

Sent via email  
30 November 2023

**Ruth Pope, Sentencing Council**  
Sent Via Email

Dear Ruth,

Please find below the British Association Perinatal Medicine (BAPM) response to the Sentencing Council Consultation on Miscellaneous amendments to sentencing guidelines, Question 17: Do you agree with the proposed new mitigating factor and expanded explanation relating to pregnancy?

Whilst the new mitigating factor for pregnancy, childbirth and postnatal care is welcome, it is not nearly robust enough to meaningfully reduce the number of pregnant and postnatal women imprisoned and we suggest further clarification and guidance would be helpful.

Since Aisha Cleary's death in 2019, it has been acknowledged that every pregnancy in prison is "high-risk" by both the Prison Ombudsman and Ministry of Justice. Therefore, every pregnant woman who is sentenced to imprisonment is also, in effect, being sentenced to a high-risk pregnancy and birth. Pregnancy and the first months of a baby's life are of critical importance to the foetus/child, and secure parent-infant relationships underpin good physical and mental health across a child's lifespan.

Facts on pregnancy in UK prisons:

- Pregnant women in prison are five times more likely to suffer a stillbirth than women in the community.<sup>1</sup>
- Pregnant women in prison are almost twice as likely to give birth prematurely as women in the general population, which puts both the mothers and their babies at risk.<sup>2</sup>
- One in ten pregnant women in prison give birth in-cell or on the way to hospital.<sup>3</sup>
- At least two babies have died in women's prisons in the past four years

We therefore request that the following are considered:

- Recognition that pregnancy is a significant risk factor for the health of both the mother and baby.
- Every pregnant person has a mandatory pre-sentencing report.
- The mitigating factor includes more than just women 'on the cusp' of custody facing a community order, but also to consider suspended sentences and include pregnancy as an 'exceptional circumstance' that can reduce mandatory minimum sentences.
- The relevant considerations when sentencing a pregnant/postnatal woman are expanded to include the established risks of custody, the mental health of the woman, the potential harm to the baby and the best interests of the child. We also call for these considerations to be mandatory (changing the language from 'may consider' to 'must consider').
- Clear guidance to manage sentencing is developed in line with other vulnerable groups.

Kind Regards

**Dr Eleri Adams, President**  
**Tamsyn Crane, Staff Education and Wellbeing Lead**

On behalf of the British Association of Perinatal Medicine (BAPM)

#### References

1. Observer, 'Jailed women in UK five times more likely to suffer stillbirths data shows' (2021)
2. Nuffield Trust, 'Inequality on the inside: Using hospital data to understand the key health care issues for women in prison' (2022)
3. Nuffield Trust, 'Prisoners use of hospital services' (2020)