

Parliamentary Briefing

PRISONS AND COURTS BILL

**Commons Second Reading
Monday 20 March 2017**

(1) The Criminal Justice Alliance

The Criminal Justice Alliance (CJA) is a coalition of 120 organisations - including charities, voluntary sector service providers and research institutions – all working to establish a fairer and more effective criminal justice system. We support

- Promotion of crime-free lives
- Crime reduction
- Better policing
- Fairer, swifter justice
- Reduced reliance on imprisonment
- Improved rehabilitation

A full list of our members is at <http://www.criminaljusticealliance.org/organisations.html>

(2) Overview of the Bill

The CJA welcomes the Prisons and Courts Bill and much of its content. We share the government's stated urgency in addressing some of the systemic problems in our prison service. We recognise that our prisons currently fail both prisoners and the wider society into which the vast majority of prisoners will at some point need to re-integrate.

Placing the Prisons and Probation Ombudsman on a statutory footing and enhancing the powers of the Chief Inspector of Prisons are both, in our view, sensible steps which will improve performance within prisons by making outcomes more transparent.

(3) Part One

Clause 1: Purpose of prisons etc

We are pleased to see a clear statement of the modern purpose of prison placed on the face of the Bill.

We agree it to be necessary that all prisons should aim to **'protect the public', 'reform and rehabilitate offenders', 'prepare them for life outside prison' and 'maintain an environment that is safe and secure'**.

However, while we accept that each of these stated purposes is *necessary*, we believe that as they stand they are not a *sufficient* statement of the purpose of prison in the twenty-first century.

We believe that the environment in which prisoners are held is also critical to the effectiveness of modern prisons. For this reason we believe that an additional purpose – of maintaining a **'humane and decent environment'** - should be added to Clause 1 of the Bill.

Establishing a requirement that all prison environments must be humane and decent would create a clear baseline beneath which governors could not fall - without unduly fettering their discretion.

And if **Prison Rules** were also *required* to reflect the stated statutory purpose of prison, then they could consequently be revised to set basic standards such as:

- square footage in which a prisoner should be housed
- periods for which a prisoner during each week must be allowed out of his or her cell
- time allowed for use of showers
- basic standards of heating in cold weather and air exchange in hot

such standards only to be compromised in the event of a local emergency or an emergency across the entire prison estate.

There is almost universal acknowledgement that a prisoner will be more successfully rehabilitated, and subsequently reintegrated into society, when the conditions in which he or she is kept meet minimum standards of decency. In such conditions they can positively address the issues that led to their offending.

Incorporating a requirement for basic **humane and decent** standards into the Bill would, in our view, certainly contribute materially to the, currently elusive, goal of reducing reoffending.

(4) Part Two

Clause 36: Automatic online conviction and standard statutory penalty

We are supportive of the principle of implementing an automatic online conviction process. The proposed process offers an opportunity to reduce disproportionate use of court resources for low level cases which place an unnecessary burden both on defendants and on the justice system as a whole.

We acknowledge the safeguards and criteria outlined in the Bill. However, we believe that **further safeguards** should be introduced to ensure the process remains proportionate and, just as important, commands continuing public confidence.

We believe firmly that the process should be *limited* to the cases currently outlined, i.e. summary offences not punishable by imprisonment. We hope ministers will feel able to give undertakings to this effect on the floor of the House.

We also believe the process should be restricted to cases in which there is **no identifiable victim**. (This was the position in the original *Transforming Justice* consultation and the government's response). The key principle of justice being seen to be done would be compromised if crimes *with victims* were to be included in future.

A significant number of individuals currently charged with offences within the remit of the proposed online process have low literacy levels, learning difficulties, autism, mental health problems and substance misuse issues. These vulnerabilities will almost certainly limit their ability to understand an online process without support.

It is vital that all such individuals should be able to understand the system and are aware of all its implications, including the long term consequences of a guilty plea. It needs to be simply and robustly explained that pleading guilty through the process will result in a criminal conviction and a criminal record that could prevent them from accessing future employment or education. Ministerial reassurances in this area would be welcome too.

An online process also risks making it more difficult to **identify vulnerable defendants** than in court, in particular those with learning difficulties. Additionally there may be

instances in which an individual might feel temporarily coerced into using the system or later realises that he or she may have had a reasonable defence.

The concerns outlined above are not reasons to abandon the proposed system but reasons to seek firm reassurances that adequate – straightforward and 'plain English' - mechanisms will be put in place to ensure that every individual can fully understand the process and fairly engage with it.

One practical way to meet such concerns would be to allow a 'cooling-off' period of, say, 28 days during which an online guilty plea could be withdrawn. We hope ministers might be persuaded to consider this.

(5) Summary

We welcome many parts of the **Prisons and Courts Bill**. However, we remain of the firm view that the scope of the proposed statutory purpose of prison could be usefully extended, with real benefits for rehabilitation, and that protections should be attached to the proposals for online pleading.

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Although the CJA works closely with its 120 members, this briefing does not represent the individual policy position of any member organisation.