

EQUAL's response to the HM Inspectorate of Prisons '*Minority ethnic prisoners' experiences of rehabilitation and release planning*'

[EQUAL](#) National Independent Advisory Group works collaboratively to improve outcomes and bring about race equality in the criminal justice system (CJS) for black, Asian and minority ethnic (BAME) groups and Muslims.

Last month HM Inspectorate of Prisons (HMIP) published ['Minority ethnic prisoners' experiences of rehabilitation and release planning](#) thematic review, which found through a number of interviews and surveys that overall "*BME prisoners reported that their ethnicity had directly influenced their experience of rehabilitation and release planning (RRP).*" The report is clear; the BAME experience of prison and its rehabilitative culture is different and worse than the experience of white prisoners.

Moreover, it is important to highlight the lack of engagement with Muslim prisoners throughout the review. There has been little discussion of the impact of race/faith on Muslim inmates and how it may shape their experience of prison, particularly when they are also overrepresented in the prison population. The intersectionality of race and faith creates a sophisticated cultural dynamic and needs further exploration, and we think it is important that this is factored into any future reviews by HMIP.

Data

Our biggest concern following the publication of this thematic review is the repetitive request for data throughout the report. We have raised concerns about the lack of transparent data with Her Majesty's Prisons and Probation (HMPPS) through our membership on the HMPPS External Advice and Scrutiny Panel, on several occasions, yet it remains an issue.

The Lammy Review made several suggestions for building trust in communities that have the least confidence in the CJS, which included all data sets that are being held centrally on ethnicity and the CJS being published. We would urge all organisations that form part of the CJS to ensure that their data is made public and properly recognises the nuance of ethnicity within it.

The failure, as highlighted in the review, to identify the ethnicity of prisoners is a stark reminder that although transparency of data is crucial to building trust in marginalised communities the data must also be accurate. Gypsy, Roma, Traveller (GRT) prisoners were "*poorly identified*" with one prison apparently identifying 10 GRT prisoners when in fact none of those prisoners identified as GRT.

The Ministry of Justice (MOJ) ['Tackling Racial Disparity in the Criminal Justice System: 2020 Update](#) stated that the "*prison and probation analytical services have been continuing their work to improve the internal prison Equality Monitoring Tool*

(EMT). This includes developing offender Equality Data Dashboard which provides easily accessible information to enable equality related trend analysis and comparisons by prisons and regions.”

We recognise the impact of the Covid-19 ongoing pandemic on all criminal justice organisations but had these tools been fully operational at the time of the review HMIP may have been able to examine in more detail why BAME prisoners perceive themselves to be treated less favourably, rather than whether racial disparity exists. The lack of data has meant rather than ‘*explain or reform*’ the discrimination as expressed by BAME prisoners, another review has been undertaken and we are still no closer to understanding why the experience of BAME prisoners continues to be less favourable than that of their white comparator inmates.

We know that data is not the answer to everything, but the adequate collection of data is important to understanding racial disparity in its wider context. Data needs to be collected at every stage and broken down by protected characteristics (including the nuance of those characteristics and not in unhelpful homogenised groups) to help support the effective scrutiny and accountability of HMPPS and other CJS organisations. Having access to accurate data, we believe, would support a more solution focused approach rather than the current bureaucratic approach that lacks transparency.

We note that HMPPS committed, in the MOJ 2020 update on the Lammy review that GRT would be included in the latest data sets by December 2019 and the 2021 Census would also include GRT as an ethnicity option. As mentioned in our response to the MOJ update we are pleased to see that action is being taken to address the lack of quantitative data in regard of GRT prisoners and we are keen to see improvements in the collection of this data specifically given the overrepresentation of GRT prisoners.

Incentives and Earned Privileges

The Lammy Review made it clear that *“in adult prisons in England and Wales, BAME prisoners are less likely than white prisoners to agree they have been treated fairly by the Incentives and Earned Privileges Scheme (IEP)”*. Lammy suggested that the decision-making process needed to be ‘de-mystified’ and transparent so decision making could be better understood. It is disappointing that almost 3 years after the Lammy Review BAME prisoners are still reporting that the scheme is *“operated punitively”*.

EQUAL views this as a matter of urgent concern, with what appears to be a lack of improvement in IEP programs since 2017. Clearly, there needs to be more oversight;

a role which could be played by HMIP, following the Chief Inspector of Prisons criticisms of the IEP system in the 2017 HMIP annual report.¹

Recommendations

The recommendation in 9.2 of this thematic review suggests that a wide range of data be made available to all agencies working in prisons. We would suggest that this recommendation go further to include voluntary sector organisations, advisory groups and scrutiny panels. The sharing of data publicly or at the very least with trusted civil society organisations we believe, will go some way to improving the trust and confidence of BAME, Muslim and GRT inmates in the prison service.

The recommendation made at 9.5 of this thematic review references the inclusion of suitable specialist community organisations to support the development of culturally sensitive services. We want to emphasise the importance of including specialist services in forming a culturally competent workforce and prison culture.

Lastly, in light of Charlie Taylor's recent appointment as HM Chief Inspector of Prisons we would recommend that HMIP use future reviews in a similar way to Ofsted, effectively giving prisons a rating and a number of actions which are then followed up at the next review with any failure to comply (without reasonable justification) reprimanded in some way.

It has been 3 years since the Lammy Review and yet many of the themes highlighted in that review are reflected in this thematic review 3 years later. It is imperative that BAME and Muslim prisoners are provided with a safe, fair, culturally aware and rehabilitative setting and we want to see HMIP play their role in holding HMPPS to account ensuring that change occurs.

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¹ HM Chief Inspector of Prisons for England and Wales, Annual Report 2016-17
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629719/hmip-annual-report-2016-17.pdf