youth Justice Statistics and Safety in Custody reports. There is scope of obtain some historic information about those supervised in the community. However, the re-introduction of the National Probation Service means that obtaining time series information may be problematic. The challenges around obtaining data relating to Welsh prisoners are described above.

Whilst sex can be ascertained on the basis of the establishment, there are no women's prisons in Wales and it is not possible to obtain Welsh-only data.

- 4.13 It is therefore concluded that if there is a desire to produce an equivalent document focusing specifically on Welsh women in the CJS and hence use this to create a baseline for evaluating the Women's Justice Blueprint this will not be possible using what is currently available in the public domain.
- 4.14 Looking at the underlying system upon which the various MoJ publications are based suggests that in many cases Welsh-specific data and analysis could be produced which includes a sex / gender split for the various indicators. This has also been demonstrated by the information obtained using Freedom of Information requests. However, this is a time-consuming process and it needs to be considered which indicators are the most pertinent for evaluating the Women's Justice Blueprint. It is therefore recommended that other options are explored.

### **Existing Metrics**

#### *Youth Justice*

- 4.15 The statutory aim of the youth justice system is to prevent offending by children. The overarching aim of the Youth Justice Blueprint is to reduce the number of children in the youth justice system through effective diversion and prevent offending by addressing the vulnerabilities that often lead to crime. It seeks to develop a youth justice system which treats children with fairness and respect and aims to help them to build on their strengths and to make positive changes to choices in their lives. Notably it aspires to create safe environments in which children are protected from harm and supported to thrive. In addition to diversion, considerable emphasis is placed on trauma-based approaches especially in response to ACEs, and enhanced case management.
- 4.16 Data is currently available to monitor the numbers of children in the YJS and levels of reoffending. However, less is available in the public domain around the success of diversion activities. Until recently, the Welsh specific metrics were:
- WYJI 4: Engagement in education, training or employment (ETE)

- WYJI 5: Access to suitable accommodation for children in the youth justice system
- WYJI 6: Access to appropriate specialist assessment and treatment services for children in the youth justice system with identified substance misuse needs
- WYJI 7: Access to appropriate specialist assessment and treatment services for children in the youth justice system with identified mental health needs

4.17 Data in relation to these is submitted to the YJB and forms part of the Youth Justice Statistics Bulletin<sup>12</sup> – it is included as an additional annex.

#### *Women's Offending*

4.18 The overarching objective of the Women's Justice Blueprint is to reduce the numbers of women in the CJS by intervening earlier to keep them safe and address the vulnerabilities that often lead to crime. It seeks to accelerate the transformation of services to create a fairer, more equal society with better outcomes and justice for all. This includes the development of community-based solutions as an alternative to imprisonment.

4.19 The existing metrics which have been identified by Welsh Government & HMPPS (2017) on behalf of the All Wales Criminal Justice Board with respect to six priority groups, including women in the CJS are summarised in Table 4.1. These reflect the 'indicators of effectiveness' for the activities set out in the Framework to ensure positive outcomes are achieved not only for those that have offended previously, but also those at risk of offending, as well as their families and the wider community. As with the Blueprints there is an aspiration to reduce the demand on services for those at risk of offending at the point of crisis, by moving the focus to early intervention.

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<sup>12</sup> Data for the four WYJIs to the end of March 2021 is included in the most recent Youth Justice Statistics Bulletin, published in January 2022.

**Table 4.1: IOM Cymru Metrics**

	Women	DA Perpetrators	Ex-Armed Forces Personnel	Young Adults*	Care Leavers*	Offenders with Children	BME Groups
Number commencing an immediate custodial or community sentence	✓	✓	✓	✓		✓	✓
Successful completion rates of Community Orders, Suspended Sentence Orders and Licences	✓	✓	✓	✓		✓	✓
Rate of reoffending	✓	✓	✓	✓	✓	✓	✓
Average number of reoffences per offender	✓	✓	✓	✓		✓	✓
Number and proportion serving a custodial or community sentence with each criminogenic need (based on latest available OASys assessment)	✓	✓	✓	✓	✓		
Number and proportion entering interventions		✓		✓		✓	✓
Number and proportion entering diversionary support services	✓						
Number of successful prosecutions and convictions in cases of violence against women, domestic abuse and sexual violence including Honour Based Violence, Modern Slavery, Stalking and Harassment		✓					
Number of referrals by Police, Prison and Probation providers to ex-armed service charities			✓				

\* Where not specified, it is assumed that the indicator of effectiveness applies to both young adults and care leavers.

### *Substance Misuse*

4.20 Whilst it is acknowledged that not all those with substance misuse issues are involved in criminality, a high proportion of referrals for treatment have historically come from the CJS, including following interventions and/or drug testing in police custody. Drug testing can also be included as a requirement within community sentences. Data is captured from the Treatment Outcome Profile in the Substance Misuse Data Set (SMDS). This is utilised to capture performance against five key performance indicators which have recently been reviewed by the Welsh Government (2021):

- Increase the number of clients who engage with services between assessment and planned ending of treatment, by reducing the incidences of clients who do not attend (DNA) or respond to follow up contact post assessment date.
- Achieve a waiting time of less than 20 working days between referral and treatment.
- Substance misuse is reduced or unchanged for problematic substances between start and most recent review / exit Treatment Outcomes Profile (TOP)
- Quality of life is improved or unchanged between start and most recent review / exit Treatment Outcomes Profile (TOP)
- Number / Percentage of cases closed (with a treatment date) as treatment completed.

### *Mental Health*

4.21 There is an expectation that local health boards have plans in place that improve the health of homeless and vulnerable groups and ensure that they have equitable access to a full range of health and specialist services. Asylum seekers, refugees, gypsies and travellers, substance misusers and EU migrants who are homeless or living in circumstances of insecurity are identified as specific vulnerable groups who often a poorer physical and mental health than the general population and often have problems obtaining suitable health care. Notably offenders are not specifically referenced. However, it is acknowledged that the associated delivery measure falls under the policy areas of mental health, vulnerable groups and offenders.



- 4.22 Delivery Measure 15 requires health boards to provide a qualitative report detailing progress against the five standards that enable health and well-being of homeless and vulnerable groups to be identified and targeted (NHS Wales, 2020).
- 4.23 The Mental Health (Wales) Measure 2010 sets out the support that should be available to people with mental health problems in Wales. The metrics associated with this are reflected in Together for Mental Health Delivery Plan 2019-2022 (Welsh Government, 2020), acknowledging that improving the access, quality and range of psychological for therapies children, working age and older adults remains a priority. The NHS Wales Delivery Measures summarised in Table 4.2 are used to measure the waiting times standards, with the Delivery Framework for 2020-2021 introducing an age split to that the measure is reported for those under 18 and those over 18 (NHS Wales, 2020).

**Table 4.2: Delivery measures associated with the Mental Health Measures (Wales) 2010**

Delivery Measure	
10	Percentage of health board residents in receipt of secondary mental health services (all ages) who have a valid care and treatment plan (CTP).
41	The percentage of mental health assessments undertaken within (up to and including) 28 days from the date of receipt of referral.
42	The percentage of therapeutic interventions started within (up to and including) 28 days following an assessment by LPMHSS.

Adapted from: The NHS Wales Delivery Framework 2020-2021

- 4.24 An additional measure has also been introduced: Percentage of patients waiting less than 28 days for a first outpatient appointment for Child and Adolescent Mental Health Services (CAMHS).
- 4.25 These measures, as with the Maternity Indicators, have been developed by the Analysis Methodologies Group within Digital Health and Care Wales. The Group's remit is to develop and review analysis methodologies associated with all routine national analyses of NHS Wales healthcare data, such as those developed in

support of the national performance management framework. Analysis Method Notices (AMNs) have been produced for these measures which have been accredited by the Welsh Information Standards Board.

### **Equality and Diversity Impact Measures**

- 4.26 Various equality and diversity impact measures exist and have been used to identify where there is disparity. Given the motivation articulated in the Women's Justice Blueprint to accelerate the transformation of services to create a fairer, more equal society with better outcomes and justice for all, it is advocated that as part of the baselining processes, that an intersectional assessment is made. Given the comparatively low numbers of women in the CJS, particularly when segmented on the basis of protected characteristics, there is a need to have an accurate profile of the underlying population which can be used as the denominator for calculating rates. Whilst it is anticipated that data from the Census 2021 will not be available until March 2023, this is going to be considerably more accurate than the estimates derived from the Annual Population Survey and the Census 2011.

#### *The Relative Rate Index*

- 4.27 Recommended in the Lammy Review, the Relative Rate Index (RRI) is a statistical approach used for the comparison of the relative difference in rates between two fixed populations.
- 4.28 A rate is defined as the proportion of individuals who experienced an outcome out of the total number of people who could have experienced the outcome. The RRI is the outcome rate for one group (usually the group 'at risk') divided by the rate for another group (the 'baseline'), thus creating a single standardised ratio measure of relative difference in outcomes between those two groups. In Lammy's Review, the White ethnic group was used as the baseline. However, there is scope to use the RRI approach to make comparisons between those who share different characteristics.
- 4.29 An RRI value of 1 indicates no disparity, an RRI greater than 1 means the group of interest had a greater likelihood of experiencing the particular outcome and an RRI less than 1 indicates the group of interest was less likely than the baseline to

experience said outcome. For example, when considering the rate at which Asian offenders were given a custodial sentence compared to White offenders, an RRI of 1.11 indicates that Asian offenders were 1.11 times as likely (or 11 per cent more likely) to be given a custodial sentence than White offenders.

- 4.30 To further aid interpretation, using the '4/5ths rule of thumb for adverse impact'<sup>13</sup>, RRI values that fall within a range of 0.8 to 1.25 (the zone of tolerance) are not likely to indicate a disparity in outcomes resulting in adverse impact. This does not imply that an RRI falling outside of this range is indicative of the presence of an adverse impact; it is important to also consider whether parity falls within the confidence intervals, particularly with smaller samples. It's important to note that this rule of thumb is a simplification and whilst it may be valid in most cases, with smaller samples the margin of error may be wider than the zone of tolerance. Establishing a difference as evidence of a disparity requires that the observed RRI value is significantly different to parity, i.e., 1 does not fall within the confident intervals of the observed RRI.

#### *Handling small numbers*

- 4.31 Given that the population of Wales is less diverse than many regions of England, it is anticipated that there will be small numbers within some of the minority groups. However, as alluded to previously in the case of ethnicity, thinking only in terms of headline ethnic groupings masks the diversity within these groups. Careful consideration should therefore be given to aggregating groupings and organisations may wish to think about differentiating between data which is for publication (and hence should be subject to statistical disclosure) and restricting data for internal use only.
- 4.32 Particularly when considering those who share multiple characteristics or when segmenting on the basis say of offence or type of disposal, there are likely to be small numbers. Appropriate statistical techniques should be used to monitor trends over time since reporting on percentage change can result in apparently significant variation when the actual change is only small.

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<sup>13</sup> [Adverse Impact Analysis / Four-Fifths Rule](#)

## Welsh Language

- 4.33 The Welsh Language (Wales) Measure 2011 makes Welsh an official language in Wales. This means it must be treated no less favourably than English. Whilst it is increasingly common practice in Wales for individuals to be asked about their preferred language for communication and for information to be produced bilingually, the extent to which there is unmet demand for service provision in Welsh is unclear especially for those held in England.
- 4.34 The HMPPS Welsh Language Scheme 2020-23 (HMPPS, 2020a) includes a number of monitoring requirements with reports being submitted annually to the Welsh Language Commissioner.
- 4.35 The Welsh Language Commissioner reported in his 2020-21 annual report that they were in the process of approving the Prison and Probation Service's Welsh Language Scheme whilst the College of Policing has voluntarily devised its own Welsh Language Scheme. However, priorities for 2022-23 included the need to research and report on mental health provision through the medium of Welsh for children, young people and adults. He noted that this had been particularly affected by covid-19.
- 4.36 Local Health Boards have been obliged since May 2019 to work in accordance with the Welsh language standards that derive from the Welsh Language (Wales) Measure 2011. This includes the main organisations that provide health and social care on the prison estate in Wales. The More Than Just Words Framework (Welsh Government, 2016) recognises the concept of the active offer when providing services in the health and care sector, that is that individuals should not have to ask for services in Welsh. However, as the Welsh Language Commissioner highlights in his response to the Health, Social Care and Sport Committee of the National Assembly for Wales following the review of the rights and experiences of Welsh speaking prisoners, an anomaly exists with respect to those held in England (Welsh Language Commissioner, 2019). This has particular ramifications for women who have offended:

'The Social Services and Well-being (Wales) Act 2014 - Code of Practice Part 2 (General Functions) states that the local authority where the prison is located is

responsible for the care and support duties of adult prisoners. This means that local authorities with a prison within their area must support adult prisoners with care and support needs in the same way they would support someone in the community. The Act does not create any rights for adult prisoners placed in prisons outside Wales. The local authority in England where the prison is located is responsible under the equivalent English care act. This is significant because:

- the codes of practice of the Social Services and Well-being Act (Wales) 2014 place specific responsibilities in respect of the Welsh language;
- local authorities in Wales are subject to the Welsh language standards.'

The Codes of Practice to the Act set out that:

- the language is an 'integral element of achieving care' for many Welsh speakers, and states that they need to be able 'to use their own language to communicate and participate in their care as equal partners';
- Welsh language services should be 'offered to Welsh speakers without them having to request them' / that the assessment process must recognise the concept of linguistic needs and practitioners should ensure that the principle of the active offer is an integral part of practice;
- local authorities must provide information and advice relating to care and support and assistance in accessing care and support, in Welsh and English;
- language is an integral element of the care given to people, and the local authority is responsible for providing appropriate services including meeting the linguistic needs of users. Only by doing so can they provide safe and effective care. Therefore, assessments should be conducted through the medium of English or Welsh as appropriate to the individual or family concerned. A request for a Welsh medium assessment should not delay the process.

- the obligation to complete the core data set in its entirety is only required to be met when an individual's need are deemed to be eligible and a care and support plan is required. Language choice is part of the core data set.

4.37 Compliance with the Welsh Language Standards and the extent to which the needs of those who prefer to communicate in Welsh are met at all stages of the CJS should form part of any evaluation undertaken. Responsibility for the enforcement of the Welsh Language Standards lies with the Welsh Language Commissioner.

## **5. Welsh Metrics**

- 5.1 The existing metrics Welsh Youth Justice Indicators and those set out in Table 4.1 represent a starting point for evaluating the respective Blueprints beyond thinking about overall numbers and proven reoffending rates. However, having identified that Welsh specific data about many of the indicators are not currently available in the public domain in a way that makes it possible to adopt an intersectional Welsh approach, it provides an opportunity to think about whether more should be done to reflect the distinct needs of the Welsh CJS. As highlighted, there are opportunities to adapt existing metrics such as those relating to substance misuse, mental health and the maternity indicators, and apply these specifically to the offending population. Indeed, there are also opportunities to consider replicating some of the indicators and metrics used within youth justice for use in relation to women's offending (and vice versa). The remainder of this section therefore focuses on where gaps have been identified as a result of the statistical mapping exercise summarised in Chapters 2 and 3.

### **Research to understand the distinct needs of the Welsh CJS**

- 5.2 Key to understanding the potential impact made by the Blueprints is an understanding of the needs and volumes of those involved in each stage of the criminal justice system; what the demand is for services (and where there are gaps in service provision); who the stakeholders are and the extent to which they can influence change. Significant work has already been done to undertaken to map this. It is anticipated that this would be shared with researchers commissioned to undertake an evaluation.

#### *Knowledge Gaps*

- 5.3 The thematic approach adopted within the Blueprints, highlights the need to appreciate the experiences of particular groups of offenders at different stages of the CJS. This includes the experiences of racially and ethnically minoritized offenders; those with different characteristics and circumstances, along with those who had served custodial rather than community sentences. Despite significant progress having been made to adopt trauma informed practice, there is also a need

to understand more about the links between trauma, victimisation and offending behaviour.

- 5.4 In the context of understanding the experiences of Welsh offenders, it is necessary to understand where there may be geographical variation in terms of service provision. Understanding where there is unmet need and/or specific local issues which have the potential to impact on the successful delivery of the initiatives and interventions outlined in the Blueprints should form part of the monitoring and evaluation. In the longer term this intelligence can also inform the commissioning of appropriate services and shape the CJS in Wales.
- 5.5 Monitoring changes over time can also serve to ensure not just the CJS in Wales is able to recognise where to focus resources, but also is able to be responsive to emerging threats. Having local knowledge can also enhance understandings as to why initiatives cannot always be transplanted successfully into different areas or prove not to be as effective with different groups.

*The use of performance monitoring tools and trackers*

- 5.6 Many organisations use monitors and trackers, particularly to look at organisational performance against objectives and/or targets. The most commonly used relate to hard outcome measures such as reoffending, the number of FTEs/entries into the CJS and numbers in custody. However, these tools could also be used to consider more nuanced measures. For example, also considering the severity and frequency of further offending and measures for different sub-groups. Whilst this needs to be balanced against the additional burden associated with collecting, collating and monitoring these, there is evidence to suggest that tools such as the reoffending tracker in youth justice and the dashboard compiled by IOM Cymru are being used to understand trends. This intelligence is helping to increase knowledge and understanding of the Welsh criminal justice landscape.
- 5.7 As with any 'performance' tool, these are only as good as the information fed into them and the skill of the user to interrogate / interpret the outputs. Whilst mechanisms are in place to capture significant volumes of information it was not possible to ascertain the quality and completeness of this information. This has



implications for its usefulness for research and evaluation purposes. The analysis underpinning the publication *Assessing the Needs of Sentenced Children in the Youth Justice System* (Ministry of Justice & Youth Justice Board, 2021a) is a point in case (section 2.53 to 2.56) since the fields in AssetPlus are not completed with research in mind. This is also the case with the criminogenic needs recorded in OASys. As more emphasis is placed on using these sources to inform policy and practice, the more the importance of data quality and completeness will be recognised, helping to drive up quality.

### *Continuous Professional Development*

- 5.8 Variations in the levels of knowledge/expertise around for example, CCE, CSE, trauma informed practice, specific policies, processes or legislation can impact on the ability of practitioners from a range of agencies to support individuals. Whilst this is not unique to the CJS or to Wales, there is a need to ensure that all those involved in supporting offenders have sufficient understanding to enable the vision for the Welsh CJS that is articulated in the Blueprints to be realised. It may therefore be appropriate to consider the use of metrics which capture information on the roll out/completion of specific training.
- 5.9 NHS Wales for example has delivery measures relating to the proportion of the workforce within the organisation that have specified training courses. In recent years this has included dementia training and safeguarding training with organisations being required to provide regular updates on progress towards targets. A similar approach could be taken training around ACEs and ECM with partner agencies and commissioned services also being asked to monitor completion of the agreed qualifications described in the Youth Justice Blueprint Implementation Plan.
- 5.10 Linked to this, it may also be beneficial for any evaluation of the Blueprints to ascertain levels of understanding around the guiding principles and underpinning philosophies especially as notions such as resilience, desistance, vulnerability and risk are contested. Having different interpretations key ideas such as Child First amongst practitioners and professionals for other agencies has the potential to undermine whole system approaches and multi-agency working.

## **Measuring 'Success'**

*What does success look like?*

- 5.11 Determining what 'success' looks like in performance terms is dependent on the nature of the initiative / intervention / activity with a number of the recommendations outlined in the Implementation Plans having binary outcomes – they were either actioned or not. However, the definition of success is also linked to the perspective.
- 5.12 Fundamentally, both Blueprints articulate the aims of reducing the numbers entering the CJS, reducing reoffending and addressing criminogenic need through a whole system approach. The key indicators of success therefore take the form of stock and flow statistics: the numbers in the system at each stage and the reoffending rate. In the case of initiatives to address criminogenic need, success is typically thought of in terms of the number of referrals and take up of places. This can also include how many (or what proportion) completed the program with a positive outcome. The nature of this outcome should be clearly defined in advance and ideally should be directly attributed to participation in the initiative. This is where things can become more complicated. For example:
- Is it sufficient to simply attend all the sessions being delivered or is there an expectation that the individual will actively engage in activities and be able to demonstrate a change in thinking or behaviour as a result of their participation?
  - In the case of drug treatment, should the goal be cessation / sustained abstinence or a reduction in usage?
  - Where an individual is receiving support from a number of agencies, should desistence be attributed to one or all those involved? Does it matter?
- 5.13 Partnership working is integral to the successful delivery of the priorities outlined in the Blueprints. Having shared goals, the use of harmonised questions and standardised metrics across CJOs and those providing commissioned services will make monitoring and evaluation easier. However, it is necessary to be mindful that different services / organisations may also need to demonstrate other measures of success which reflect their own aims and objectives, and how they are funded.

Where there are conflicting priorities, there is a risk of duplication of effort with the same information having to be submitted in different ways multiple times to satisfy the reporting requirements of the MoJ, YJB, Home Office, different departments within the Welsh Government and other potential funding bodies.

- 5.14 Given the high levels of criminogenic need, it may also be beneficial to consider referral to treatment waiting time measures to determine supply versus demand, and to look to demonstrate cost savings as a result of interventions. The latter relies heavily on having available data and the ability to monetise the impacts. Estimates of the economic and social costs of crime are available which can be used to quantify the savings. This includes the costs for some crime types, prosecution costs and prison places (see for example Heeks et al., 2018; HMPPS, 2020b; Crown Prosecution Service, 2021).

*Measuring success at different stages of the criminal justice system*

- 5.15 The statistical mapping exercise has identified that there are significant gaps in the availability of Welsh specific data in the reports published by the MoJ and Home Office which limit what can be learnt this way to evaluate the Blueprints. This is less of an issue in relation to Youth Justice. However, more needs to be done to make data available in relation to Welsh women who have offended especially in relation to those who serving custodial sentences.
- 5.16 Having reviewed the various parent publications which feed into the publication *Statistics on Women and the Criminal Justice System*, it highlights the potential for bespoke (and ideally ongoing) analysis to be undertaken. In many cases this is because the data is collected locally and then submitted to either the MoJ, Home Office or YJB. Indeed, the local systems hold considerably more detailed information than is currently included in criminal justice publications.
- 5.17 Theoretically, locally held data could be made available to researchers to monitor and evaluate the extent to which the actions set out in the respective Implementation Plans have been addressed the priorities identified in the Blueprints. However, even if the necessary approvals are granted for this data to be shared, the complexity of the task should not be under-estimated.

- 5.18 Where collection tools eg referral forms, assessment profiles or screening tools were not designed with research in mind then it may not be possible to extract the information required to measure success. This can also apply to CMS where it is not always easy to extract the required information in a format which is appropriate for analysis. For example, variables may not have been collected in a consistent manner either in terms of the way that questions were asked or the way in which responses were entered. This includes where information is recorded within free-text fields.
- 5.19 Even where information is systematically entered into a standardised form, there can be issues with data quality and completeness, especially where new data items have been added to reflect emerging priorities or organisational change. Such changes limits how far back researchers can go to monitor trends. Where variables have not been populated, it may be necessary to collate and cross-reference data from a number of different sources in order to address gaps. Not only is this time consuming, but there is also the potential to introduce error if there are inconsistencies in the way in which identifiers have been entered onto different systems eg incorrect spellings of names, changes of name, etc.

*Revisiting historic indicators and those from other policy areas*

- 5.20 Reflecting the whole system approach and need for multi-agency working, an appropriate balance needs to be found between developing more nuanced measures as part of a wider multi-agency performance framework and the burden this could create on the various partners. Therefore, consideration should be given to potentially adapting / refining existing measures rather than creating lots of new metrics.
- 5.21 The Youth Justice Blueprint includes an aspiration to 'support children to live crime free, positive and healthy lives, improving well-being and making communities safer'. Given the aspiration to align prevention strategies with those around children looked after, exclusions and homelessness. This raises the question as to whether there are any indicators or metrics from social services, education or housing which could be used to evaluate the effectiveness of the Youth Justice Blueprint.

- 5.22 The over-representation of children looked after in the youth justice system for example highlights the overlap between these policy areas where there may be an opportunity to adapt established measures around health and education to benchmark the cohort relative to their peers. Collating and publishing the data around children looked after on the 31<sup>st</sup> March each year allows the gap between them and their peers to be measured.
- 5.23 Given the emphasis on positive outcomes, there may be some benefits derived from mirroring this approach for children who have come into conflict with the law. However, the high levels of disadvantage and complexity within the statutory caseload in particular, means that the wholesale adoption of an annual performance reporting regime could prove to be counterproductive. Notably it has the potential to further stigmatise the cohort.
- 5.24 A further measure which has tended to be used more in England with respect to children looked after is the proportion who are placed within 20 miles of 'home'. More recently the placement and home postcode have been used to determine whether the child has been placed in county, within Wales, or outside Wales. Given the concerns with respect to distance from home, postcode information could also be used to monitor this both for children and women. This could potentially be linked to WYJI 4 (suitable accommodation) or developed as a part of a suite of metrics for women serving custodial sentences relating to ability to maintain family and other significant relationships. Linked to this is advocated that the use of Childcare Release on License (CRL) and Home Leave for those with dependent children should be collated and monitored.
- 5.25 The WYJIs around substance misuse and mental health are examples of time to referral / treatment measures which could be refined (and updated) to measure access to these services for women who have offended.
- **Substance Misuse** – the WYJI indicator measured the proportion of substance misuse assessments of children on a relevant order that were 1) carried out within five days of a referral, and 2) of those assessed as requiring an intervention, the proportion of those assessments which lead to an intervention within 10 days. The target for the equivalent KPI for substance misuse treatment

services in Wales is achievement of a waiting time of less than 20 working days between referral and treatment – see *also section 4.20*.

- **Mental Health** – the WYJI indicator measured the proportion of mental health assessments of children on a relevant order that were 1) carried out within 28 days of a referral, and 2) of those assessed as requiring an intervention, the proportion of those assessments which lead to an intervention within 28 days. This is the same as NHS Wales Delivery Measures 42 and 43 – see *also sections 4.22 to 4.24*.

Equivalent measures can also be developed with respect to accessing other services which support specific needs. This could include speech and language therapy, managing finances; programmes to enhance life / employability / parenting skills and other commissioned services.

- 5.26 Aligning these health and justice metrics would make it possible to ascertain where there are problems meeting demand and also offer the opportunity to make judgements about whether or not those in the criminal justice system face particular difficulties in accessing services relative to their peers. Whilst it is recognised that some may be accessing these services as a result of specific criminal justice pathways, e.g., following a positive drug test in custody - in such instances the PNC Number or Niche ID would typically be recorded, there are also opportunities more generally to use recorded referral sources.
- 5.27 Rather than benchmarking against either the general population or a standard, it is advocated that when considering the impact of specific initiatives, there is scope to adapt some of these established measures to get a sense of individual level progress as a result of participation / completion of the programme. For example, increased school attendance could be used as a proxy for greater engagement in school. Measuring success using progress rather than comparing to a standard would enable individual needs and circumstances to be taken into account, would acknowledge strengths rather than being deficit focused, and enable realistic goals to be set.

### *Softer Outcomes*

5.28 Whilst this document has focused on numerical metrics, it is also important to recognise that metrics can also be qualitative in nature and be focused on softer outcomes. The guiding principles of the Blueprints reflect an aspiration for a fairer, more holistic and rights-based system. By their very nature these softer outcomes are subjective and more difficult to measure. However, capturing the views of those in the CJS provides invaluable insights into what is working well (or otherwise) and where change may be needed. There are also benefits for the individuals concerned where they feel that they are able to make a difference and have their voices heard.

5.29 Adopting a combination of person-centred and community-centred outcomes is in keeping with the shift towards taking a more holistic, public health approach. These could include:

- Building / maintaining / improving family and other relationships
- life skills
- living healthy / healthier lives
- wellbeing / happiness
- emotional regulation
- expression
- aspirations
- building trust (willingness to make disclosures and ask for help)
- parenting skills
- living pro-social lives
- self-esteem
- resilience
- positive thinking / decision-making
- sense of belonging / inclusion

The community centred outcomes revolved around public perceptions of the treatment of offenders and the appropriateness of the way in which they were seen to be punished for their crimes, as well as broader concepts around how safe people feel in their communities, community cohesion and sense of civil responsibility.

5.30 Learning from the experiences of those in the CJS and their families is particularly important. There are already examples of surveys being conducted to get feedback about particular interventions, and where evaluations have taken been completed which include the voice of those with lived experiences. In the context of the soft outcomes, the individual's perception of distance travelled may be more appropriate

than benchmarking as outcomes are personal and different for everyone. There is also scope to seek the views of family members about the changes that they have observed as a result of their loved one's participation in different initiatives. Given the importance of relationships, capturing the views not just of the individual and their practitioner, but also family members would provide valuable insights into the distance travelled. For families / carers reflecting on the changes can also prove to be beneficial.

- 5.31 Importantly, for distance travelled to be measured at an individual level a baseline needs to be set, personal goals negotiated, realistic (and achievable) targets negotiated, and progress monitored. Unfortunately, some CMS do not allow practitioners to record smaller changes in circumstances or need since there is only a tick box. Tools such as the [Drug and Alcohol Star](#) exist to support and measure change. Subjective rating scales can also be used.
- 5.32 Welsh Government recommended outcome measures such as the SDQ (Strengths and Difficulties Questionnaire), SWEMWBS (Short Warwick Edinburgh Mental Wellbeing Scale), CGAS (Children's Global Assessment Scale), GBOs (Goal Based Outcomes), Social Services and Wellbeing Care and Support Plan 10-point scale and CHI-ESQ (Children's Experience of Service Questionnaire) could similarly be utilised to determine whether improvements have been made with respect to health and well-being. These have the advantage that they have been externally validated and are also being utilised by other agencies.

### **Specific Concerns and Challenges**

#### *Prevention and Pre-court Diversion*

- 5.33 There is currently very little published data around pre-court diversion. This includes trends in the numbers and characteristics of those children diverted verses those sentenced, and also the respective proportions involved in further offending behaviour. Whilst covid-19 restrictions meant MoJ analysts had only limited access to PNC terminals and as a result were unable to produce analysis around youth cautions for the latest set of published youth justice statistics, data on stop and search was released for the first time (Ministry of Justice & Youth Justice Board,



2022). There remain however, gaps in the reporting of the numbers of children arrested (and potentially re-arrested) and the numbers dealt with via out of court disposals.

5.34 The short nature of pre-court diversion interventions makes their evaluation and monitoring challenging. Locally records are kept of those who have participated in pre-court interventions so that checks can be made should they be involved in further offending behaviour. Potentially, rates could be determined based on whether or not they have offended again within specified period eg 6-months, 12-months, 24 months.

5.35 The reporting of numbers of FTEs has been a key performance indicator in the youth justice system for some time now. However, the definition of who counts as being an FTE is problematic in the context of prevention and diversion:

‘An FTE to the criminal justice system is an offender residing in England and Wales at the time of the offence, who has been recorded on the Police National Computer (PNC) by an English or Welsh police force as having received their first sentence or youth caution.’

As this is based on proven offences only ie where a child is given a formal caution or court disposal by a police force in England and Wales or the British Transport Police, it means that those who have been diverted will not meet this threshold.

5.36 Diversion options include:

- Community Resolution (Out of Court Disposal): A diversionary police outcome that can only be used when children have accepted responsibility for an offence. It is an outcome commonly delivered, but not limited to, using restorative approaches.
- No Further Action: An outcome used when the police decide not to pursue an offence for various reasons. This may be because there is not enough evidence, or it is not in the public interest. Voluntary support may be offered to children to address identified needs.

- No Further Action – Outcome 22: A diversionary police outcome that can be used when diversionary, educational or intervention activity has taken place or been offered, and it is not in the public interest to take any further action. An admission of guilt or acceptance of responsibility is not required for this outcome to be used.
- No Further Action – Outcome 21: A diversionary police outcome used when further investigation, that could provide sufficient evidence for charge, is not in the public interest. This includes dealing with sexting offences without criminalising children.

There is some variation in the local terms used by YJSs and Police to describe these outcomes.

- 5.37 The Implementation Plan suggests that there may be issues around the process of notification by the Police to YJSs, and some variation in practice. These consistency issues need to be resolved before an appropriate metric can be put in place. In developing the metric, as with others mooted here, that an approach similar to that employed in the development of Analytical Methods Notices within NHS Wales is recommended. This will need to take into account the definitions for prevention and diversion agreed by the YJB (Youth Justice Board, 2021b).
- 5.38 Whilst we tend to think of FTEs as being specific to the youth justice system, the MoJ also report on the number of adult FTEs as part of the Criminal Justice System Statistics Quarterly series (Ministry of Justice, 2022). The way in which the data has been provided means that it is possible to drill down to get information about the picture in Wales by age, gender and ethnicity.

#### *Community-based Interventions*

- 5.39 A key challenge here is that interventions are often developed in response to the need to address specific issues. These can reflect localised need and/or particular concerns. As such they can be aimed at very different groups of offenders making direct comparisons of success difficult. Individual interventions can however, be monitored in terms of the impact that they make on the lives of that they engage with using a combination of hard and soft measures. Since many of the

interventions are commissioned services there is often a need to demonstrate that they are achieving what they promised to deliver and that they offer value for money.

- 5.40 Given the funding mechanisms, there are opportunities to agree what success looks like from the outset and ensure that a robust performance management framework is built into the contract. This ensures that the appropriate data items are systematically collected, and that the metrics reflect the aims and objectives of the intervention. This will support mid-term and end of programme evaluations.
- 5.41 The aetiology of offending is complex. However, understanding not just what works but for whom and why will support the continuing development of the evidence base and enable more effective interventions to be developed in response to local and emerging needs. This knowledge will also help in understanding why seemingly good practice in one area or part of the CJS does not necessarily appear to work as well elsewhere.
- 5.42 As with prevention and pre-court diversion, the impact that engagement in an intervention may not be fully realised until sometime after involvement has ended. When evaluating the effectiveness of specific interventions there is scope to track individuals over longer periods.

#### *Minority and Priority Groups*

- 5.43 A number of minority and priority groups have been identified within this document. In evaluating the Blueprints, there is a need to understand how those with different combinations of protected characteristics experience the CJS in Wales and hence where there are opportunities to reduce disparity. In order to do this, it is necessary to have sufficient information, asked in a consistent manner to be identify sub-cohorts.
- 5.44 The Census 2021 provides an opportunity to provide an accurate picture of the profile and diversity of the Welsh population and hence make an assessment as to the extent of over- and under-representation of specific groups. It is anticipated that all the Census 2021 data will be available by March 2023. Notably this will include

not just the numbers by protected characteristics but also the number/profile of ex-armed forces personnel and those whose preferred language is Welsh.

- 5.45 Equality and diversity measures such as the Relative Rate Index (sections 4.27 to 4.30) can be used to ascertain where this is evidence of disparity at different stages of the CJS and in engagement in specific interventions.
- 5.46 Where numbers are particularly small, trends over time can be highly variable. However, numerical data can still provide an indicator of where there may be specific issues which need to be explored using qualitative methods.

#### *Measuring Quality and Fairness*

- 5.47 Linked to the challenge of understanding how well the needs of minority and priority groups are met by different CJOs are met, is the need to have mechanisms to measure fairness. Opportunities to do this include collecting feedback from service users through exit interviews, 'contact counts' type measures and surveys. There is evidence that this is already routine practice within some CJOs, particularly where there are commissioned services, or the provision has been subject to inspections. However, offenders are rarely asked to 'rate' the quality of service that they experienced for example following arrest or once a community sentence has been completed. Their responses can be used to drive service quality and identify where there is unmet need. Questions about fairness can similarly be asked routinely. There is scope for these to be incorporated as metrics for commissioned services and managed through robust contract management.
- 5.48 Individual's perception of how well they were treated by a service often based on the interactions that they have had with only a small number of people. Given the importance of trust, their experience can be heavily influenced by the quality of the relationship that they have with their key worker or a specific professional. Consideration therefore should be given to developing metrics which measure continuity of care.
- 5.49 Monitoring the number of complaints / grievances made can also be provide an indication of the extent to which individuals feel that they have been fairly treated.

## **Understanding levels of criminogenic need and the complexity of the caseload**

5.50 Alongside the Youth Justice Statistics, data has been published in relation to the needs of sentenced children which summarises the concerns, care history, risk of serious harm safety and wellbeing and categories of factors affecting desistance from offending for the cohort as recorded in AssetPlus. The rationale for publishing this is to enhance understanding of the type and prevalence of these different needs since they 'represent complex operational challenges around the delivery and provision of appropriate services to ensure best outcomes for children in the Youth Justice System' (Ministry of Justice & Youth Justice Board, 2021a).

5.51 In looking to produce something similar for women's offending there are three options:

### *Option One: OASys*

5.52 Work has previously been undertaken by the MoJ to consider the needs of offenders based on the eight criminogenic needs linked to offending behaviour identified in OASys (Ministry of Justice, 2018). These are: Accommodation, Employability, Relationships, Lifestyle, Drugs Misuse, Alcohol Misuse, Thinking & Behaviour and Attitudes. Three responsivity measures are also derived from OASys variables (Learning Disability and Challenges, low psychosocial maturity and mental health issues), that are used for the aid of practitioners, and which may affect how an offender responds to support for their criminogenic needs (e.g., somebody with a learning disability may require support materials to be provided in a different format in order to benefit from them). Having been identified at the time of (re)entry into the CJS, these can be used to monitor individual level progress, to identify if there is unmet need in terms of the provision of services and also to monitor levels of complexity within the caseload over time. This horizon scanning can be used to identify emerging trends.

### *Option Two: Replicate the approach used in England*

5.53 An alternative to this would be to seek to reproduce the experimental statistics from NHS England Liaison and Diversion which formed part of the release *Statistics on*

*Women and Criminal Justice System, 2019* (Ministry of Justice, 2020c). These included breakdowns by age-group (adults and youths) and sex with respect to those supported through the service with:

- alcohol and/or substance misuse needs
- physical health needs
- mental health needs
- financial needs
- being an abuse victim
- with an identified learning disability
- with social and communication difficulties
- suicide / self-harm risk
- accommodation need.

5.54 In order to do this, it may be necessary for a national information sharing protocol to be agreed for organising working across the Welsh health and justice estate to regulate the sharing of specific Personal Sensitive Data (PSD as defined in the Data Protection Act 2018 and General Data Protection Regulation 2018). At present an agreement exists between NHS England and NHS Improvement Health and Justice, Department of Health and Social Care, MoJ, HMPPS, and Public Health England which provides a framework for assuring the safeguarding of PSD by all parties and includes guidance on the treatment of individual patients by multiple providers across the health and secure sectors (NHS England and NHS Improvement, n.d.).

#### *Option Three: Data Linkage*

5.55 The MoJ has recently made available a number of anonymised criminal justice data sets for research purposes. Funded by ADR-UK, Data First is a three-year project running until 2022, which will share different criminal, civil and family justice datasets throughout its duration. The linkage of MoJ's internal data initially started with two criminal court datasets that were delivered and linked in October 2020.

During 2021 the focus was on the development of a prisons data share, which has then been linked with criminal courts and probation data. The development of civil and family justice data shares also commenced last year, with the family justice datasets being provisioned in October 2021. Linkage across all criminal, civil and family justice datasets anticipated by the end of 2022 (Ministry of Justice, 2021b).

- 5.56 In addition to Data First, the MoJ-DfE data shares provides data on childhood characteristics, education outcomes and (re)-offending. The shared information consists of data on the educational characteristics of young people (such as free school meal status, attendance and exclusions), linked to data on their interactions with the CJS, including data from Prisons, Courts and PNC. Since the National Pupil Database [England] includes the looked after children and children in need collections, it is also possible to consider the care status.
- 5.57 Both data linkage initiatives enable accredited researchers to unlock the potential of the wealth of data already created by the MOJ, by linking administrative datasets from across the justice system. However, as yet the potential for Wales cannot be fully exploited - although there are plans for the Data First data to be deposited in SAIL Databank, it is currently only available through the ONS Safe Research Service. As a result of this it is not currently possible to link the MoJ data to devolved datasets relating to health, education, and social services.
- 5.58 Due to the way in which education and social services data is collected in Wales, to replicate the level of information held within MoJ-DfE data share, it would be necessary to link the Education Dataset (EDU) and the Lifelong Learning Record (ILRW) since this includes records for pupil referral units. Unlike in England, the Looked After Children Census is not part of the School Census data collection. The concept of children in need no longer exists in Wales following the Social Services and Wellbeing (Wales) Act, 2014. Rather data is collected in relation to Children Receiving Care and Support. Historic records are available for children in need and children receiving care and support. However, these are incomplete with issues affecting the potential to match to those under the age of 4 and the inclusion criteria meaning that only those who have a care plan in place in the 3-months prior to the census date of 31<sup>st</sup> March are included.

- 5.59 Linkages to other datasets from other government departments are also being explored including DWP data. Notably the MoJ is working with the Ministry for Housing, Communities and Local Government, the Department for Health and Social Care, Public Health England, Public Health Wales and the Office for National Statistics to link data on vulnerable people. Named the Better Outcomes through Linked Data (BOLD) programme, it is aimed at providing more joined up services and improving the evidence base for policy creation and operational decision making. It is understood to have begun a three-month discovery project, budgeted at £1.4 million, to scope and create a strategy for the 3-year programme (Digital Marketplace, 2021).
- 5.60 According to the procurement notice to support in the discovery project, BOLD will enable issues of vulnerability to be monitored, with a broad range of datasets offering enormous benefits through better joining up of services and understanding user-journeys. The project has four aims:
- (1) Improve the evidence base around what works in support of various policy objectives, through joining up outcomes cross-departmentally
  - (2) Manage and join-up services more effectively by tracking users through multiple parts of the public sector to better understand where vulnerable adults may be using multiple government services
  - (3) Reduce unmet need by identifying where vulnerable users only appear in one dataset but vulnerability flags suggest they are not (but should be) being picked up by other services. The combined data can then be used to ensure that appropriate support is targeted to these identified and thus unmet need can be minimised
  - (4) Better identify how multiple government services impact on dynamic factors of vulnerability – i.e. what combination of services most effectively manages someone’s vulnerability. This insight can then be used to intervene earlier and divert vulnerable users to cost-effective services before problems escalate.
- 5.61 Once it is possible to link to Welsh health, education, housing and social services data this will enable a more thorough exploration of the needs and circumstances of the offending cohort. Notably, there is scope to build upon the work that has



undertaken around identifying ACEs from administrative data sources to explore their impact on the likelihood of being involved in offending behaviour. Linkages which could be investigated include:

- engagement in education eg more detailed information with respect to attendance and exclusions
- ALN including those identified using education and/or medical definitions
- specific physical and mental health diagnosis and the support received
- engagement with social services either as a child or as a parent
- referrals to treatment for substance misuse and the impact of treatment on further offending behaviour

5.62 There are currently two SAIL projects which are utilising criminal justice data although the data is only available to researchers working on specific projects. This includes prison data for an ADR Wales funded project around suicide and self-harm led by Professor Ann John and Dr Mohamed Mhereeg (ADR-UK, 2020), and historic youth offending data from two local authorities as part of a Health and Care Research Wales funded project on the experiences of children looked after in the youth justice system led by Dr Helen Hodges (HCRW, 2020).

5.63 In addition to providing insights into the needs and circumstances including childhood experiences, of those who have come into contact with the law, data linkage also gives the opportunity to learn more about what happened as a result of the support that they received. This could for example, be done to learn more about the medium- and long-term effectiveness of prevention and diversionary activities in preventing offending / reoffending and of community-based initiatives.

## 6. Moving Forwards

6.1 This exercise has focused on the availability of data to baseline the 'current' position so that the progress can be measured against the aims and objectives of the Youth Justice and Women's Justice Blueprints. It has highlighted that there are a number of barriers which need to be negotiated in order to get a comprehensive picture which takes into account an intersectional approach.

6.2 This section summarises issues which it is felt need to be resolved in order to establish a baseline and appropriate mechanisms for monitoring progress over time.

### **Issue One: The availability of Welsh specific data**

- What levers are there to put pressure on the MoJ to honour their promise to make Welsh specific data available on their website?
- Whose responsibility would it be to produce a Welsh specific publication? Given that Justice is not a devolved matter, should this lie with the MoJ?
- Who would co-ordinate the data collection and provide oversight?

6.3 Associated with this is the need to be able to more reliably identify Welsh prisoners. As described the MoJ currently relies on the postcode of where the individual spent the night prior to reception. It is therefore recommended that the potential for adding a Welsh resident flag to Prison-NOMIS be explored so that the 'home' probation service can be readily identified. Currently the 'home' YJS of those children serving custodial sentences is recorded.

### **Issue Two: The development of Welsh specific metrics to evaluate the Blueprints**

6.4 Whilst justice is not devolved, it does not function in isolation. Notably, there are significant links to education, social services, health and housing which are devolved policy areas. This complicates the situation in Wales especially where there is a desire to reflect multi-agency working and/or the needs of offenders within the metrics.

- Are questions asked in a consistent manner and to an agreed standard to enable it to be collated to build the national picture or to make comparisons between geographies / sub-cohorts?
- Do the individual agencies have the capacity to prepare the necessary data especially if this was over and above the submissions made to the Home Office / MoJ?
- What, if any adaptations would need to be made to existing IT systems to enable the relevant data items to be collected?
- What governance processes need to be put in place to facilitate the sharing of information between agencies, especially those in health?
- Who would be responsible for the timely collection and reporting of metrics? Who would provide oversight?

### **Issue Three: The Need for a Harmonised and Intersectional Approach**

6.5 The adoption of a harmonised approach with standard definitions will facilitate the exchange of information between partners and help strengthen common understandings. It also reduces the burden placed upon CJOs and partners in reporting on performance by removing duplication. The adoption of the CJS Exchange Data Standards Catalogue and the approach used in health by the Welsh Information Standards Board with respect to developing Analysis Methods Notices (AMNs) should therefore be considered. Given that justice is not developed, this would need to complement the metrics used, particularly in custodial settings in England.

- What obstacles need to be overcome to ensure that all CJOs and the agencies commissioned to support those in the CJS are using harmonised questions and adhering to a common set of standards for data collection?
- What flexibility is there within the existing IT systems to ensure that it is possible to record details of the individual's protected characteristics, fields which identify their preferred language and membership of specific cohorts?
- Is there a need to work with suppliers to agree a minimum 'Welsh' data set? If adaptations are required to IT systems, who would pay for this?

## **Issue Four: Flows of Information through the CJS and Between Partners**

### *Sharing information at a strategic level*

- 6.6 The example given of the Information Sharing Protocol which exists to facilitate the sharing of data between health and justice providers is indicative of the complexity of sharing and collecting data around liaison and diversion which is particularly pertinent a number of themes in both Blueprints.
- The NHS England Liaison and Diversion Service is a commissioned service (by the Police). If an equivalent protocol was to be put in place in Wales, who would need to be the signatories?
  - Given that the NHS England Liaison and Diversion Service work with both adults and youths, are there any other priorities that would need to be reflected if this was to be reproduced in Wales? Would there be scope to build on this to reflect the ACEs agenda?
  - Who would provide strategic oversight? What are the governance arrangements which would need to be put in place? Who would 'host' and collate the data?

### *Sharing information to support individuals*

- 6.7 Both Blueprints promote the need for a whole system approach. In order to support individuals as they progress through the CJS, data about their needs and circumstances (both positive and negative) need to travel with them. The flow of data between partners reduces the burden on the individual and means that they do not need to repeatedly tell their story. From the practitioner perspective, it also reduced the duplication of effort.
- 6.8 An appropriate balance needs to be struck to ensure that whilst key pertinent details are shared, the information held about individuals needs to be kept up to date and reflect what can be quite chaotic lifestyles. Learning about changes that have occurred, both positive and negative forms part of the ongoing assessment process and can also be used as measures of progress. Consideration therefore needs to be given as to whether to include metrics which reflect say reductions in the number of concerns / needs should be included and how these could be measured. Just as

the measurement of proven reoffending includes a time dimension, if this type of metric is to be used to evaluate the effectiveness of interventions/services then realistic time dimensions which taken into account the typical time taken for meaningful changes to be made to be determined.

- 6.9 The timely flow of information means that it is available both for the individual and the agencies that are supporting them, enabling key transitions to be planned. This is particularly important for example in the case of resettlement, but also where support especially from health and social services needs to be co-ordinated to support the transition from youth to adult services. Linked to this is the idea of continuity of care.
- 6.10 Given the importance of establishing rapport and developing effective working relationships in offender management, there is a need to consider the flow of information between practitioners within the same organisation for example if it is necessary for an individual's case to be passed to someone else e.g., when practitioners leave or need to take unplanned time off work. Some individuals may return to the agency on multiple occasions. This could be because they have reoffended, or because they spent time in custody. Consideration should be given to whether to develop a metric which captures this e.g., the proportion of those who have spent time in custody who return to the caseload of the same Probation or YJS practitioner?

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## Annex A: Harmonised Questions: Census 2021

### Sexual Orientation

A question on sexual orientation was asked for the as part of the 2021 Census with respondents being able to indicate:

- "Straight/Heterosexual" means that you're only attracted to people of the opposite sex
- "Gay or Lesbian" means that you're attracted to people of the same sex
- "Bisexual" means that you're attracted to more than one sex
- "Other sexual orientation" lets you give your own answer, for example, pansexual or asexual.

There was also the option to leave the question blank, reflecting the human-rights based approach to data collection allowing individual to choose whether to disclose their identity.

### Ethnicity

Self-defined ethnicity was collected as part of the 2021 Census on the basis of 18+1 codes:

W1 British	A1 Indian	B1 Caribbean	M1 White and Black Caribbean	O2 Arab
W2 Irish	A2 Pakistani	B2 African		O9 Any other
W3 Gypsy or Irish Traveller	A3 Bangladeshi	B9 Any other Black background	M2 White and Black African	NS Not stated
W9 Any other white background	A4 Chinese		M3 White and Asian	
	A9 Any other Asian background		M9 Any other mixed	

## Religion

The main religious groups asked about in the 2021 Census in England and Wales were:

- No religion
- Christian
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
- No religion

## Annex B: Comparisons of Race and Ethnicity Classifications

### *Officer Identified Ethnicity*

Officer identified ethnicity is ethnicity as recorded by a police officer or a member of the administrative or clerical team, based on visual appearance. The Phoenix classification refers to the database. The corresponding Identity Code (IC) refer to how these are input into the database. The data is initially inputted into six detailed categories, which are then re-categorised in the Court Proceedings database into four categories (Table A.1).

**Table A.1: Mapping of the 4- point classification to the Phoenix Classification**

<b>4-point classification (4+1)</b>	<b>Phoenix Classification<sup>103</sup></b>
White	White – North European (IC1) White – South European (IC2)
Black	Black (IC3)
Asian	Asian (IC4)
Other	Chinese, Japanese, or South East Asian (IC5) Middle Eastern (IC6)
Unknown/ Not Stated	Unknown (IC0)

### *Self-Identified Ethnicity*

Self-identified ethnicity is ethnicity as defined by an individual, and categories are based on the classifications as defined by the 2001 and 2011 Census. As outlined in Annex 1, the ONS introduced two further categories to the Census in 2011: ‘White – Gypsy or Irish Traveller’ and ‘Arab’; and moved ‘Chinese’ to the broader Asian category. To allow for comparability between the latest published data on *Ethnicity in the Criminal Justice System 2020* and previous editions of *Race and the Criminal Justice System*, the MoJ have placed Chinese in the ‘Chinese and Other’, or ‘Other’ category, following the 2001 Census.

### *Mapping Race and Ethnicity Categorisations*

Although data is in some places available for the full 2011 and 2001 Census categorisations, as these have 16 or more categories the number of people in each

category when looking at the Criminal Justice System (CJS) can be very small. As a consequence, broader categories were used when drawing comparisons (Table A.2). Both the 4- and 5- point classifications can also be mapped onto each other, which enable comparisons across data sources where different classifications have been used.

**Table A.2: Mapping of different race and ethnicity categorisations**

<b>5-point classification (5+1)</b>	<b>4-point classification (4+1)</b>	<b>2011 Census Categorisation (18+1)</b>	<b>2001 Census Categorisation (16+1)</b>
White	White	White – British White – Irish White - Gypsy or Irish traveller White – Other	White – British White – Irish White – Other
Black	Black	Black – African Black – Caribbean Black – Other	Black – African Black – Caribbean Black – Other
Asian	Asian	Asian – Bangladeshi Asian – Indian Asian – Pakistani Asian – Other	Asian – Bangladeshi Asian – Indian Asian – Pakistani Asian – Other
Mixed	<i>[Divided between groups – group in brackets]</i>	White and Black African ( <i>Black</i> ) White and Black Caribbean ( <i>Black</i> ) White and Asian ( <i>Asian</i> ) Any other mixed background ( <i>Other</i> )	White and Black African ( <i>Black</i> ) White and Black Caribbean ( <i>Black</i> ) White and Asian ( <i>Asian</i> ) Any other mixed background ( <i>Other</i> )
Chinese or Other	Other	Chinese Other	Asian - Chinese Other Arab Any other ethnic group
Not Stated	Not Stated	Not Stated	Not Stated