

# **Howard League** for Penal Reform

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### ECAN Facebook Group



The Howard League for Penal Reform is active on [Facebook](#) and [Twitter](#). There is a special page dedicated to the Early Careers Academic Network that you can reach either by searching for us on Facebook or by clicking on the button above. We hope to use the Facebook site to generate discussions about current issues in the criminal justice system. If there are any topics that you would like to discuss, please start a discussion.

## Introduction

### Anita Dockley and Helen Churcher

This issue explores a number of focal themes in the Howard League's work. Our first three contributors reflect on different aspects of youth justice, the contextual experiences of children and young people, and how these might intersect. We also hear about the damaging and unequal impact of imprisonment on women, and the impact of innovative research methodologies in criminology.

Molly Corlett (the Howard League for Penal Reform) provides an overview of developments in judicial understandings of adulthood and maturity. The article focuses in particular on the Howard League's continued campaigning to ensure that sentencing practice reflects the scientific consensus about young adult development. This work includes collaboration with T2A, through which [short films](#) exploring the issue have been produced. Despite a well-established legal framework, practitioners and judges must be able to apply these principles in every court and probation service.

Emily Setty (University of Surrey) writes about recent research conducted with young people about their perspectives on online harms. This research aims to explore how we should seek to understand and respond to the realities of young people's digital lives, in all their complexity and heterogeneity. She identifies a disconnect between public policy and education (crafted by adults), and the lived experiences of young people.

In his audio contribution, Max Lowenstein (University of Bournemouth)



considers the question 'What is the English judicial approach towards youth sentencing explanations made within the magistrates' youth court?'

Sophie Mitchell (Northumbria University) investigates the implications of imprisonment for mothers and their families using a trauma framework based on a socio-ecological perspective, that takes into account individual, family, community and societal factors. She highlights the wider intergenerational traumatic impact of imprisoning mothers, who are usually the main caregiver and focal point of the family.

Sarah Page et al (Staffordshire University) discuss the online mixed methods participatory and collaborative approach undertaken in the Commission on Crime and Problem Gambling's newly published research [Sentencers' understanding and treatment of problem gamblers](#). The research team and advisory group reflect on the research process and the benefits (and potential limitations) of conducting participatory and collaborative research.

#### **Please note**

*Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.*

## Features

### How the criminal law has developed to reflect young adult immaturity in sentencing

**Molly Corlett**



#### Introduction

Reaching adulthood is a process, not an event. Parents know this: they do not wash their hands of a child at 18 and assume that they no longer need any practical or emotional support. Neuroscientists and psychologists know it: it is widely accepted that young people's brains continue to develop into at least their mid-twenties, and that young adults are similar to teenagers when it comes to impulse control and susceptibility to peer pressure. The criminal justice system is also gradually coming to understand the distinct needs and characteristics of young adults aged 18 to 25, and how they can be taken into account in sentencing.

Following a series of judgments concerning young adults in the Court of Appeal, interventions by the Justice Committee and the publication the Sentencing Council's expanded explanation of age and/or lack of maturity, the criminal justice system now accepts the need to address the distinct needs and characteristics of young adults. Every young adult who gets into trouble with the law now can and should be treated in a way that recognises their developing maturity.

From its legal work with young people aged 21 and under in prison, the Howard League has long been aware that young adults mature gradually over time.

Young adults in conflict with the law are also especially likely to have unmet and/or emerging needs that affect their maturity. For example, support needs related to an undiagnosed neurodevelopmental condition or to the mental health impact of childhood trauma. If these needs are not recognised and a young adult is instead pushed progressively further into the criminal justice system, the consequences can be dire. As the prison inspectorate found in a recent thematic report, young adults' experiences of almost every aspect of prison life are worse than older adults (Her Majesty's Inspectorate of Prisons, 2021).

In partnership with the Transition to Adulthood (T2A) Alliance, the Howard League for Penal Reform has carried out a four-year programme of work to ensure that sentencing practice reflects the scientific consensus about young adult development. As part of this work, the Howard League has produced a range of resources on the need for a distinct approach to young adults in conflict with the law. These resources are aimed at the judiciary, magistrates, lawyers and probation staff.

Most recently, in October, the Howard League launched four short films setting out why young adults must be treated differently. The films are available on the Howard League's website [here](#). They will be useful for training practitioners who

deal with young adults, and for embedding the growing consensus about young adult maturity.

### The courts' understanding of maturity

Though age has long been recognised as a mitigating factor, the courts have only recently begun to treat young adults as a distinct group when it comes to sentencing.

In 2017, the Howard League analysed 174 senior court judgments in cases concerning young adults. The research found some examples of good practice: where sentencers had access to a comprehensive psychological assessment and information from people who had day-to-day contact with a young adult, they were able to effectively factor maturity into sentencing decisions. But this was not happening in most cases. Despite the inclusion of age and/or lack of maturity as a mitigating factor in the Sentencing Council guidelines, half of sentence appeal cases still did not consider young adults' age or maturity (Howard League, 2017).

The case law on sentencing young adults has developed significantly in the past three years. The importance of maturity, as opposed to chronological age, had been recognised in the earlier case of *R v Peters* [2005] EWCA Crim 605. In *Peters*, the then-Lord Chief Justice noted that "the passage of an 18th or 21st birthday ... does not necessarily tell us very much about the individual's true level of maturity, insight and understanding" (at [11]). But until *R v Clarke & Ors* [2018] EWCA Crim 185, which came before the Court of Appeal thirteen years later, this reasoning was only applied in life sentence cases.

The Attorney General referred *Clarke* to the Court of Appeal under the unduly lenient sentence scheme, on the grounds

that two 18 and 19-year-old defendants should not have been given a significantly discounted sentence because of their age. The Lord Chief Justice rejected these submissions and held that:

"Reaching the age of 18 has many legal consequences, but it does not present a cliff edge for the purposes of sentencing ... Full maturity and all the attributes of adulthood are not magically conferred on young people on their 18<sup>th</sup> birthdays." (at [5])

Between 2018 and 2020, this understanding of young adult maturity was echoed in five subsequent cases in the Court of Appeal (see cases listed in the references).

The judgments in *Balogun* and *Geoghegan* confirmed that the sentencing principles which apply to children are also relevant to young adults. Sentencers should consider the welfare and rehabilitation of a young adult and should not assume that they have been "invested overnight with all the understanding and self-control of a fully mature adult" (*R v Balogun*, at [41]).

In October 2019, the Sentencing Council published an expanded explanation for the mitigating factor of 'age and/or lack of maturity' (Sentencing Council, 2019). The expanded explanation reflects the scientific evidence and developing case law on young adult maturity. It explains that young adults are still developing and may be less able to evaluate the consequences of their actions, limit their impulsivity and limit their risk-taking – especially when they are with peers. It also notes that young adults have a greater capacity for change than older adults and that many young people grow out of offending in their late teens or early twenties.

Dr Laura Janes, the Howard League's legal director, has co-authored an article which charts the treatment of young adult maturity in the courts and by the Sentencing Council. The article has been published on the Howard League website and is available to read and download [here](#).

### **Sentencing principles for young adults**

In 2019, the Howard League published a report which made the case for sentencing principles for young adults and a document on the principles which ought to be applied.

The Howard League's participation work with young adults found that they experienced sentencing as overwhelming, unfair and inadequate. Young adults had little confidence in sentencers and did not feel listened to at court. Some participants felt that judges had preconceptions about them and that the court had not factored in the reality of their circumstances and background.

The Howard League argued that the existing sentencing principles for children could be adapted to address the needs of young adults, drawing on the research evidence about early adulthood as a peak time of desistance and addressing the distinct rehabilitative needs of young adults (Howard League, 2019a).

In consultation with an advisory board which included experts, senior practitioners and young people who had experienced of being sentenced as a young adult, the Howard League then developed five sentencing principles for young adults (Howard League, 2019b).

The principles were:

1. Young adults, typically aged 18 to 25, should be treated as a distinct

category for the purposes of sentencing.

2. Custody should be a last resort for young adults.
3. Where a custodial sentence is imposed, the term should take into account the impact of prolonged custody on the young adult's well-being and life chances.
4. The period of any custodial term should be less than that imposed on an older adult.
5. When considering mitigating factors, attention should be paid to how they particularly affect young adults.

These principles are reflected in the case law and the expanded explanation on age and/or lack of maturity, though there is still work to do to fully embed them across the criminal justice sector. The case law and the expanded explanation address the first principle: it is now clear that young adults must be treated as a distinct category for the purposes of sentencing. The case law has also recognised that the sentencing guidelines for children and young people are relevant to young adults, including the need for sentencers to consider young adults' welfare.

The Howard League also produced a table of mitigating factors that currently apply to children, with suggestions about how they could be adapted to apply to young adults (Howard League, 2019c). The mitigating factors draw on the purposes of sentencing for adults and the duties of the court in cases concerning children, as described in sections 57(2) and 58 of the Sentencing Act 2020 (and previously set out in sections 142 and 142A of the Criminal Justice Act 2003).

In sentencing adults, a court must have regard to the five purposes of sentencing: punishment, the reduction of crime, the reform and rehabilitation of the

person who is being sentenced, the protection of the public, and the making of reparations to those affected by an offence. In sentencing children, a court must also have regard to 'the principal aim of the youth justice system ... to prevent offending (or re-offending)' and to the welfare of the child (Children and Young Persons Act 1933, s44).

Treating young adults in the same way as older adults will not reduce crime, promote rehabilitation or protect the public. The Sentencing Council's expanded explanation acknowledges this by tailoring mitigation to young adults. For example, it reminds sentencers that previous convictions should not be considered in the same way for young adults – a point which the Howard League made in its table of mitigating factors.

### **Theory to practice**

The legal framework is now well established. However, practitioners and judges must be able to apply these principles in every court and probation service. It is critical to get young adults' sentences right first time round. The Howard League's films for professionals aim to ensure that this happens.

### **Embedding an understanding of young adult maturity: the Howard League's films for professionals**

In October 2021, the Howard League launched [four short films](#) on the distinct needs and characteristics of young adults in the criminal justice system. The films were created to provide authoritative information for practitioners and can be embedded within training packages.

The films address issues which come up repeatedly in the Howard League's legal and participation work with young adults,

but which are too often overlooked in court. Many of the young adults who call the Howard League's legal advice line have spent time in the care of their local authority, and many have psychiatric or learning support needs which have previously gone unaddressed. The Howard League's young adult clients often have difficult relationships with professionals, usually based on a long history of being let down by services. Most see the law as something which is there to punish them, rather than as rules which apply to everyone in a fair and transparent way.

Young adults in prison are also disproportionately likely to be from Black and minority ethnic backgrounds, and so to have experienced the structural and interpersonal racism which persists throughout the criminal justice system (Her Majesty's Inspectorate of Prisons, 2021; Howard League for Penal Reform, 2021).

Yet these issues are not always raised in pre-sentence reports or psychiatric reports (if these reports are provided at all) and, as a result, are not necessarily factored into sentencing. Young adults who have spent time in care may be able to access crucial, time-limited support from their local authority if they receive a community sentence or a shorter prison sentence. But, as Her Honour Judge Rosa Dean explains in her contribution to the films, this time-limited support cannot be considered in sentencing if the sentencer does not know about it. Similarly, if a court does not know about a young adult's level of maturity or support needs, it cannot pass a sentence which takes those factors into account.

The films complement the pre-sentence report pilot which is currently underway at 15 magistrates' courts across England and Wales, and which includes young adults aged 18 to 24 as one of its priority

groups. They also fit into the wider body of T2A-funded work on how policing, probation and courts can meet the needs of young adults, available [here](#).

### References

Emanuel, D., Mawer, C. and Janes, L. (2021). 'The Sentencing of Young Adults: A Distinct Group Requiring a Distinct Approach', *Criminal Law Review* 3, 203–217. [https://howardleague.org/wp-content/uploads/2021/03/CLR\\_Sentencing\\_young\\_adults.pdf](https://howardleague.org/wp-content/uploads/2021/03/CLR_Sentencing_young_adults.pdf)

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Sentencing Council. (2019). *General guideline: overarching principles*. <https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/general-guideline-overarching-principles/>

### Case law

*R v Peters* [2005] EWCA Crim 605

*R v Clarke* [2018] EWCA Crim 185

*R v Balogun* [2018] EWCA Crim 2933

*R v Daniels* [2019] EWCA Crim 296

*R v Geoghegan* [2019] EWCA Crim 787

*R v Quartey* [2019] EWCA Crim 374

*R v Long Bowers Cole* [2020] EWCA Crim 1729

### Legislation

Sentencing Act 2020, c. 17, available at: <https://www.legislation.gov.uk/ukpga/2020/17/contents/enacted>

Criminal Justice Act 2003, c. 44, available at: <https://www.legislation.gov.uk/ukpga/2003/44/contents>

Children and Young Persons Act 1933, c. 12, available at: <https://www.legislation.gov.uk/ukpga/Geo5/23-24/12>

### About the author

Molly works within the campaigns team to influence positive change through policy development and public affairs work, helping to disseminate Howard League ideas and influence the government agenda. She previously worked on youth justice policy in the Howard League legal team and before that at a consultancy. She has a PhD in history.



## Young people and online harms: Expanding digital safety educational interventions

**Emily Setty**

Young people's use of digital and internet technologies, particularly the risks and harms they face online, continues to be of public and policy concern. Adult stakeholders – parents, teachers, law enforcement, youth practitioners, policy makers and researchers – are, in various ways, mindful of how young people can be protected from so-called online harms while not unduly curtailing their opportunities to reap the benefits of being online. The UK government's Online Safety Bill seeks to do just that (Department for Digital, Culture, Media and Sport, 2021) and since September 2021 it has been mandatory for most schools in England to educate young people about digital safety as part of the newly introduced Relationships, Sex and Health Education (RSHE) curriculum (Department for Education, 2019). This article does not directly engage in a critique of the specifics of this policy and practice agenda (see Nash, 2019, for a dissection of the issues with the online harms policy proposals). Instead, I discuss findings from some recent research conducted with young people about their perspectives on online harms in order to explore how we should seek to understand and respond to the realities of young people's digital lives, in all their complexity and heterogeneity.

On the basis of the findings, I argue that individualistic, technical and decontextualised solutions to online harms will not suffice in light of, first, the high levels of normalisation (and fatalism) surrounding potentially harmful online experiences; and, second, the



social and structural contingencies that shape young people's digital lives and thus give rise to an unequal terrain of risk. It is urgent that educational interventions raise young people's critical consciousness about the nature of risk and harm online, not necessarily to solve the issues but to enable them to connect what they see and experience online to wider inequities and injustices. In so doing, interventions can support their resilience in a way that is sensitive to the differential risks that young people face and can encourage reporting and positive models of bystander intervention online.

### The study

The research upon which I base these arguments was carried out in June 2021. I partnered with leading digital wellbeing agency [Digital Awareness UK](#) to conduct focus groups in schools and a youth club in northwest England to explore young people's perceptions and experiences of 'online harms'. We wanted to take a stock-check, post-lockdown, of how young people are using digital media and what they feel are the key issues and challenges that they, and/or other young people, face online. The aim was for the research to be a corrective to adult-centric assumptions and anxieties about

young people's digital lives (see Phippen and Street, forthcoming) and to inject some nuance into the online harms policy and practice agenda. We spoke to a diverse range of young people across 13 focus groups (60 participants total). Each group lasted around an hour and we started by presenting participants with a visual display of words and phrases connected to some of the different risks and harms that predominate in mainstream discussions, e.g. hate speech, cyberbullying, porn, unwanted nudes, self-harm, and so on. We were interested in participants' reactions to the words. We asked:

“When we talk to adults, these are some of the things they say are negatively impacting young people online. What do you think? Are there any words here that jump out at you that you think is an issue online? Any that you'd add or take away?”

The discussions ensued depending on what the participants raised as important. Across all groups, the most frequently discussed topics were hate speech (racism, sexism, homophobia and transphobia), along with other bullying, abusive and argumentative behaviours; unrealistic editing of content (e.g. photoshopped images); scams; fake news; and unwanted sexually explicit content. The discussions thus spanned both already illegal behaviours and behaviours that are not illegal but were nevertheless perceived to be offensive, unwanted or damaging. Most participants felt that problematic behaviours happen because of the nature of the internet and, in particular, social media (which is where they most often witnessed and experienced the behaviours). They were overwhelmingly individualistic both about the perpetration of harm and vulnerability to being harmed. Most responded with technical solutions to online harms, which crowded out recognition of the

inequalities that shape young people's online experiences, although accounts of these inequalities were striking and pointed to a need for a contextually-sensitive approach to understanding risk and resilience online.

### **Perceptions of online harms**

Participants perceived the aforementioned issues to be prevalent online and part-and-parcel of participating in online spaces. They described hate speech as ranging from racist, sexist, homophobic and transphobic “jokes” or “casual” comments, memes and videos, to personalised abuse directed to individuals via posts and messages. Some described encountering violent content, for example videos of fights and abuse, while many of the girls (and some of the boys) recounted being sent unwanted and unsolicited sexual content. Most of the girls had received, at least at some point, an ‘unsolicited dick pic’ (and many had done so frequently), while some of the boys spoke about being sent explicit images and links to pornography via messaging platforms often by strangers or ‘bots’. Many of the girls also bemoaned the unrealistic filters and editing of images on social media, as well as diet culture and body shaming online. Several participants felt that ‘scams’ and ‘fake news’ have increased in intensity and frequency, and were worried about falling victim to this. Participants were, however, overwhelmingly positive about being online and their perceptions of the benefits align with findings from previous research regarding the opportunity to learn, express themselves and connect with others (see Smith and Livingstone, 2017). They described themselves as being part of ‘networked publics’ online (boyd, 2012), comprising people also known offline, people known only online, and broader actors and audiences of

anonymous and otherwise unknown others to whom they are exposed, which seemed to create a richness to life online. It was, however, the latter groups of strangers and unknown others whom they designated most 'risky' and potentially harmful.

### 'Stranger danger'

When asked, *who* is responsible for the issues that participants perceived online, they most often referred to strangers and people not otherwise known offline. In the context of networked publics, they described encountering and engaging with a great deal of content online and interacting with a range of people who they do and do not know offline. They said that sometimes the content can be great – entertaining, funny, informative and so on – but it can be "ruined" by abusive comments from other people. While most liked connecting with new people online and making new friends, they said that unwanted contact – e.g. abusive messages and unsolicited sexually explicit content – was most often made by strangers, or 'creeps', online. Unrealistic content, fake news and scams were, likewise, seen as emanating from strangers with the former being attributed to 'celebrities' and 'influencers'.

They perceived various aspects of digital and internet media to exacerbate the risk. They referred to the lack of physical proximity and, what could be termed, 'deindividuation' online, alongside anonymity and a lack of permanence of 'disappearing content', for example on Snapchat (see Watt, Lea and Spears, 2003). These realities were believed to embolden individuals to behave in abusive, offensive and unwanted ways. Likewise, the dynamics of social media were perceived to promote the creation of ever-extreme content and an escalation (and deterioration) of online

discourse as individuals seek to gain traction with what they say and share online. For example, one girl said that "you could make a random account that no one ever knows you and then be as racist, homophobic as you wanted", while another said that "I feel like people are more confident when they're sat behind the screen and they don't generally see the reaction of the other person".

The perceived harms ranged from a general sense of precarity and uncertainty about what and who can be trusted, to being inconvenienced when sent or encountering unwanted content, to feeling offended, insecure, or, as discussed below, intimidated or frightened. Participants also spoke of a chilling effect online where they and others self-censure and undertake avoidance actions, which they believed restricts their abilities to harness the opportunities of the internet and can have implications offline, which is also discussed further below. That's not to say that they believed that all strangers and unknown others are a problem online; they did not think that only speaking with people they already know is the solution and described benefiting from widening their networks online. For example, online dating with people not already known offline was not perceived as inherently risky, nor, indeed, was meeting offline with online contacts.

Furthermore, internet users who were also known offline could, it seemed, also be involved with problematic behaviour online. Participants spoke about offline peers and friends sharing hateful (e.g. racist or sexist) content and engaging in online bullying, abuse and shaming. Interestingly, these issues were of a more marginal status in the focus group discussions about *online* harms. While participants described these behaviours as occurring online, they were of the view that the issues are rooted in offline

social and peer contexts, and that the solutions require co-negotiation of norms and expectations between peers. They thought that *online* harms are, by contrast, best addressed through technical and individual-level actions.

### Responding to online harms

Deleting, blocking and ignoring— and sometimes, but not often, reporting— were put forward by participants as the main solutions to the issues they discussed. Participants described regularly scrolling past a great deal of problematic content, or blocking accounts that send them unwanted content. Most positioned themselves as quite savvy and self-aware in these regards. They drew upon the discourses of mainstream digital safety education, mentioning terms such as ‘addictive’ and ‘compulsive’ to describe the internet and emphasising the need to ‘self-regulate’ online in order to reap the benefits and avoid the harms. They were often fatalistic about the realities of online harms; they felt that there was little that can be done about the ‘bad apples’ and ‘immature’ internet users who engage in harmful and problematic behaviours online, and believed that it is up to individuals to filter it out (both literally and figuratively).

Some participants described being mindful about what they say and post online, and emphasised the need to ignore the ‘haters’ and focus on the positive. A few said that they have reported problematic experiences to the social media companies and most felt that these companies need to do more to protect their users, but that in reality, little can be done because problematic users learn how to get around any limitations or restrictions imposed. Very rarely did participants speak about involving adults, e.g. a parent or a teacher, and most felt that adults either downplay the

seriousness of the issues (e.g. they say it’s ‘just online’ and to ignore it) or respond by seeking to restrict and control their access to technology (which, for obvious reasons, is undesirable) or otherwise just “make the situation worse” through their reactions.

Most participants were very individualistic in their assessment of how people do and should respond to online harms. As well as individualising the causes (‘bad apples’ and ‘immaturity’) they felt that internet users are more or less susceptible to falling prey to online harms. Many participants, for example, said that girls who compare themselves disadvantageously to edited images online lack “self-awareness” and have problems with “self-esteem”. Furthermore, some felt that propensity to being victimised online can, at least in part, be linked to how “exposed” someone is online. They said that some young people share a lot about themselves, engage in heated discussions online and “start arguments” and so are more likely to be targeted with hate and abuse. Likewise, they felt that young people who show more about themselves online are more likely to receive unwanted sexual contact. As a result, they felt that restricting, or being careful about, the nature and extent of exposure online is important. One boy, for example, said:

“I don’t think there’s anything they can really do. I think it’s just people need to be a bit more careful in what they’re posting on social media”

### The unequal terrain of risk online

Despite the individualism and fatalism that featured in their accounts, many participants were cognizant of the wider social and structural contexts to young people’s digital lives. A large number of participants, for example, discussed how

hate speech online is rooted in prejudice and discrimination in society, and can be spurred by wider societal events and developments. Likewise, they discussed how online experiences can have offline impacts. For example, some of the girls said that encountering sexist and victim blaming comments in response to posts on social media that seek to raise awareness of sexual violence and harassment against women can cause them to feel inhibited about speaking out or taking action (online and offline). Some participants said that they have tried to intervene positively but are then called “sensitive” or a “snowflake”, and this makes them reluctant to take similar action again.

Many participants believed that the quality of online discourse can deteriorate as people seek to advance particular agendas and shut down discussions through taking extreme positions. They felt that this can hinder their ability to learn and develop their understanding of social issues by muddying the waters. For example some girls said that they do not like the “not all men” retort in response to posts about sexual violence, because they felt it is just a rhetorical device used to silence people. They did, however, say that they know it’s not all men in reality and do not agree with the contrasting “kill all men” comments that they have seen. However, the figure of “97% of women have been sexually assaulted” meant that they felt that there is a serious issue to be addressed. This sense of uncertainty and divisiveness online crystallised around their discussions of ‘fake news’ and ‘cancel culture’ which, many participants felt, characterises the state of life online.

Despite what was often an acute awareness of the wider issues at stake, individualistic and technical solutions persisted in the face of fatalism. The

potential ramifications of these outlooks for participation online for differently-situated youth were made apparent through some of the participants’ accounts of their online experiences. Some Black, Asian and ethnic minority participants, for example, made reference to direct experiences of racism online. In two focus groups, some lesbian, bisexual and transgender participants described at length the realities they face online. Their accounts painfully made clear the interconnections between online and offline experiences, in which the threats, abuse and hate they receive online mimic and extend what happens offline. They spoke about the fear and marginalisation that they feel both online and offline, but how online spaces are still attractive to them because they offer them some respite from the prejudice they experience in day-to-day life and an opportunity to connect with like-minded others. The sense of precarity was, however, always there, because, as one girl stated:

“It’s just constant... no matter what you do. It could be the most simple thing of just watching a content creator and really getting hated for it on the internet”

The receipt of unwanted sexual content was, furthermore, gendered. While both boys and girls described receiving such content, for girls it was wrapped up in narratives of shame and stigma in ways that it was not for boys. The boys often described it as “annoying” when they are sent links to pornography or sexually explicit images of girls by strangers, while the girls described unsolicited dick pics as “disgusting” and “offensive”. The girls rarely said that they report the images; instead they just wanted to ignore and get rid of them out of “embarrassment”.

Many of the participants said that they wanted more opportunities to discuss the

wider issues at stake, and some referred to occasions in which adults (parents, teachers) have facilitated meaningful discussions about, for example, how racism can play out online. They did not expect adults to solve the issues, but described feeling confused and conflicted about what happens online and wanting an opportunity to work it out. It seemed that they were aware that blocking, ignoring and deleting is only a partial solution; the otherwise non-normative and marginalised youth (socially and structurally) were particularly aware and critical of the limitations of these actions.

### **Contextualising young people's online lives**

Individual-level, technical solutions to online harms will not, I suggest, address the wider contexts and inequalities that shape young people online experiences. Young people are incredibly heterogeneous and measures that shape and curtail participation and freedom online—while perhaps *prima facie* common-sense—will, invariably, affect some young people more than others. 'Exposure' online, for example, is only an issue when what the person is exposing is deemed shameful, stigmatised or otherwise problematic. Thus, it is those who are already socially and structurally disadvantaged who are being limited in this way. One boy, for example, said that "it [hate speech] doesn't make me not enjoy social media because of what other people are posting. It's just that you don't have to look at it". While I do not want to enter into thorny debates on the subtleties and intersectionalities of privilege, it is likely that certain young people will be able to divert their attention away from hate online more easily than others. For the Black, Asian and ethnic minority and LGBT participants, doing so was impossible;

the hate was about their fundamental identity and right to exist. 'Resilience' online—i.e. the ability to navigate risk and overcome harm (Smith and Livingstone, 2017)—thus needs to be conceptualised in terms of the wider social and structural contexts that youth inhabit and encounter (see Harrison, 2012, for a discussion). Educational interventions must be alive to the socio-structural patterning of life online and to ensure that young people receive a clear message as to what constitutes abuse and unacceptable conduct, and to create a climate in which young people feel able to share and report their experiences. All young people, however, require contextualised education about online harms. They are all, to varying extents, having a range of vicarious and personal experiences online which may be offensive, abusive or otherwise damaging. While not all will be harmed by it and an overly regulatory approach is undesirable, they all need an opportunity to talk about what they see and experience.

This can help in challenging the normalisation and fatalism that characterised many participants' accounts, both *vis-à-vis* 'strangers' and peers who are also known offline. While participants seemed to locate online issues involving known peers within their wider contexts, this was often associated with a normalisation and trivialisation of the harms caused by hate speech, bullying and so on perpetrated by peers online. It can also help to challenge individualistic attitudes; some of the girls, for example, while saying that susceptibility to edited content online is a matter of self-awareness and self-worth, said they nevertheless sometimes feel insecure about what they see and one described it as a "toxic" suggesting that logic-driven responses may obscure more complex emotions and feelings. In this instance, their individualistic

narratives did not trouble the wider socio-cultural context that celebrates narrow forms of beauty and to which all girls are, in various ways, exposed to and navigating.

It is likely that digital safety education will not be the appropriate, or at least not the sole place, for all this to happen. We need, at last, to do away with the notion that the digital is distinct from 'real life'; if we want to address online harms we need to engage with what these harms represent and where they come from. Unsolicited dick pics are a prime example. The phenomenon needs to be seen for what it is: a form of highly sexualised digital harassment. Would we, for example, be comfortable with young teenage girls being 'flashed' in the street by men exposing their penises? If we would not just say 'ignore' offline, then it should not be a normalised experience for girls online that, currently, seems to represent a condition of their participation in digital spaces. Empowering young people to make and understand these connections between the online and the offline may help in encouraging them to come forward to report and share any negative experiences they have online and to support, rather than blame and hold responsible, one another in responding to online harms.

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### About the author

Emily conducts research with young people about their online experiences and digital lives, particularly as pertains sex and relationships. Emily primarily uses qualitative research methods to explore young people's perspectives about online risks and harms, and works closely with a range of stakeholders to translate evidence into policy and practice models that respond effectively to the realities of the issues and challenges that young people face.

Emily has published a book on young people's perspectives on 'sexting' (<https://www.routledge.com/Risk-and-Harm->

[in-Youth-Sexting-Young-Peoples-Perspectives/Setty/p/book/9780367228798](#))  
and a full list of publications can be found  
here: <https://www.surrey.ac.uk/people/emily-setty>



## Sentencing explanations provided via judicial remarks made within the English magistrates' youth court: Towards a better global understanding

Max Lowenstein



**Max Lowenstein**

*Principle Academic in Law, University of Bournemouth*

[Listen to Max](#) explore the question 'What is the English judicial approach towards youth sentencing explanations made within the magistrates' youth court?'

Max Lowenstein is a socio-legal academic and law lecturer with a passion for exploring comparative criminal justice. His research/teaching interest areas include: Criminal Law, Comparative Law, Sentencing Law, Evidence Law, Public Law, Legal Practice skills, Jurisprudence. As part of his research and teaching efforts he has travelled widely in Europe to the Netherlands, Denmark, Germany and England to both expand his knowledge of criminal justice issues and to share his ideas with fellow academics at conferences.

## Maternal imprisonment: An excessive price to pay?

Sophie Mitchell

### Maternal imprisonment in England and Wales

Although women only make up around 4% of the prison population in England and Wales, the impact of their imprisonment can be far reaching. It is estimated that around two thirds of women in prison are mothers with dependent children, with more who are grandmothers or who have older children. The reality of what happens when mothers are imprisoned is often overlooked, with many mothers being imprisoned for non-violent offences and for short sentences. As there are fewer women's prisons, they are often sent further from home than men and have less opportunity for education, work and rehabilitation. There is a wider intergenerational traumatic impact of imprisoning mothers, who are usually the main caregiver and focal point of the family. My doctoral research has investigated the implications of imprisonment for mothers and their families using a trauma framework based on a socio-ecological perspective, that takes into account individual, family, community and societal factors.

In 2007, the Corston report (Corston, 2007) outlined the vulnerabilities of women in prison and highlighted the failure of the prison system to meet their specific needs. Since then, policy from the UK government, such as the female offender strategy (Ministry of Justice, 2018) has suggested women should serve their sentences in smaller establishments closer to home, and that imprisonment should only be used where absolutely necessary. Despite this, change has been slow to occur with the



female prison rate remaining fairly static and the announcement this year of an additional 500 new prison places for women with no mention of any smaller community based custodial units. The current situation means that mothers continue to be separated from their children both physically and emotionally, and there remain difficulties in accessing mother and baby units (MBUs) in many cases.

In some countries worldwide, such as Greece and India, it is standard practice for children to be present in prison whilst their mother is serving her sentence. In other countries such as Denmark, the use of halfway houses is widespread whereby mothers in prison are required to care for their children during the day, but they return to the community at night-time. In England and Wales, infants and babies can stay with a mother in prison up until the age of around 18 months. However, there are only six MBUs in England, so it can mean moving further away from older children and families on the outside. Additionally, not all mothers are eligible to apply for a space in an MBU, with many applications being unsuccessful. This means that separation from babies and children is commonplace for mothers given custodial sentences in England and Wales. It is currently felt that the social benefits of a child over 18-months being in the community, outweigh the benefits of maintaining a strong bond with a

mother in prison. It is estimated that around 17,000 children are separated from 12,000 mothers by imprisonment each year in England and Wales (Kincaid, Roberts and Kane, 2019). There is currently little or no financial or practical support provided for the care of these children, which has important implications for kinship carers.

### **The harms of maternal imprisonment**

Research has suggested that the majority of women held in prison have experienced prior trauma in their lives, such as intimate partner violence, sexual violence and abuse and childhood abuse and neglect (Corston, 2007; Green et al, 2005; Cook et al, 2005). Many of these traumas are those that are gendered, and thus are more likely to be experienced by women and be perpetrated by men. They can result in impaired mental and physical health for women and leave them vulnerable to further victimisation. This illustrates the wider structural issues that impact on maternal imprisonment. These harms do not stop with the end of the prison sentence but persist afterwards, causing untold trauma to children and families. Women in the prison system are recorded to have higher levels of self-harm than men in prison and are more likely to abuse substances (Ministry of Justice, 2021). These coping behaviours can be linked to the traumatic experiences many women in prison have endured.

Research has shown that one of the most traumatic elements of imprisonment for women concerns separation from their children and loss of the mothering role (Slotboom et al 2007; Baldwin and Epstein, 2017). The feeling of powerlessness that this creates can result in permanent changes to their sense of self and to the mother-child relationship. When a father is sent to

prison, often children remain being cared for by their mother and remain in the family home, maintaining their ties to friends, family and school. Many mothers have not told their children they are in prison, which may be in part due to the greater stigma they face. In addition, the difficulties of visits- the upset caused by the rules and regulations, the prison environment and having to say goodbye- can also be painful, as this research shows. There is an increasing body of research regarding the impacts of parental imprisonment on children, which generally outlines how maternal imprisonment causes greater harm (Tasca et al, 2014). This is often characterised by disruption to the family unit; the majority of children have to move home when their mother is imprisoned and, in many cases, change school as well. Most children will end up being cared for by grandparents (usually the grandmother) or other female relatives, with only around 9% being cared for by their father (Corston, 2007). Due to physical, financial and emotional reasons many children do not visit their mother in prison and thus the relationship is further disrupted (Booth, 2018).

Even short sentences have been shown to be highly disruptive to families and, in particular, the mother-child relationship. A period in prison can also result in loss of employment, housing and, in some cases, belongings. The disruption caused by imprisonment to families therefore has far-reaching effects that can last for many years. This brings into question the cost of imprisonment to mothers and families, which can in many cases appear to outweigh the harm caused by the actual offence. As for many people who have been in prison, mothers are also released with little support, having to start again from the bottom, often beginning with a struggle to

find somewhere to live in order to then get their children back with them.

### **Intergenerational trauma**

Trauma theory and trauma informed approaches have recently become more widely used and understood in relation to imprisonment. However, they often have a narrow focus on individuals and their mental health needs, resulting in policy which emphasises individual responsibility and personal change. Trauma is often thought of primarily in relation to post-traumatic stress disorder (PTSD) and is viewed purely as a psychological problem affecting an individual. It is therefore seen as something affecting an individual who has had a specific frightening or harmful experience, rather than also being a product of their social experiences and environment. PTSD can be a helpful way to understand trauma as enacted on individuals, but it does not take into account wider experiences in people's lives, such as, marginalisation, poverty, and disadvantage. Part of my doctoral research led to the development of a sociological framework for considering the trauma experienced by mothers during their journey through the criminal justice system.

Intergenerational trauma can be defined as that which is passed on through the generations. In the case of maternal imprisonment, mothers have often experienced prior trauma and consequently the impact of imprisonment on themselves and their family enacts trauma on their children and other family members. This can result in problems with relationships and emotional wellbeing. 'Intergenerational trauma' has previously been understood as affecting minority ethnic communities such as indigenous communities in Australia and Canada, where often the actions of the state have led to community or

intergenerational trauma for whole communities and generations of people (Heberle, Opus and Gray, 2020). Understanding trauma as a wider experience, that acts on all areas of people's lives and can be transmitted across generations, enables a deeper understanding of the enduring significance of the experience of imprisonment for mothers.

### **Researching mothers' experiences of imprisonment**

Narrative interviews were carried out with 19 mothers who had experienced a period of imprisonment. These were completed in the community and while many of the women were still under probation supervision. Ten interviews were also carried out with practitioners working with women in the community. The mothers that came forward to take part in the study were those who were engaging with services. They needed to be either engaging with a probation officer or attending the women's hubs in order for me to invite them to participate in the research. Many of the women I interviewed were first-time offenders, rather than those who had become more entrenched in the criminal justice system.

The study used semi-structured qualitative interviews and narrative thematic analysis was carried out, using a socio-ecological framework to comprehend the women's stories about their period of imprisonment. The definition of trauma used was wide-reaching, incorporating individual, family, community and societal experiences. This study understands the impact of maternal imprisonment as having an intergenerational traumatic impact on mothers and their families.

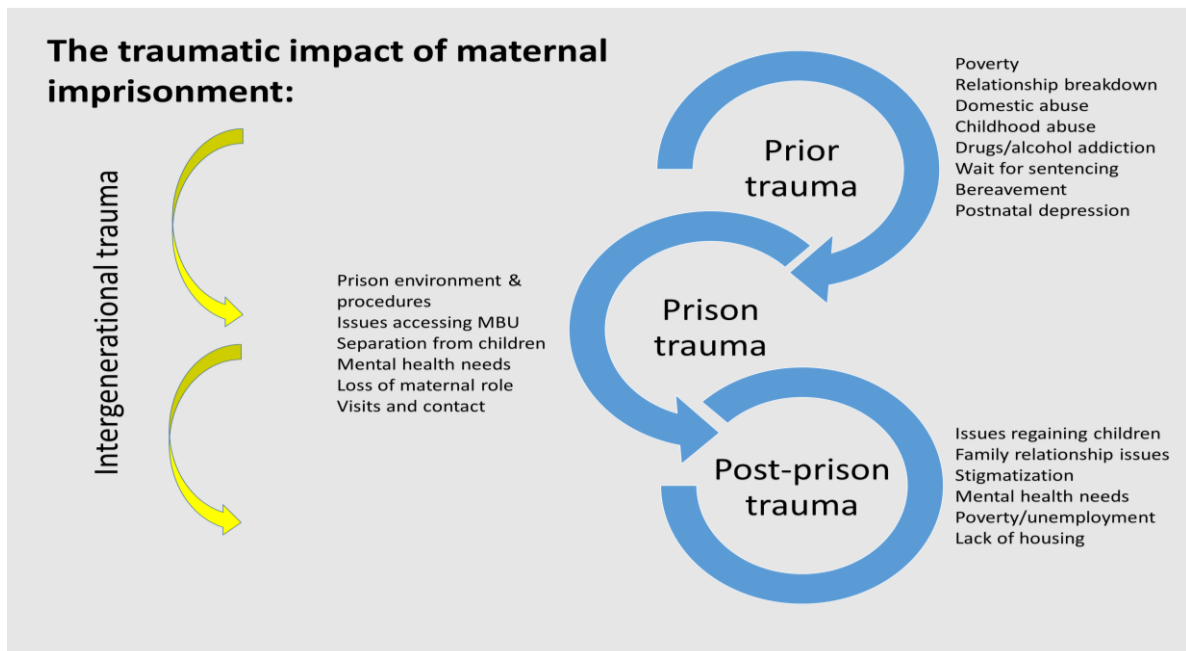


Figure 1: Phases of trauma for mothers who have experienced imprisonment (Mitchell, forthcoming)

### The traumatic impact of maternal imprisonment

As expected, many of the mothers had experienced prior trauma in their lives and some had found the period between charging and sentencing traumatic. Five of the women had experienced abusive relationships prior to going to prison, and in some cases these partners had been involved in coercing them to commit offences. This highlighted the blurred lines between offender and victim that is present for many women who are involved in the criminal justice system.

Six of the women had experienced the removal of a child from their care and in some cases, this had understandably led to a sense of giving up on life and ultimately to the committing of offences. This was often also related to intimate partner violence that was occurring within the family home. They were ultimately punished for the abuse by enduring the removal of their children, which in some cases led to using drugs and alcohol as a way of coping with the emotional pain this caused.

Initial experiences in prison were those of shock at the environment and distress at the enforced separation from children. For many who had been advised they would be unlikely to receive a custodial sentence, they were totally unprepared both practically and emotionally. In the majority of cases, this was the first time they had ever been separated from their child for any period of time. The mothers were consumed with worry about what was happening to those left outside, alongside feelings of guilt and shame.

Separation from children was an immediate and ongoing issue. For women who had babies, they reported desperately trying to get access to an MBU in order to get their baby in prison with them, as they feared they would be forgotten as a mother by their child. For those with adolescent children, mothers were more aware of feelings of guilt and shame and how they would be viewed by their children. For many with primary age children they had not told them they were in prison, and many completed their sentence without disclosing this to them. This shows the additional shame and

stigma attached to maternal imprisonment.

Mothers also spoke about how they were unable to help with problems that were occurring on the outside, with regards to their children. Having been the one who sorted everything out and was relied upon to be the cornerstone of the family, this feeling of being unable to help while their family were experiencing difficulties was hard to take. The loss of the maternal role in this way is another major pain of imprisonment for mothers. The effect this has on both families and mothers' emotional wellbeing is significant. In some cases, children were at risk of being taken into care as families struggled to adapt to the new situation and differing needs of children now suddenly in their care.

Prison visits are extremely important for women in prison, however contact with the outside and visits were a difficult issue for many which raised conflicting emotions. Visits were difficult emotionally either due to the distress of children, the extensive visiting rules, or the mother's own emotional distress. Many of the women did not have visits from their children, either because they had not told them they were in prison and therefore did not want them to visit or because those caring for their children either could not or would not bring them. Some mothers desperately wanted to see their children but felt that it would be detrimental to their children to enter the prison and witness the realities of life within it. They therefore endured their sentences with very little outside contact, with some not even telling friends what had happened.

In some respects, the period after custody was the most difficult for many of the mothers. They felt that they had been left to rebuild their lives with little support. They were not ready for the sudden

change of environment, and although they felt they were expected to feel elated on their release, many experienced opposite emotions. Anxiety was the overriding feeling reported, and in some cases, this impacted on their ability to cope with their daily lives.

Housing was an issue that was apparent both before, during and after prison. It was most prevalent as an issue on release as the majority of the women had lost their housing whilst in prison. Practitioners also reported that suitable housing for women was scarce, and they often had to resort to placing them in accommodation that was not deemed appropriate. For many of the mothers, their own mothers had moved into the family home to look after their children and had therefore taken over their tenancy. When they came out of prison, they therefore had to seek new housing, which was difficult due to lack of finances and a criminal record.

The stigma of being a criminalised mother ran throughout the women's narratives and in particular caused issues on release. Women spoke of feeling that everyone was looking at them, creating social anxiety. For those who had committed more high-profile offences and had been featured in the national and local press this was felt even more keenly. The effect on mental health and self-esteem was considerable, leaving them feeling anxious and depressed.

It is often assumed that once released from prison life will go back to normal. The research however highlighted the enduring and irreparable damage that was caused to relationships by a period of imprisonment. In some cases, women described how their relationships with their children had permanently changed, they lacked closeness, trust and intimacy. In some cases, their children

never returned to live with their mothers. Relationships with those caring for their children, often grandmothers, were also reported as permanently changed by the experience; for some women both their children and their own parents were estranged from them. Lord Farmer (Farmer, 2019) recently carried out a review of the importance of family ties; this research suggests that separating mothers and their children by imprisonment should be avoided as far as possible, due to the enduring impacts it has on families across the generations.

### Conclusion:

It is clear that the imprisonment of mothers is particularly problematic. Even a short period of imprisonment causes untold disruption to homes, families and finances. More importantly these are not short-lived problems but ones that continue to pervade family life for many years to come. The impact of maternal imprisonment is not just felt by the mother herself, but across the generations affecting children and often grandparents. The harms inflicted by maternal imprisonment are not just those pertaining to individuals, many are much wider acting than this. Although individual women may have experienced specific traumas, the wider picture is that many are also battling with wider societal issues such as marginalisation and poverty and gendered violence. Providing brief interventions to individuals can only achieve so much, especially when they are then released into the same social situations. This will not help people make long-lasting changes. More needs to be done to support women emotionally and socially pre- and post-release. The current emphasis on fixing individuals and individual responsibility is not always effective, if other changes are not made.

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### **About the author**

Sophie Mitchell is a doctoral researcher and associate lecturer at Northumbria University. She is also a practitioner with varied experience in both mental health and women's services. Her current research examines the traumatic intergenerational impact of maternal imprisonment, focusing on the narratives of mothers who have experienced a period of imprisonment. She has also recently volunteered with the charity Birth Companions as a Prison Visitor and NEPACs delivering training.



## **Collaboration in conducting research: reflections on a mixed methods online data collection study with sentencers pertaining to their knowledge and experiences of sentencing those with gambling problems committed crimes**

**Sarah Page, Jo Turner, Laura Bailey, Sarah Plimley, Simon Bratt, and Kathryn McFarlane**

*With acknowledgement to Helen Churcher, Anita Dockley, Jon Collins, Jo Easton and Hattie Stair for their advisory group involvement on behalf of the Howard League for Penal Reform and the Magistrates Association.*

**Key Words:** participatory research, world café, magistrates, problem gambling, online research

### **Introduction:**

This paper aims to discuss our online mixed methods participatory and collaborative approach for researching sentencers understanding and experiences of sentencing where there is a relationship between a person's problem gambling and their criminal involvement. Our research widened to consider the experiences and perspectives of relevant criminal justice and gambling treatment stakeholders. We utilised a collaborative and participatory research approach within our investigations ([Page, 2021](#)), that based on Brown's (2021) participation continuum was not fully egalitarian. For example, the academic principal



investigator (PI) had responsibility to produce ethical approval documentation, lead research collection events, conduct in-depth themed analysis on qualitative data sets, present to stakeholders and to produce the final report and executive summary. A designated researcher also undertook the quantitative data analysis with oversight from the PI. However, liaison with partners, including those with lived experience of being a magistrate, occurred throughout the research project lifespan and activity and all made valuable contributions. Due to the COVID pandemic and UK government restrictions, our research data collection with participants needed to be online, as were collaborative meetings with partners involved in the project, namely Staffordshire University, the Howard League for Penal Reform and the Magistrates Association (MA). This paper reflects on our online mixed methods participatory and collaborative approach in terms of benefits and limitations.

### **Participatory research**

Collaboration between research commissioners, academics and student research assistants can add value to a research project (Page and Temple-Malt, 2018; Tweed, 2020) by forging what Wenger (1999) refers to as a 'community of practice'. Bourdieu and Waquant (1992) discuss merits of 'demystifying

research' by sharing challenges faced along the research journey. Participatory research takes this collaboration a step further, by including those with lived experience to collaborate on all aspects of the research project which further reduces power imbalance between academic researcher and research partners (Goldstraw et al, 2021). As such, participatory research can minimise power issues (Aldridge, 2016; Brown, 2021; Goldstraw et al, 2021), including those associated with academic privilege (Bell and Pahl, 2017; Darby, 2017; Goldstraw et al, 2021). Research partners share power and perspectives to jointly inform research design (Stalker et al, 2020) and delivery (Goldstraw et al, 2021). Participatory research values knowledge and experience from all parties involved (Smith, 2014; Darby, 2017; Littman et al, 2021). Goodman et al (2018) highlight the importance of building on assets, mutual accountability, and flexibility as the participatory research team journey together. This collaborative approach corresponds with good practice in the classroom for teaching and learning (Biggs and Tang, 2011), sensemaking application to research to enhance the learning experience through collaboration (Friere, 1970; Bourdieu, 1986). Learning occurs through the 'process' of the research project, supporting the notion of learning 'for humanity' regarding benefit to those involved and wider society, rather than traditional knowledge transfer (Friere, 1970). This allows all parties to engage in deeper learning due to active engagement throughout the process, which is good pedagogy practice (Biggs and Tang, 2011; Kolb, 1984). In relation to participatory research, Kapoor and Jordan (2009; 1) highlight the synergy between 'research, knowledge, education and social action'. Participatory research democratises visioning for the future and knowledge production and can be particularly helpful

with accessing those on the margins (O'Neil, 2010; Kapoor and Jordan, 2009) and it can help shape policy and services through meaningful engagement with stakeholders (Bovaird, 2007; Boyle and Harris, 2009; Gratton and Beddows, 2018). Participatory research is particularly beneficial for research vulnerable groups (Aldridge, 2016) and for projects that aim to reduce crime and improve health and well-being (Stalker et al, 2020) and as such, are beneficial to public health topics.

### The project

Our research, in partnership with the Howard League for Penal Reform and the [Magistrates Association \(MA\)](#) and on behalf of the [Commission on Crime and Problem Gambling](#) aimed to:

- Understand the extent to which sentencers in England and Wales are aware of problem gamblers coming before them in court.
- Understand sentencers' practice when problem gambling is apparent within a case.
- Elicit sentencers' views on the potential for courts to account for problem gambling.

Problem gambling is a public health concern (Abbott, 2020) and gambling prevalence rates in Great Britain show an increase in online and mobile phone-based gambling (Gambling Commission, 2020). In the UK and internationally, the gambling industry has grown substantially over recent decades (Adams et al, 2009; Wardle et al, 2020). Recent gambling prevalence data in Great Britain from 2016 estimates '... somewhere between 200,000 and 410,000 adults' experiencing problem gambling based on DSM VI diagnosis criteria (Conolly et al, 2018: 71) and three per cent of the population is considered at risk of experiencing gambling related harms (Critchlow et al,

2020: 79). Gambling related harms can be devastating to the gambler and wider family members and friends, as well as workplaces and wider society (Langham et al, 2016). Financial, relational, emotional and psychological harms can occur, along with the gambler experiencing health and employment issues (ibid) and significant mental health decline (Wardle et al, 2020). Problem Gambling can lead to crime, particularly when someone chases losses (Smith and Simpson, 2014; Zhang and Clark, 2020). This is when a person's neurocognition is altered (Blaszczynski et al, 2008; Leeman and Potenza, 2012; Pettorruso et al, 2019; Zhang and Clark, 2020; Goudriaan, 2020; Lee et al, 2020), meaning the person is not in control of their gambling behaviour and associated actions. This has led to problem gambling being considered a mitigating factor in sentencing in some jurisdictions such as Canada (Smith and Simpson, 2014). Research regarding the types of crime linked to problem gambling indicates predominance with income-generating crime to fund gambling or related debts and also links to interpersonal violence (Banks and Waugh, 2019; Brown, 1987). A pilot study conducted with Cheshire Constabulary in England found 13 per cent of detainees in police custody suites had a problem gambling issue (Mann, 2018). Despite this prevalence, the Commission on Crime and Problem Gambling (2020) identified that less is known about the nexus of gambling and crime among those working in the criminal justice system in England and Wales. Moreover, there is a lack of clarity about whether problem gambling is a mitigating factor for associated crimes and treatment availability within the criminal justice system. Direct research undertaken in courts in England and Wales demonstrated that problem gambling was not considered to be a mitigating factor by sentencers (Brooks

and Blaszczynski, 2011). Our research endeavoured to understand the current picture.

### Accessing professionals

Whilst hard to reach groups are often considered to be those with vulnerabilities and stigmatised in society (McAuley, 2021), there are groups of professionals who are harder to engage in research. Some due to requirements for additional layers of ethical approval to access, such as those working in prison and probation (<https://www.gov.uk/government/organizations/her-majestys-prison-and-probation-service/about/research>) and those working in the judiciary (<https://www.judiciary.uk/publications/judicial-participation-in-research-projects/>). Among sentencers, magistrates are not paid professionals and it is possible to conduct ethnographic and observational research in magistrates' courts during hearings (Welsh, forthcoming) and reporters can access courtrooms and report on cases in the media (Chamberlain et al, 2021). We accessed magistrates by working with the MA to consult with their membership. Our ethical approval was through the Staffordshire University Ethics Board with letters of permission from our research partners.

### Our online research design

A participatory, collaborative model (Page and Temple-Malt, 2018) was utilised to develop the research design and questions. We formed an advisory group for the research, including staff from Howard League for Penal Reform and, the MA, a Commissioner from the Commission on Crime and Problem Gambling, and researchers from Staffordshire University including an academic who is an active Magistrate. Advisory group meetings were regular

and online, as were our data collection methodologies thus satisfying government guidance concerning COVID. Online data collection is beneficial for researching in a digital era (Bryman, 2012), lending itself to the COVID context (Kara and Khoo, 2020). MA advisory group members distributed research tools to one of their committee groups of magistrates for feedback to shape project work. Participatory approaches require good communication with all involved (Darby, 2017) and partner engagement to reduce academic top-down influence (Littman et al, 2021), which was particularly important when accessing participants through MA membership.

The first phase was an online survey emailed via the MA to their membership, allowing for quick administration and capitalising on the link between the sender and participants (Bryman, 2012). A total of 656 participants completed the survey, reflecting on their practice in court when the defendant had committed a crime and had an acknowledged gambling issue. The survey also asked about participants' perspectives on associated sentencing guidelines. The survey ended with asking participants to register interest in taking part in a focus group.

The second phase involved six online focus groups to allow for data saturation (Morgan, 1996) with 26 Magistrates who previously completed the online survey. Focus groups aimed at gaining a more nuanced insight into sentencer knowledge, experience and practice. A semi-structured approach enabled participant-driven discussion and flexibility (Shensul, 2012). A vignette prepared by the MA helped us to explore sentencing options in more depth. Focus groups were audio recorded, then anonymised and transcribed. Advisory

group members observed the focus groups sessions led by the PI.

The third phase was an online world café data collection event with 21 stakeholders identified by the advisory group, with the aim to ascertain further insights and solutions from leaders within criminal justice and therapeutic support services, including debt advise. World café research is a qualitative participatory methodology used to gather knowledge, opinions and to generate solutions (Brown and Issacs, 2005; Page and Temple-Malt, 2018; Page et al, 2020; Page, 2020). A presentation on the findings of phase one and two occurred at the beginning of the session to stimulate small group discussions in breakout rooms, which were audio recorded and facilitated by research team members. Some group members were rotated to different groups to assist with a 'world view' being forged (Brown and Issacs, 2005). Research team members fed back to the wider group main points from their discussion groups. A follow email was sent to participants to collate any further responses.

### **Participatory and collaborative limitations and benefits**

You can read about the findings from the research project and wider limitations of our project in the report ([Page, 2021](#)). This section specifically considers the limitations and benefits of collaborative and participatory research in action for research team members both personally and professionally. We each share an insight to assist with this reflection in Figure 1.

**Figure 1: Research team insights into the benefits and limitations of collaborative and participatory research**

<b>Team member</b>	<b>JT: Academic, magistrate, advisory group member and World Café discussion group leader, Justice of the Peace / Staffordshire University</b>
<b>Personal, professional and research benefits</b>	As a magistrate, I found the participatory approach of the research extremely valuable and productive. I understood perspectives of magistrates participating in the research from my own experience as a sentencer and was able to join the discussion in the world café group. The involvement of the MA in the research design and process was again valuable as it ensured it was appropriate to magistrates' terminology and understanding.
<b>Observed limitations</b>	Conversely, as a magistrate, I had to ensure my opinions and experiences were not foregrounded, so that I was a facilitator, rather than a participant, when being in the role of the researcher.
<b>Team member</b>	<b>LB: Undergraduate student researcher, advisory board member and World Café discussion group leader, Staffordshire University</b>
<b>Personal, professional and research benefits</b>	It challenged my pre-conceptions of magistrates. For example, magistrates were empathic and compassionate towards addictions and social situations, whilst remaining victim focused to uphold justice. I learnt about the relationships between the research team and commissioners, and the nuances of the relationship and organisations' working practices and priorities.
<b>Observed limitations</b>	It can be more time-consuming reaching agreement on how to proceed.
<b>Team member</b>	<b>SP: ECR research and survey analyst, Staffordshire University</b>
<b>Personal, professional and research benefits</b>	There were ample opportunities to exchange ideas with colleagues and develop my existing understanding of World Café, and the niche research subject area gave me a different view of the criminal justice process. Learning from more experienced colleagues supported my growth as a researcher. Utilising the professional skills of all the team members in a collaborative way, not only allowed us all to learn from each other, but also allowed us to showcase our own skills. We were all able to bring something of value to the project which in my view, streamlined the research process and facilitated the success of the project.
<b>Observed limitations</b>	In terms of limitation to this approach, I feel the approach was only really limited by situations beyond our control. In the current climate of covid, it was not always possible to meet in person. Doing so may have allowed for a more relaxed atmosphere and in turn, allowed for the development of conversation and improved ideas. That said, I still feel the approach was a successful one and one that I would like to repeat in future.
<b>Team member</b>	<b>SB: ECR and World Café discussion group leader, Staffordshire University</b>
<b>Personal, professional and research benefits</b>	Although I was aware of the research and topic being discussed, this was my first experience of facilitating a world café discussion. I found the experience fascinating and a unique opportunity to discuss the research topic. I enjoyed discussing and debating with different professionals, all offering their perspectives. The café ambience allowed for relaxed and open conversations to take place and it enabled the identification of major themes and topics important to the group, equally, it enabled the opportunity to build relationships and share stories.
<b>Observed limitations</b>	Conducting the World Café online did not appear to impede the discussions. Time allocated to group discussion could have been expanded to yield more data. Equally, I recognise that discussions needed a time limit, however, my group could have continued talking.
<b>Team member</b>	<b>KM: World Café discussion group leader, Staffordshire University</b>
<b>Personal, professional and research benefits</b>	I joined the research team at a late stage and was new to research topic and methodology. I found it fascinating to gain insights into both, with the added advantage that I was impartial and open to new viewpoints. I felt the staged approach to the research, collecting some findings and then sharing them with

	key players before reaching fixed conclusions, both democratises the research and makes it more likely to have impact and outcomes which can be applied in practice. Participants had opportunities to share their views with other professionals from different backgrounds, enriching the perspectives of both.
<b>Observed limitations</b>	The opportunity for networking at the online world cafe would have been enhanced by it being face-to-face. Furthermore, as a facilitator, the online setting lacks the visual cues which would be gained from being face-to-face with the group. Nevertheless, the online setting may have made it easier for more participants to attend.
<b>Team member</b>	<b>SP: PI for this project, Staffordshire University</b>
<b>Personal, professional and research benefits</b>	The COVID context presented challenges and opportunities to innovate and reach a wider audience. Knowledge and skills of all involved was utilised. Partners gained direct experience of knowledge exchange through attending the online focus groups and World Café. Collective social capital was utilised for invitation to the online World Café making representation of the sector stronger. The first section of the World Café took longer than anticipated and MA representation helped me get back on track behind the scenes. After the event we a) amended the research design with further ethical approval for follow up email data collection with stakeholders and b) realised that omitted questions were mostly covered in discussion groups in a participant-directed way. Such debriefs after data collection were valuable in gaining insights and shaping the project and analysis work through collective understanding.
<b>Observed limitations</b>	Several focus group participants critiqued the vignette content, despite partner construction efforts. However, groups engaged well with the activity and interesting data was captured for this exercise from each group, including the members who raised critique. A further limitation is follow-up after the research project ends. After the findings were presented to the Commission, there has been less contact between partners, and I would recommend to other researchers building in follow-up sessions for wider research dissemination beyond a commission shelf-life.
<b>Team member</b>	<b>AD: Lead research commissioner and advisory group oversight and member, Howard League for Penal Reform</b>
<b>Personal, professional and research benefits</b>	The project was designed with the clear aim of utilising and recognising the strengths, expertise and knowledge of the partners. I think this supported the project in dealing with a complex and under-researched subject; allowed for test and challenge of both the strategies and methods adopted as well as the issues interrogated; and helped to ensure the development of a robust research project. This was effective due in part to the personalities involved and their willingness to work in this manner.
<b>Observed limitations</b>	The collaboration/partnership approach may be challenged by organisational needs, principles and priorities; for example, the competing needs of academics, a campaigning and a membership organisation may differ. This was avoided through clear communication between the parties in this research but the potential for this to throw research off course cannot be discounted. The fact that the fieldwork had to be undertaken during the pandemic with no possibility for in person events or data collection presented the research team with challenges, the need to innovate, and opportunities. Different trade-offs were made, for instance did using online methods attract or dissuade people from participating; was the online World Café event more or less inclusive and did the participants challenge and engage as they might in person? These matters I am sure will be tested in the future.
<b>Team member</b>	<b>HC: Research commissioner, advisory group member, World Café discussion group leader and editor, Howard League for Penal Reform</b>
<b>Personal, professional and research benefits</b>	This was a novel approach to me, and I quickly realised the benefit. Sharing knowledge across different disciplines, practices and backgrounds enhanced the research design and findings. The inclusion of stakeholders in the World Café event added depth to the research and allowed the team to explore and test their findings. Being explicit from the start about the participatory/collaborative approach meant that power dynamics did not take hold. Appointing an

	undergraduate research assistant extended the impact of the project and enabled personal and professional development for members of the team.
<b>Observed limitations</b>	A limitation could be practical issues around scheduling and communicating in a large group. However, use of video technology (necessitated by the Covid-19 pandemic) meant that this could be mitigated to an extent. In fact, the constraints of wider world events led to an innovative online collaborative approach.
<b>Team member</b>	<b>JC: Research commissioner and advisory group oversight, formerly representing the MA</b>
<b>Personal, professional and research benefits</b>	Bringing together people with different perspectives really helped develop the research, from my original idea to something much more well thought through! Involving both the MA – with our experiences of the magistracy – and researchers from Staffordshire University and the Howard League in the research design helped to come up with an approach that was rigorous and accessible to magistrates.
<b>Observed limitations</b>	Covid-19 limited face to face contact, which might have led to deeper discussions on some of the issues raised. Staff turnover at the MA risked a lack of continuity in input, although the involvement of some staff throughout lessened the impact of this.
<b>Team member</b>	<b>JE: Research commissioner, advisory group member and survey leadership, formerly representing the MA</b>
<b>Personal, professional and research benefits</b>	The most obvious benefit of this collaboration was bringing together people from different professional backgrounds as everyone had slightly different skills and experiences to bring to the project. This meant varied viewpoints and examples of practice were brought to every discussion, which I think provided for a much more rounded approach as well as helping identify and therefore avoid problems early on.
<b>Observed limitations</b>	I think the most challenging aspect of this approach was practical – trying to manage diaries for a larger group of people meant it was difficult to get everyone together regularly. However, this was mitigated somewhat by having a main point of contact representing each “body”, which allowed wider views to still be gathered, even where everyone couldn’t attend each meeting.

## Conclusions

This reflective paper discussed our online mixed methods and participatory and collaborative approach for researching sentencers understanding and experiences of sentencing where there is a relationship between a person's problem gambling and their criminal involvement. We found participatory research has benefits for researching with professional groups in addition to the more established position presented by academics as it gives voice to the marginalised and vulnerable (Kapoor and Jordan, 2009; O'Neil, 2010; Aldridge, 2016). Working with a Justice of the Peace, the MA and consulting with a small group of magistrates from their membership shaped research tools to better engage with and facilitate the voice of our professional participants. These partners adapted our terminology and provided tacit knowledge to assist with data collection. Despite best efforts the vignette still received a small amount of criticism, but responses were insightful for analysis and furthering understanding. Insider knowledge helped ascribe meaning to what research participants discussed within the analysis and team debriefing after data collection events contributed to overall analysis. Our research team highlighted collaborative benefits of utilising partner strengths and social capital, concurring with Goodman et al (2018). Partners felt a more rounded and robust research approach and improved outcomes were achieved through partner input. Whilst the process was more time consuming, the range of perspectives and expertise shaped a more nuanced and rounded project. This was achieved despite our model not being fully egalitarian (Brown, 2021). Interestingly, distribution of 'power' was perceived positively, irrespective of a lesser power differential between the professionals involved than typically experienced between academic

and partners from marginalised groups. Those earlier in their research career and those more experienced all contributed and learnt from one another, demonstrating Wenger's (1999) 'community of practice'. Knowledge exchange from the lead PI to partners still occurs within a 'doing research with' approach, but knowledge exchange occurs in all directions for everyone's benefit, including the PI. Advisory group members experienced professional development through understanding and utilising a relatively new research method in the field of criminology (Page and Temple-Malt, 2018; Page, 2020; Page et al, 2020). They experienced innovations in its online application and as such became pioneers. Further testing of the online World Café methodology will help establish more robust conclusions.

There were occasions where not everyone was able to attend online advisory group meetings but representation from all partners was achieved. Whilst online platforms facilitated team meetings, having some face-to-face contact could have enhanced the process and team connections. It was also felt that face-to-face World Café events facilitated a greater opportunity for networking than online events. However, holding the event online did potentially engage a wider participant group from across the country. A learning point is the importance of allowing sufficient time for groups to discuss the issues and potential solutions within online data collection sessions. A further learning point is to consider whether holding sessions online might pose barriers for engagement and how to address this.

An underpinning principle of participatory research is the goal of using the process and findings to influence social change, particularly concerning 'social justice' (Aldridge, 2016;24). Personal change



occurred regarding ideologies through talking with participants and partners. Magistrates generally presented as understanding the ways in which gambling can be an addiction which influences criminal behaviour. Moreover, there was an understanding that treatment being offered through sentencing was preferential, whilst still achieving justice for the victim (Page, 2021). Through listening, our perceptions towards magistrates and the criminal justice system became more nuanced. As such, participatory research helps to cultivate empathic research processes and outcomes, with propensity to offer greater challenge to researcher bias. We were able to present findings to the Commission on Crime and Problem Gambling to support the reform process of legislation, policy and practice. The academic PI presented on behalf of the team (with several members present) and wrote reports with editorial support from relevant team members. Data analysis credibility is sometimes strengthened when academics present data on behalf of the participatory team (Aldridge, 2016;145). In addition, the teams' contributions make the project and findings robust. How and to whom data is presented needs consideration and group agreement. One recommendation for research teams utilising a participatory approach is to allow for more time than usual after reports are written to continue to engage with your partners to develop and action change plans. This may include consideration on how to navigate changes in circumstances for those involved. Communication is key to working through any competing agendas between partners.

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## About the authors

### *The research team*

**Principal investigator: Sarah Page**  
**Senior Lecturer, Sociology and Criminology, Co-Director, Staffordshire University Crime and Society Research Group**

Sarah has a practitioner background. She has worked therapeutically in youth offending services and probation to address addictive behaviour, before moving into strategic management within the statutory sector to assist partnerships in tackling health and social inequalities. Sarah joined Staffordshire University in 2006 working in the sociology department and the creative communities unit. She presently works within the criminology team for the School of Justice, Security and Sustainability as a Senior Lecturer, and Co-Directs the Staffordshire University Crime and Society Research Group. Her research feeds into the Centre for Justice and Security and Centre for Health and Development. Sarah is also a course leads a group of short courses in mentoring.

Sarah mostly conducts qualitative and participatory research in addictions (drugs, alcohol and gambling), victimology (domestic violence, sexual offences, human trafficking and hate crime), tackling poverty (health and social inequalities), offending behaviour (youth justice), prisons and community arts. She is interested in the sociological context of the family, education, health, work and crime. Sarah oversees work placement learning for the criminology undergraduate and post graduate students.

Sarah is involved with a European teaching project called REVAMP to train healthcare professionals in responding to domestic violence issues. She is partnered with Rutgers University on a research project exploring community resilience and community safety. Sarah is a consultant advisor to Mosaic Films on a race hate documentary for the BBC. At a local level Sarah represents the university on the Staffordshire Collaborative Network board which operates as a ThinkTank within the locality.

**Project advisor: Dr Jo Turner**  
**Associate Professor of Criminology,**  
**Head of Department: Society, Crime and**  
**Environment, Justice of the Peace**

Jo is a criminologist who researches and publishes around the development and history of the criminal justice system, in particular women's treatment by that system, alongside contemporary issues currently facing criminal justice. For example, Jo is currently funded by the British Academy to conduct research into how the Victorian prison estate managed prisoners with physical disabilities. Jo is also researching the recent move from local police holding cells to bigger, regional police custody units. Her research feeds into the Centre for Justice and Security at Staffordshire University. Jo has published a variety of academic journal articles and is the co-editor of the series of Companions in Crime and Criminal Justice published by Policy Press. Jo is currently lead editor for a forthcoming edited collection: Policing Women: Histories in the Western World, 1800-1950, published by Routledge.

Alongside her research, Jo is Head of Department for Criminology, Policing and Forensic Science at Staffordshire University and is a magistrate sitting mainly at North Staffordshire Justice Centre.

**Research assistant: Sarah Plimley**  
**Criminology lecturer, BSC Prison**  
**Research Network – Deputy Chair, PhD**  
**Researcher**

At the start of the research project Sarah was a part-time lecturer in Criminology at Staffordshire University and she now works as a full time lecturer in the Institute of Policing teaching Criminology. She is also researching her PhD which focuses on austerity and desistance. She has an extensive background of working with offenders and practitioners in the criminal justice system. Her main area of interest is the effect of governmental austerity measures on desistance from crime. Sarah's research interests also extend to the analysis of relationships between 'Special' and 'Regular' police officers and the understanding of business crime that affects rural and urban businesses.

Sarah is involved in many areas of research related to the criminal justice system as well as being a founding member of the British Society of Criminology – Prison Research Network. Sarah is currently Deputy Chair of this network, where the primary focus is to share research opportunities and bring together academics, practitioners, and learners to work co-operatively on research in prisons.

**Research assistant: Simon Bratt**  
**Mental health practitioner and part-time**  
**lecturer in social welfare law, PhD**  
**Researcher**

Simon Bratt at the time of starting the project was a mental health practitioner with a background of working in prison settings supporting behavioural change programme delivery. He worked for an NHS mental health trust within a psychiatric liaison team. Having worked in the area of mental health and substance use, his area of interest is dual diagnosis which relates to the PhD that he started in 2018. His PhD research explores the challenges faced by people with a dual diagnosis and how this impacts on treatment and recovery. He is conducting qualitative research, adopting a grounded theory methodology. He is interested in the sociological context of addictions and mental health, and social causational factors to mental illness. Simon is presently a lecturer in Social Work at Staffordshire University.

**Research assistant: Laura Bailey**  
**Criminology student, Staffordshire**  
**University**

Laura Bailey was in her second year studying an undergraduate degree in Criminology at Staffordshire University at the beginning of the project. Prior to studying, Laura managed an alternative education and training centre for a social justice charity. Laura also worked for the local authority as a service coordinator for families with multiple and complex needs. In the summer of 2020 Laura completed an internship at the Stoke-on-Trent Combined Courts Centre where she worked as a clerk to the courts. Here, Laura assisted with virtual hearings as they were introduced to the justice system in response to Covid-19 restrictions.

Laura also works as a part time youth motivator in schools across Stoke-on-Trent and enjoys maintaining a front facing role with young people experiencing social difficulties. She has a keen interest in youth justice. This was Laura's first appointment to a professional research project and she had responsibility for transcribing focus group interviews, having had previous experience of undertaking transcription work for a solicitor and facilitating a World Café discussion group.

**Kathryn McFarlane**

I have a focus on the quality of learning, teaching and assessment in Higher Education. In recent years, my roles have included acting as an external for various Midlands universities, and some part time teaching about education at Staffordshire University. I worked at Staffordshire University from 1993 to 2014; from 2006, I was a Professional Development Manager. In this role, I contributed to the education, training and accreditation of staff across the institution. My research interests include personal tutoring, work-based learning, assessment feedback and employability. I am on the Editorial Board of the Innovative Practice in Higher Education Journal.

*With acknowledgement to Helen Churcher, Anita Dockley, Jon Collins, Jo Easton and Hattie Stair for their advisory group involvement on behalf of the Howard League for Penal Reform and the Magistrates Association.*

## **Howard League** for Penal Reform

### **Become a Howard League Fellow**

#### **A fellowship for academics and magistrates**

Throughout the Howard League's 150-year history we have been committed to informed debate and have been highly successful in achieving real and lasting change in the penal system. A guiding principle of our work has been to develop new ideas and to understand the consequences of changes and innovations. In this time of flux and uncertainty both in communities and the penal system, it has never been more important to generate discussion, ideas and commitment to a humane and effective penal system.

Howard League fellows will be invited to attend special events that will offer opportunities to meet informally with senior politicians and academics as well as attend seminars and events to contribute to current research streams and emerging, innovative ideas.

One of our inaugural fellows is Barry Godfrey who is both Professor of Social Justice at the University of Liverpool and a magistrate. He became a fellow 'in the hope that my research can contribute to the work of the Howard League, and do something useful. My aim is to analyse historical data and longitudinal research to show policymakers that incarceration has long been socially and financially unaffordable; inefficient as a system; and incapable of bringing about reform and rehabilitation.'

#### **How to become a fellow**

Academics and magistrates may apply themselves or be nominated to become a fellow. There is no fixed cost but a minimum donation of £10 a month is suggested. The expectation is that fellows will have supported penal reform and social justice. The criteria for elevation to a Howard League fellow are deliberately broad in order to promote individual initiatives and creative work that embeds justice in the community.

Nominations should be no more than 200 words long and emailed to Anita Dockley, the Howard League's research director at [anita.dockley@howardleague.org](mailto:anita.dockley@howardleague.org). The nomination should also include the name, contact details (address and email) and the nominee's institution/bench. A selection panel will assess all nominations.

Nominations are assessed on a quarterly basis.

## **Guidelines for submissions**

### **Style**

Text should be readable and interesting. It should, as far as possible, be jargon-free, with minimal use of references. Of course, non-racist and non-sexist language is expected. References should be put at the end of the article. We reserve the right to edit where necessary.

### **Illustrations**

We always welcome photographs, graphic or illustrations to accompany your article.

### **Authorship**

Please append your name to the end of the article, together with your job description and any other relevant information (e.g., other voluntary roles, or publications etc).

### **Publication**

Even where articles have been commissioned by the Howard League for Penal Reform, we cannot guarantee publication. An article may be held over until the next issue.

### **Format**

Please send your submission by email to [anita.dockley@howardleague.org](mailto:anita.dockley@howardleague.org).

### **Please note**

Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.