



Her Majesty's  
Inspectorate of  
Probation

## **Race equality in probation: the experiences of black, Asian and minority ethnic probation service users and staff**

A thematic inspection by HM Inspectorate of Probation  
March 2021

## **Acknowledgements**

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## Foreword

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This inspection in the autumn of 2020 was set against the background of the death of George Floyd in the United States, the rise of the Black Lives Matter movement worldwide and the Covid-19 pandemic from March. These events reminded us that racism and racial inequality have not gone away. It therefore seemed timely, if somewhat overdue, to consider how much progress the probation service has made in addressing issues of racial equality and racism since our last thematic report on this topic in 2004. We wanted to get the views of both staff and service users on these issues as well as to look in detail at the quality of work undertaken with black, Asian and minority ethnic people under probation supervision. Over the course of two months, inspectors interviewed National Probation Service (NPS) and Community Rehabilitation Company (CRC) staff and managers in five different probation areas and analysed 100 cases and 51 pre-sentence reports. Through a team of former service users, we also interviewed over 80 people being supervised by the service and received 100 responses to a survey of black, Asian and minority ethnic staff in our fieldwork areas.

The results were concerning. In the 100 cases of ethnic minority service users we inspected, there was little evidence that probation staff had spoken with service users about their ethnicity, culture, religion, and experiences of discrimination, or planned interventions that were responsive to these diversity factors. This was confirmed by service users. While assessment and planning to address offending-related factors were good, engagement with ethnic minority service users requires improvement and is worse than we found on average in our adult probation inspections. Too few service users were engaged with services to support their rehabilitation and, while half of the service users described a positive relationship with their responsible officers, others were less positive.

We were disappointed not to find more good practice. Since the *Transforming Rehabilitation* reforms, we found the number of services for black, Asian and minority ethnic service users has decreased, and there are fewer resources devoted to work on equality and diversity. Probation staff have fewer links with organisations in the community that can support individuals' move away from crime, and organisations that can provide culturally appropriate services are rarely commissioned. Work is required to understand and apply the most effective approaches to respond to the needs of ethnic minority service users. There are few programmes to address racially motivated offending, and ethnic minority staff are frequently expected to take on these cases without support or consultation.

We found that there were gaps in training across all grades in the organisation, and training needs to lead to improved understanding and behaviour change. The proportion of ethnic minority staff is reasonably representative of the racial composition of England and Wales. Many ethnic minority staff, however, are keen to progress and are still under-represented in management positions in some areas. There is a gap in development planning for all frontline staff, and a view that recruitment and selection are not universally fair, open and transparent, which needs addressing.

Many ethnic minority staff we surveyed or spoke with say they lack confidence in the ability or willingness of managers across the NPS and CRCs to respond appropriately to their concerns. This lack of confidence is born out of repeated experiences over many years of raising issues and having them downplayed, ignored or dismissed. There is a critical and urgent need to review complaint and grievance procedures and to train managers to deal confidentially and sensitively with issues of discrimination as they arise.

The *Lammy Review* (2017) looked at racial disparity across the criminal justice system. He identified that, where there are disproportionate outcomes, organisations should 'explain or reform'. There is no such published data across the NPS or CRCs, with a resultant lack of accountability, which requires urgent attention. Probation services do not take a strategic approach to meeting the needs of ethnic minority service users. They need to remedy this.

I acknowledge the attention HMPPS and the NPS are now paying to this issue. Since last summer, senior probation leaders have listened to the perspectives of ethnic minority staff and have launched Her Majesty's Prison and Probation Service's (HMPPS) Race Action Programme. Additional funding has been made available to support the development of organisations providing specific support to black, Asian and minority ethnic service users, and work is about to start to improve the quality of pre-sentence reports for this group and remove potential bias. But this work needs to be taken forward at pace and real and rapid progress made to further race equality in probation. I therefore intend to re-inspect this work again within two years and to introduce a more robust set of standards around this issue for our core local probation inspections.

A handwritten signature in black ink that reads "Justin Russell". The signature is written in a cursive, flowing style.

**Justin Russell**  
HM Chief Inspector of Probation

## Contextual facts

<b>241,350</b>	Number of people under probation supervision <sup>1</sup>
<b>14%</b>	Proportion of the population of England and Wales that is non-white <sup>2</sup>
<b>27%</b>	Proportion of the prison population in England and Wales that is non-white (31 March 2020) <sup>3</sup>
<b>16%</b>	Proportion of those on court-ordered probation supervision <sup>4</sup> that is non-white <sup>5</sup>
<b>13.7%</b>	Proportion of NPS staff who are non-white (31 March 2020) <sup>6</sup>
<b>13.8%</b>	Proportion of NPS staff in senior management grades who are non-white (31 March 2020) <sup>7</sup>
<b>9%</b>	Proportion of the national court-ordered probation caseload where data on ethnicity is missing <sup>8</sup>
<b>25%</b>	Proportion of mixed-heritage service users in employment at the start of a community sentence compared with 31% on average for white service users in 2019/2020 <sup>9</sup>
<b>62%</b>	Proportion of mixed-heritage service users in settled accommodation at the start of a community sentence compared with 65% on average for white service users in 2019/2020
<b>38</b>	The number of stop and searches per 1,000 black people conducted by the police compared with four per 1,000 white people <sup>10</sup> (April 2018 to March 2019)
<b>X 3</b>	The likelihood of a black person being arrested by the police, compared with a white person <sup>11</sup> (April 2018 to March 2019)

<sup>1</sup> Ministry of Justice. (2020). *Offender Management Caseload Statistics as at 31 March 2020*.

<sup>2</sup> Office for National Statistics. (2018, updated 2020). *Population of England and Wales, from the 2011 Census*. [www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest](https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest). Accessed 12/01/2021.

<sup>3</sup> Ministry of Justice. (2020). *Offender Management Statistics Quarterly*. Prison Population Table 1.4. <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-july-to-september-2020>. Accessed 12/01/2021.

<sup>4</sup> Community and suspended sentence orders with requirements supervised by probation.

<sup>5</sup> Ministry of Justice. (2020). *Probation 2009 to 2019*. Table 4.17. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882167/Probation\\_2019 ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882167/Probation_2019 ods). Accessed 12/01/2021.

<sup>6</sup> Ministry of Justice. (2020). *HM Prison and Probation Service annual staff equalities report 2019 to 2020*. Table 1b. <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-annual-staff-equalities-report-2019-to-2020>. Accessed 12/01/2021.

<sup>7</sup> Ministry of Justice. (2020). *HM Prison and Probation Service annual staff equalities report 2019 to 2020*. Table 1b. <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-annual-staff-equalities-report-2019-to-2020>. Accessed 12/01/2021.

<sup>8</sup> Ministry of Justice. (2020). *Probation 2009 to 2019*. Table 4.17. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882167/Probation\\_2019 ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882167/Probation_2019 ods). Accessed 12/01/2021.

<sup>9</sup> Ministry of Justice. (2020). *Community Performance Quarterly: update to March 2020*. Employment circumstances table 6 and accommodation circumstances table 6. <https://www.gov.uk/government/statistics/community-performance-quarterly-update-to-march-2020>. Accessed 12/01/2021.

<sup>10</sup> Home Office. (2020). *Stop and search*. <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest>. Accessed 12/01/2021.

<sup>11</sup> Home Office. (2020). *Arrests*. <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/number-of-arrests/latest>. Accessed 12/01/2021.

# Executive summary

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## The inspection in context

In the late 1990s, the MacPherson Inquiry (MacPherson, 1999) found that the failure to bring the killers of Stephen Lawrence to justice was in part due to the institutional racism of the Metropolitan Police. It defined institutional racism as, 'the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin'. In our subsequent thematic inspection *Towards race equality* (HM Inspectorate of Probation, 2000), we noted the poorer treatment received by 'African/African Caribbean' probation service users, who were more likely to receive poorer quality pre-sentence reports (PSRs) and risk management in the community. Work with racially motivated offenders was unfocused due to a lack of guidance on what works. We concluded that there was a failure of probation leadership on racial equality driven by a naïve view that equality is simply 'treating everyone alike'. The follow-up report (HM Inspectorate of Probation, 2004) found that there was still a poorer quality of work done with ethnic minorities and an abiding sense of disadvantage among ethnic minority staff.

Seventeen years on, there remain considerable disparities in the ways that ethnic minorities are treated in the criminal justice system (CJS) in this country. In 2018/2019, those who identify as black or black British were 9.5 times as likely to be stopped by the police as those who identify as white (Home Office, 2020a). Black or black British citizens are over three times as likely to be arrested as those who identify as white (Home Office, 2020b). The percentage of prisoners that identify as black is 12.9<sup>12</sup> per cent, compared with approximately 2.9 per cent of the over-18 general population as recorded in the 2011<sup>13</sup> census. Muslim prisoners account for 16.3 per cent of the prison population compared with 4.8 per cent in the 2011 census (HMPPS, 2020a).

In January 2016, the then Prime Minister David Cameron invited David Lammy MP to review the treatment of, and outcomes for, black, Asian and minority ethnic individuals in the CJS in England and Wales. The *Lammy Review* (2017) identified racial disparities for those in contact with the CJS and found disparities in the staff profiles of CJS institutions. He said that all justice services should 'explain or reform' such disparities.

Data on black, Asian and minority ethnic people supervised by probation services is hard to find and collation of it has been hindered by the split of probation services between the NPS and CRCs in 2014. The proportion of ethnic minority people subject to court-ordered supervision in 2019, 16.1 per cent<sup>14</sup>, is closer to their representation in the community as a whole (14 per cent, in the 2011 census) than for the prison population (Gov.UK, 2020). Figures for the proportion on prison licence are not published but are likely to be higher because of the higher proportion of ethnic minority prisoners, 27 per cent (HMPPS, 2020a). There is no published data on outcomes for probation service users by ethnicity, nor for key aspects of probation practice like breach or recall rates.

Probation services supervise people after they have experienced other parts of the CJS, where there is evidence of disproportionality. Trust was a central theme of the *Lammy Review*, and a 'trust deficit' among ethnic minority groups was linked to several negative outcomes in the CJS. It is over 16 years since we last inspected the quality of services delivered to ethnic minority people subject to probation services and a review of this work is overdue. We wanted to discover whether ethnic minorities are being treated fairly, whether appropriate services are delivered, and whether probation staff are building trusting relationships with them to help them stop offending. We also

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<sup>12</sup> Ministry of Justice. (2021). *Offender management statistics quarterly: July to September 2020*. <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-july-to-september-2020>

<sup>13</sup> A new census is being completed in March 2021.

<sup>14</sup> Ministry of Justice. (2020). *Probation 2009 to 2019*. Table 4.17. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882167/Probation\\_2019 ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882167/Probation_2019 ods). Accessed 12/01/2021.

wanted to hear from black, Asian and minority staff about their experience of working for the service.

This inspection is set against the background of the tragic death of George Floyd in the United States and the rise of the Black Lives Matter movement, which has resonated with many ethnic minority staff and service users. This is a reminder to all that racism is still present in our society, and probation services have a responsibility to deliver anti-racist practice.

### **A note on language:**

For this inspection, we have used the term 'black, Asian and minority ethnic' to describe all or a group of non-white people. We are also mindful of intersectionality (how more than one dimension of a person's identity can create discrimination or privilege). When referring to a particular ethnic group, we will say so instead of using 'black, Asian and minority ethnic' or 'ethnic minority' as catch-all terms.

We recognise that the population of England and Wales is increasingly diverse, with considerable variances of ethnicity according to locality. Different ethnic groups have different needs and require different responses depending on their culture, language, heritage, religion, social circumstances and whether individuals have settled status. While this report focuses mainly on the common experiences of racism and bias that individuals from ethnic minorities experience, we will also look at how services respond to these different needs.

### **Methodology**

This inspection looked at the work of the NPS and CRCs in five probation local delivery units (LDUs). Four were chosen because of their large proportion of ethnic minority service users: Bradford and Calderdale, Hackney and Tower Hamlets, Bedfordshire and Birmingham. The other one, Liverpool and Sefton, has one of the oldest black communities in England. Due to the Covid-19 pandemic, this inspection was conducted remotely. We inspected 100 cases of black, Asian and minority ethnic service users that commenced in October and November 2019, and considered their supervision over the following 12 months. This covered the period before, during and after the first Covid-19 lockdown. We interviewed 84 probation staff responsible for these cases. We also inspected 51 pre-sentence reports (PSRs) written by probation court teams in January 2020. We interviewed senior managers and human resources (HR) business partners responsible for the LDUs, service providers and NPS divisional equality and diversity leads. Focus groups were held with a total of 56 probation officers and probation service officers, and 41 middle managers.

Separately, we conducted focus groups with black, Asian and minority ethnic staff and managers, attended by 49 staff and 41 managers. We sent an electronic survey to all ethnic minority staff in each area and received 100 responses, with approximately one in three people responding. We undertook 19 follow-up interviews with individuals who requested them after answering our survey. The organisation Empowering People: Inspiring Change (EP: IC) was contracted to undertake remote interviews with black, Asian and minority ethnic service users in each area. Its four lived experience consultants interviewed 81 service users: 43 identified by probation and 38 through EP:IC's own contacts in the local communities.

### **Leadership, staffing, services and information**

HMPPS is launching a three-year Race Action Programme and the NPS is introducing a five-year workforce strategy that will include a focus on achieving and supporting a more diverse workforce. However, probation has no race strategy for delivering services to black, Asian and minority ethnic service users. There is no coherent national approach to assessing the needs of ethnic minority service users, especially men, to identify and address any disproportionality in service delivery, and research and improve how services are delivered to these groups to enable them to desist from offending.

The probation service's focus on issues of racial equality has declined since *Transforming Rehabilitation*, and the response by probation to the *Lammy Review* has been slow. CRCs have disinvested in work on equality and diversity more generally. More recently, in the NPS and CRCs there has been a renewed focus on racial disadvantage, seemingly as a response to the death of George Floyd in the USA and the rise of the Black Lives Matter movement. In addition, black, Asian and minority ethnic people have been disproportionately affected by Covid-19. In most services there have been various events to listen to the perspectives of ethnic minority staff and to promote discussion. However, it is not yet clear to many staff what actions will follow, and there is a fear that the impetus will be lost with the impending focus on transition to the new unified model of probation services.

The proportion of ethnic minority staff in the NPS is 13.7 per cent (HMPPS, 2020b), which is close to HMPPS's target of 14 per cent, and slightly below the ethnic minority working age population of the UK in the 2011 census. There is no aggregate published information for CRCs.

The overall proportion of ethnic minority staff in the NPS does not necessarily reflect the diversity in communities at a local level and there is a particular shortage of ethnic minority men. There is a need for more local models of outreach and recruitment, and pathways into the service for people from non-traditional backgrounds. There is a strong consensus that, across all grades of staff, training and development on understanding the impact of discrimination; developing cultural competence and addressing racially motivated offending are insufficient. There is a need for learning programmes that challenge staff about their approach to addressing discrimination and enable them to reflect on their practice with service users, and behaviour towards colleagues.

The NPS and CRCs commission few services specifically for ethnic minority service users, and very few of these services has been contracted for more than a year. Links with ethnic minority community organisations are poor. There is limited understanding, research and application of the best approaches for working with ethnic minority service users and this is concerning. In October 2020, £3 million was made available to the NPS and CLINKS, to be spent by the end of March 2021, to prepare ethnic minority organisations for the commissioning of services for ethnic minority service users from 2021 onwards, and to enable them to bid for future Commissioned Rehabilitative Services under the new Dynamic Purchasing Framework. However, many are small local groups with roots in local communities and there is a poor fit with Ministry of Justice (MoJ) models of procurement. There was a very short window of time for this money to be spent, with the danger that it will not be used to best effect.

The NPS publishes annual national data on the representation of ethnic minority staff in the workforce, progression, sickness and a range of HR measures. However, it does not explain the significance of this data or what is being done to address any disproportionality. CRCs produce annual equalities reports, but this information is not published and does not appear to be widely disseminated within organisations. The NPS has not published any reports on the outcomes of service delivery by race and ethnicity. This work has been delayed and a promised equality monitoring tool will not be available before June 2021 at the earliest. There is very little use of data on race and disproportionality at a local level, which is worrying as it makes it hard to hold managers to account for achieving equality of outcomes for different ethnic groups.

### **Quality of reports and case supervision**

There is considerable variation between areas in the proportion of ethnic minority service users appearing before the courts who receive a PSR, and in the number of instances where custody is proposed. This requires monitoring and any disparities to be explained or addressed. The Effective Proposal Framework (EPF) has been introduced to try and reduce bias when report writers propose sentences. The EPF report provides data on whether report writers have used the framework or relied on their professional judgement. However, it is not possible to produce collated data by race on disproportionate use of the professional override option.

The quality of PSRs on black, Asian and minority ethnic individuals was insufficient in 21 of the 51 reports inspected, with not enough analysis of the service user's diversity. This is consistent with

the results of internal monitoring exercises by HMPPS. Although there have been some pilot initiatives to improve PSRs, formal evaluation of these initiatives has been lacking. This is concerning as poorer quality reports run the risk of service users receiving more punitive sentences. There is a commitment in the *Target Operating Model for Probation Services in England and Wales*: 'recognising the experience of disproportionality for women and those from BAME backgrounds, higher proportions of more detailed reports will be completed for these groups'. (HMPPS, 2021. p.48). The model recognises that a higher proportion of reports on black, Asian and minority ethnic individuals require more time to complete, and fresh pilots are imminent. Improvements in quality control of reports and training on how to work best with interpreters are also required.

In 68 per cent of cases inspected, assessment of factors linked to desistance was sufficient and 70 per cent of plans to reduce reoffending were good. However, analysis of service users' diversity was poor in most cases, with the result that the overall quality of service user engagement in both planning and assessment requires improvement. These aspects of practice scored less favourably on average for black, Asian and minority service users than our judgements of practice across all cases considered in the first two years of our local adult inspection programme. Many staff lack confidence in discussing service users' culture or experience of discrimination and related social deprivation, which was confirmed in interviews with service users. There is a clear need to improve the analysis of service users' diversity factors and discrimination in Offender Assessment System (OASys) assessments, where the only places that refer to this are often left blank, or 'no issues' is stated.

Insufficient analysis of diversity in assessment and planning was followed by insufficient engagement with service users and with services to address offending. In more than two-fifths of cases not enough services were provided. These aspects of work require improvement. While we did not find that ethnic minority service users were breached or recalled unnecessarily in the cases we inspected, poorer engagement can result in such actions being taken. There was scope to engage more with ethnic minority service users before they are released from prison, to work more within their familial and cultural context, and to link them up more with local community organisations and support services.

### **Perspectives of black, Asian and minority ethnic staff**

The initiatives taken by senior managers over last summer to listen to the concerns of ethnic minority staff were appreciated, though many were concerned that this interest would wane over time. Many staff believed that the initiatives were driven by global factors and had these crises not prevailed, the issues would not have been discussed. It will therefore be important to continue to consult with ethnic minority staff and to involve them in developing policy and practice through the Race Action Programme. While a reasonable majority confirmed that equal opportunities were promoted in their organisation, less than one-fifth believed that there were equal opportunities in recruitment practices. Greater clarity and transparency about how recruitment and selection decisions are made are needed to improve confidence.

Support from middle and senior line managers was variable. Managers need to be trained in how to address issues of racism and discrimination sensitively and confidently. Many ethnic minority staff are not consulted before being allocated cases of service users who have committed racially motivated crimes. This is inappropriate, and there should be better training and access to resources for the staff who take these cases on. Formal development plans (known as talent management) only exist for middle managers and above, making it difficult for staff to know how to progress. Many ethnic minority staff feel that barriers are put in their way. It would be helpful to extend these development plans to all probation staff so that they are clearer about where they stand, the opportunities available to them and how they might approach them.

The majority of those responding to our survey of ethnic minority staff do not feel safe raising issues of racial discrimination. They are not confident that if they raise concerns the issues will be dealt with appropriately. Just over two-thirds had not raised an issue of racial discrimination with their organisation. Of the 30 people who had raised an issue, only two felt that it had been dealt

with to their satisfaction. There are more formal grievances raised by ethnic minority staff and managers in the NPS than by white staff, but their grievances are far less likely to be upheld. Nineteen of the 100 respondents to the survey requested follow-up interviews with inspectors to provide more detail about their significant experiences of racism and discrimination while working for probation. These stories were painful to hear and were made worse by the fact that people did not feel heard or believed when they raised concerns and considered they were labelled as 'trouble-makers'. There is a need, therefore, to consult with ethnic minority staff about improving complaint and grievance procedures.

### **Perspectives of black, Asian and minority ethnic service users**

Many black, Asian and minority ethnic service users have experienced racism, discrimination and disadvantage in their lives and as they have progressed through the CJS. Many ethnic minority service users do not feel that probation staff have a good understanding of their culture, religion, heritage or experiences. Some felt that probation staff were reluctant to ask about their experiences. Probation staff need to find ways of sensitively discussing these issues as part of their assessments and work with service users. About half of the service users interviewed said they had formed a good relationship with their responsible officers; the others were neutral or less positive.

All ethnic minority women interviewed said they would prefer a non-white responsible officer. Some men expressed a preference for a responsible officer from a particular ethnicity who might understand them better. Others did not, with some thinking that people of their own ethnicity might be harder on them. The responsible officer's approach to engaging with service users is more important than their ethnicity. Choice around ethnic matching of staff and service users should be considered. Few service users were referred to services in the community that helped with their resettlement, and many had found out about such resources themselves. There is scope to involve those from ethnic minority communities who have experience of the CJS as mentors. These individuals could help to form a bridge between service users and responsible officers and make links with resources in the community that can support desistance.

### **Final reflections**

HM Inspectorate of Probation will continue to examine race equality issues as part of our inspection programmes, and is committed to improving how we do this as we review our standards and methodology. In recognition of the underrepresentation within our own inspector group, the Inspectorate has launched a shadowing scheme for black, Asian and minority ethnic staff with an interest in joining our team. A recruitment and mentoring scheme has also been launched to support applicants with the recruitment process.

# Recommendations

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## **Her Majesty's Prison and Probation Service should, by 31 March 2022:**

1. ensure that, in commissioning services for black, Asian and minority ethnic service users, small local community organisations can participate and provide interventions that are culturally informed and improve understanding between individuals and responsible officers with different ethnicities
2. publish data on outcomes<sup>15</sup> of probation supervision, breach, and recall of service users, to identify any disproportionality across different ethnic groups
3. review formal and informal complaint and grievance procedures for staff, in consultation with ethnic minority staff, and make improvements to increase perceived fairness
4. commission research into the effectiveness of interventions with black, Asian and minority ethnic service users who are subject to probation supervision in the community, including the potential impact of ethnic matching of responsible officers and service users.

## **The National Probation Service should, by 31 March 2022:**

5. develop a national race equality strategy for service delivery, which is supplemented by strategic needs assessments in each probation region, to ensure that ethnic minority service users are not disadvantaged and receive culturally appropriate services
6. establish processes for local recruitment to ensure probation staff reflect the diversity of local communities served – as well as national census data
7. set regional targets for progression of ethnic minority staff to management grades, supported by positive action programmes where appropriate
8. ensure that all probation staff have individual development plans that consider possible future placements and potential for progression
9. ensure ongoing engagement, listening to the needs of ethnic minority staff, and involving them in developing policy and practice
10. develop learning programmes that enable probation staff to:
  - understand discrimination and its impact
  - provide culturally competent services
  - reflect on their anti-discriminatory practice
  - be confident in discussing racism and challenging discrimination
  - eradicate bias in decision-making
  - work effectively with interpreters
11. provide middle managers and senior leaders with training and ongoing support to manage diversity, complaints, grievance and discipline effectively
12. improve the quality of pre-sentence reports on ethnic minority individuals to:
  - increase the proportion completed on adjournment
  - ensure that the diversity of individuals is assessed and represented appropriately
  - counter any conscious or unconscious bias

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<sup>15</sup> Outcomes to include settled accommodation, employment and training gained, re-offending rates and successful completion of orders and requirements.

- present convincing proposals
13. improve the quality of OASys assessments on ethnic minority individuals, ensuring that:
    - diversity factors and experience of discrimination and disadvantage are captured throughout
    - the impact of discrimination and diversity factors are considered sufficiently in planning service delivery
  14. provide programmes and materials for working with those convicted of racially motivated offences, supported with staff training, and consult with black, Asian and minority ethnic responsible officers before allocating this type of case to them
  15. consult ethnic minority service users about the appropriateness and quality of services and provide opportunities for former ethnic minority service users to act as volunteer mentors and in paid roles.

# 1. Introduction

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## 1.1 Why this thematic?

The treatment of ethnic minorities by criminal justice systems in majority white societies has been in sharper focus since the death of George Floyd in Minnesota, USA. The tragedy has triggered a resurgence of the Black Lives Matter (BLM) movement globally. Here in Britain, BLM has mobilised thousands to protest in public and online against racism in the institutions, economy and culture of our society. Ethnic minority people have also been disproportionately affected by Covid-19.

HM Inspectorate of Probation last did a thematic report on race equality in 2004 (*Towards race equality: follow-up inspection report*, HM Inspectorate of Probation, 2004). This followed the original thematic report (*Towards race equality*, HM Inspectorate of Probation, 2000), prompted by the MacPherson report into the death of Stephen Lawrence (MacPherson, 1999). Much has changed since then, but racism and inequality still persist in our society and its institutions. This inspection is designed to establish the quality of probation service delivery to those from ethnic minority communities. It also considers how far providers of probation services have addressed race equality in relation to the employment and experiences of ethnic minority staff.

## 1.2 Background

Probation services, both public and private, are subject to the public sector equality duty under the *Equality Act (2010)*. In the exercise of their functions, they must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

The Act explains that having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

It is not enough to ensure that people are not discriminated against or receive disproportionate treatment; attention must be paid to addressing their different needs with the aim of achieving equality of outcomes.

The *Lammy Review* (2017) of the treatment of ethnic minorities in the CJS triggered a wide range of policy responses. The stark racial disparities in the rates of people in contact with the CJS and in the resultant outcomes were sobering, as were the disparities in the staff profiles of CJS institutions. David Lammy MP called upon the government and all justice services to 'explain or reform' such disparities.

Probation services are not exempt from criticism. Although racial disparities start far upstream in the criminal justice pipeline before cases reach the probation service, the response, staffing and operations of probation must be founded in racial equality to be effective, legal and just and to counter this earlier disproportionality.

Lammy singled out CRCs for criticism, stating that their approach to the equality duty, 'too often produces only a superficial, tick-box approach'. Lammy called for CRCs to publish detailed data on

outcomes by protected characteristic. The report made 35 recommendations for the adult and youth justice systems.

In February 2020, the Ministry of Justice (MoJ) published *Tackling racial disparity in the criminal justice system: 2020 update*. It outlines the government's plans to tackle the probation issues identified in the *Lammy Review*, summarised below:

## **Staff**

The update foreshadows the *Probation Workforce Strategy* (HMPPS, 2020c), which will seek to improve representation, diversity and inclusion within the workforce, including through the recruitment and training of new staff. The *Probation Workforce Strategy* has as one of its five objectives, 'creating a more diverse workforce where everyone feels included'.

## **Service users**

The update also discussed the forthcoming reunification of probation services. The MoJ envisaged flexible commissioning of rehabilitation and resettlement support to meet the needs of different areas and cohorts, including people from ethnic minority backgrounds. The MoJ is establishing Commissioned Rehabilitative Services through a Dynamic Purchasing Framework for procuring rehabilitative and resettlement interventions. The framework includes a 'black, Asian, minority ethnic' cohort service category. With the exception of female service users, this service category is not being commissioned as a 'day one' service in June 2021, with the potential result that some existing services will be lost or interrupted.

## **Court reports**

The MoJ is working on strategies to 'de-bias' the courts. Pre-sentence reports are the first trial. Staff will be receiving training resources on:

- the use of language and terminology
- improving confidence in talking about difference
- improving cultural competence
- stereotyping and de-biasing decision-making
- quality assurance.

The Effective Proposal Framework (EPF), designed in 2017, is a digital application that aids probation staff in court by providing an objective shortlist of interventions for an individual, checked against eligibility, that could be proposed. The Chief Probation Officer (Crozier, 2019) states that the trial in the North West of England has been a success. The custody rate for all offenders fell from 55 per cent to 44 per cent from April to June 2018 compared with the same timeframe in 2017. The proportion of ethnic minority offenders receiving a custodial sentence reduced less, dropping from 57 per cent to 52 per cent. There has been no formal evaluation of its use as yet.

## **1.3 Aims and objectives**

The inspection sought to answer the following questions:

1. Is there an effective vision and strategy driving the delivery of a high-quality service for ethnic minority service users?
2. Does the operating model, including exceptional delivery models, support effective service delivery, meeting the needs of ethnic minority service users?
3. Does the profile of staff support the delivery of a high-quality service for ethnic minority service users?
4. Does the oversight of work support high-quality delivery to ethnic minority service users and professional development of ethnic minority staff?

5. Are arrangements for learning and development comprehensive and responsive, addressing issues of race equality and unconscious bias?
6. Do managers pay sufficient attention to engagement of ethnic minority staff?
7. Do the NPS and CRCs use a sufficiently comprehensive and up-to-date analysis of the profile of service users to deliver well-targeted services to ethnic minority service users?
8. Do the NPS and CRCs provide the volume, range and quality of services to meet the needs of ethnic minority service users?
9. Are analysis, evidence and learning used effectively to drive improvement on race equality?
10. Are the pre-sentence information and advice provided to court sufficiently analytical, personalised to ethnic minority service users and free from discrimination and bias, and do they support the court in making fair and objective decisions?
11. Do assessment and planning focus sufficiently on engaging ethnic minority service users?
12. Are sentence/post-custody periods implemented effectively with a focus on engaging ethnic minority service users and delivering services that support their desistance?
13. Is there evidence of sustainable progress in terms of ethnic minority service users' engagement and desistance?
14. Do service leaders capture the data they need to scrutinise potential disproportionality relating to ethnicity in service delivery and use of enforcement powers? Where such data shows disproportionality, have they taken action to deal with it?
15. In the individual cases inspected, were enforcement actions (for example breach, recall and warning letters) applied appropriately and fairly? Was management information collected on this?

### **Scope of the inspection**

The scope of this inspection covers the work of both the NPS and CRCs, including community sentences and post-release licences. We looked at work done with ethnic minority service users and the experiences of ethnic minority staff. In line with the Office for National Statistics (ONS) definition of ethnic minorities, we excluded white minorities, including those with Gypsy, Roma and Traveller heritage (who are over-represented in the CJS). In doing so, we do not dismiss the experiences of this group, but rather recognise that it requires a separate, more in-depth piece of work. The cases we inspected included ethnic minority foreign prisoners and those subject to community sentences who do not have settled immigration status, but we recognise that to cover all the implications of not having settled status will be beyond the scope of this inspection.

Our approach was to look at the needs of those from ethnic minorities and the quality and appropriateness of the services provided for them. We scrutinised local management information on any disproportionate impact of the probation process, such as enforcement, recall and breach. However, our inspection samples were restricted to ethnic minority cases, and therefore we are not able through our case data or interviews with staff to compare their experience to that of white service users. We did, however, make comparisons with the findings for all individuals from our core local inspections over the past two years. We scrutinised whether the use of discretion in breach and recall was justified for the ethnic minority cases in our sample and whether the assessment of risk and needs was appropriate.

## 1.4 Report outline

Chapter	Content
2. Leadership, staffing, services and information	Strategy and resources Staff recruitment, supervision, training and development Services for ethnic minority service users Use of data and information
3. Quality of reports and case supervision	Pre-sentence reports Assessment and planning Service implementation and delivery
4. Perspectives of black, Asian and minority ethnic staff	Culture and inclusivity Understanding and support from managers Fairness, development and progression Handling of complaints and grievances
5. Perspectives of black, Asian and minority ethnic service users	Service users' experience of racism Service users' experience of probation Addressing diversity by probation

## 2. Leadership, staffing, services and information

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In this chapter we consider both the NPS's and CRCs' strategic approaches to ensuring race equality in staffing and service delivery and the resources available for progressing this work. We look at the proportion of ethnic minority staff by area and grade, before reviewing how staff are developed, and the training they receive to enable them to provide anti-discriminatory and culturally appropriate services. Following this, we review the availability of services that are designed specifically to meet the needs of service users from ethnic minority communities. We conclude by looking at the data that is used to monitor outcomes for staff and service users, the extent to which this provides useful information, and whether this is acted upon.

### 2.1 Strategy and resources

The NPS does not at present have a separate Equality Strategy; however, probation regional directors produce their own plans, which contributed to the HMPPS Equality Strategy 2018-2020. In addition to addressing the recommendations of the *Lammy Review* (2017), this strategy sets out how it will increase the diversity of the workforce, ensure that staff have an equality-related objective, and improve the quality and analysis of outcome data. HMPPS's response (MoJ, 2020) to the recommendations of the *Lammy Review* included the following actions that relate to the NPS:

- launch a maturity assessment screening tool for young adult males (aged 18–25), along with a resource pack in July 2019
- through the unified model for the delivery of probation services, increase opportunities for specialist black, Asian and minority ethnic organisations from the voluntary, community and social enterprise sector to innovate and deliver services
- improve PSRs, including through use of language and terminology; improve confidence in talking about difference; improve cultural competence; eliminate stereotyping and de-bias decision-making; and improve quality assurance.

Little of this has come to fruition as yet. In part this is explained by the significant amount of change involved in transitioning to the new, unified probation arrangements and the impact that Covid-19 has had on probation operations and priorities. However, we would have expected more progress to have been made and this work has not been prioritised. We found no evidence of the maturity screening tool being used in the reports or cases examined, which began after October 2019. Local procurement of specialist Commissioned Rehabilitative Services for black, Asian and minority ethnic men under the Dynamic Purchasing Framework has yet to commence, and these services will not be available initially under the new arrangements from June 2021. No evaluation of the initial pre-sentence report pilots has been produced, although the work will be taken forward in fresh pilots from spring 2021. No national outcome data is available for ethnic minority probation service users, although an equality monitoring tool is promised for later this year.

Each of the seven original NPS divisions has a diversity and equality manager who has been responsible for drawing up a divisional equality and diversity plan, and five more have been recruited to serve each of the five new regions. Work on equality and diversity has been coordinated by a central HMPPS Diversity and Inclusion team, which covers prisons and probation and has a specific post of head of probation diversity and inclusion. These divisional plans are comprehensive, addressing the nine protected characteristics under the *Equality Act (2010)*. The five diversity and equality managers interviewed during this inspection were highly committed and had wide-ranging briefs, of which driving race equality in service delivery was only one part. In our opinion this work has been under-resourced. The West Midlands regional director has recognised that this is too much of a stretch for one individual and recently appointed a senior probation officer to focus specifically on improving service delivery to ethnic minority service users. In London NPS, the equality and diversity team is expanding to meet the demands of the role.

Each of the five CRCs inspected has an equality and diversity plan and report, which is required under their contract with the MoJ. The *Lammy Review* recommended that these should be publicly available to hold CRCs to account, but this has not happened. When the CRCs were formed, most had a manager responsible for equality and diversity. However, subsequent pressure on budgets meant that, of the services visited, only London CRC had a manager dedicated to this work.

All the CRCs have a senior manager with equality and diversity in their portfolio, among many other responsibilities. Each was committed to improving race equality, and convened groups of managers and staff to take forward initiatives. However, insufficient resources were dedicated to this work, which meant they were not able to achieve all that they wanted and found this frustrating. This was echoed by many long-serving staff who commented that, before *Transforming Rehabilitation*, issues of equality and diversity, and race equality in particular, had been given a higher profile, and since then specific resources have been lost. Interserve, which owns two of the CRCs inspected, produced a comprehensive guide to 'Working Effectively with Black, Asian and Minority Ethnic Service Users' in 2018 for use by its CRCs. However, this work was not prioritised, and implementation was limited.

In 2020, there was an upsurge in activity addressing issues of race equality. Some of this was already happening locally, but much was influenced by the tragic death of George Floyd and the Black Lives Matter protests. In August there was a Day of Action on Race and the start of a series of staff engagement events across HMPPS focusing on diversity. The first one was 'Let's Talk About Race'. The expectation was that managers throughout the organisation would begin a series of conversations with staff to open up about difficult areas of life experience. Many ethnic minority staff expressed their horror, shock and distress at events that had occurred in the United States, which had resonance with their own experiences of racism. Many of those delivering this material had not been trained on how to do this, with the result that some ethnic minority staff felt re-traumatised by these discussions. Follow-up has been limited in some areas.

Many senior leaders across the NPS and CRCs became involved in these discussions, setting aside time to listen to black staff and devising a series of responses. However, we also came across examples where ethnic minority staff felt these responses were tokenistic as they had seen no immediate changes.

### Good practice example

The regional director for the West Midlands Division published 10 pledges setting out how she intended to work with her staff to achieve the culture and behaviour they desired in the West Midlands and for which she would be accountable. These included specific actions to engage with staff, develop diversity in practice, support marginalised groups, improve training, address disproportionality, share learning and address inappropriate behaviour, create a network of allies, improve recruitment practices, influence partners and provide monthly updates on these pledges. The heads of local delivery units were encouraged to make their own commitments.

In October 2020, the MoJ launched its Race Action Plan, and in December HMPPS launched the Race Action Programme, which will be supported by a large team of staff working across prisons, probation and headquarters. This latter programme has five main workstreams:

1. creating safe spaces and support for staff and service users
2. reviewing and enhancing the learning and development offer
3. reviewing diversity and inclusion structures and policies
4. improving recruitment and career progression
5. greater engagement and consultation with BAME-led third sector partners.

Much of this work focuses on the needs and concerns of staff. It is less clear that there is a coordinated national strategy for improving probation service delivery to black, Asian and minority

ethnic service users. In practice there have been initiatives aimed at staff to address unconscious bias and to ensure that proposals in PSRs and for licence requirements do not discriminate between ethnic groups. But there has not been the same focus on identifying and responding to the needs of ethnic minority service users when they are in the community. While there is a strategy for working with female offenders (MoJ, 2018), there is no probation strategy for work with ethnic minority men, or evidence that consideration has been given to whether a differential response for them is required.

On reviewing the OASys needs profiles for service users provided by each area, segmented by ethnicity, there appear to be few differences between different ethnic groups. However, national data shows that those of mixed heritage have lower employment levels when they begin supervision, and black and mixed heritage service users have lower levels of settled accommodation (MoJ, 2020). Desistance theory (McNeill et al., 2012) points to the need for individuals to build up community links – social capital – if they are to stop offending. This requires a differential response, as the *Young report* (2014) noted:

***‘An examination of the desistance process for young black and/or Muslim men pointed to the importance of focusing on offenders as individuals and providing opportunities for them to build positive identities that support their long-term desistance, particularly in the context of the multiple disadvantage they often experience.’ (p.11)***

If ethnic minority individuals are to achieve equal outcomes from probation supervision, then probation services must break down the barriers of mistrust with the criminal justice system that Lammy (2017) identified, deliver a culturally appropriate and informed service, and link individuals with services in their local communities.

## 2.2 Staff recruitment, supervision, training and development

HMPPS has a target to recruit at least 14 per cent of its staff from ethnic minority communities, in line with the proportion of the working age population from ethnic minority communities in England and Wales. The situation in the NPS on 31 March 2020 is shown in this table (HMPPS, 2020b):

### Percentage of NPS staff by ethnicity compared with the working age population

NPS staff	Self-defined ethnicity (percentages)							
	White	Black	Asian	Mixed	Total BAME	Total (known)	Not stated	Total (all)
Senior Manager bands A-D	82.2%	7.5%	3.4%	2.9%	13.8%	167	4%	174
Senior Probation Officer bands 5-6	82.5%	4.8%	3.6%	3.5%	12.4%	1,126	5.1%	1,186
Probation Officer and other staff grades	72.6%	6.2%	4.5%	2.7%	13.7%	8,628	13.7%	9,994
Working age population (16–64 years) Census 2011 <sup>16</sup>	85.6%	3.4%	8.1%	1.8%	14.4% <sup>17</sup>	-	-	36.3 M

<sup>16</sup> Office for National Statistics. (2018, updated 2020). *Working age population*. <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/working-age-population/latest>. Accessed 28/01/2021.

<sup>17</sup> Includes 'Other' – 1.1%

Rates of staff self-declaration of ethnicity have improved across the country. The total proportion of ethnic minority staff in the NPS appears to be slightly below that of the working age population of England and Wales. However, staff who are black are over-represented and Asian staff are clearly under-represented. The biggest shortfall is in the proportion of middle managers from ethnic minority communities. There is no published data for the CRCs. The following table drawn from local unpublished data shows the proportion of ethnic minority staff for each CRC compared with the local population.

### Proportion of ethnic minority staff by CRC compared with the local population

Name of CRC	Percentage of staff who have declared that they are black, Asian or minority ethnic	Percentage of staff with missing ethnicity data (either not recorded or refused)	Proportion of the local population who are black, Asian or minority ethnic (from the 2011 census)
West Yorkshire CRC <sup>18</sup>	15.1%	10.5%	18%
Merseyside CRC <sup>19</sup>	3.8%	22.3%	5%
Bedfordshire (part of BeNCH CRC)	28%	17%	22.5%
London CRC	44%	29%	40.2%
Staffordshire West Midlands CRC <sup>20</sup>	36%	8.4%	West Midlands 29.9% Staffordshire 5.9%

What is important for probation as a whole is for the service to reflect the population in local communities from which staff and service users are drawn. This is important, not only to access the best talent, but also so that service users can see reflected in the staffing complement people who look like themselves and who, they presume, have an understanding of their communities and social situations.

### Proportion of ethnic minority staff in NPS local delivery units compared with the local population

NPS local delivery unit	Percentage of staff who have declared that they are black, Asian or minority ethnic	Percentage of staff with missing ethnicity data (either not recorded or refused)	Proportion of the local population who are black, Asian or minority ethnic (from the 2011 census)
Bradford and Calderdale	22%	6%	Bradford 32.6% Calderdale 10.3%
Liverpool and Sefton	6.3%	17.6%	7.9%
Hackney and Tower Hamlets	52%	16.7%	Hackney 45.3% Tower Hamlets 54.8%
Bedfordshire	21.2%	15.8%	22.5%
Birmingham	33%	30.7%	42%

<sup>18</sup> West Yorkshire CRC Equality and Human Rights Annual Report 2019–2020.

<sup>19</sup> Merseyside CRC Equality and Human Rights Annual Report 2019–2020.

<sup>20</sup> Staffordshire and West Midlands CRC Diversity & Equality Report 2019.

In the Bradford and Calderdale local delivery unit, the CRC has developed strong links with local communities through outreach, links with the voluntary sector and opportunities for people to volunteer with probation. As a result, their local recruitment initiatives have been successful at attracting members of the local Asian community, some of whom have now progressed up through the organisation. By contrast, one of the CRCs inspected has lost some ethnic minority members of staff and is no longer fully representative of the local community.

The NPS has in recent years recruited graduates to train to become probation officers through a national scheme, while some CRCs, such as BeNCH, have supported their own probation service officers to progress, by funding them to achieve the necessary academic units. Ethnic minority staff have expressed concerns that the NPS probation trainee recruitment route has been too narrow; has resulted in a significant gender imbalance (79 per cent of Professional Qualification in Probation (PQiP) trainees in June 2020 were female); and has not allowed people with a wider variety of backgrounds and educational experience to progress. There is a particular shortage of male trainees, and while 25 per cent of trainees who declared their ethnicity were from ethnic minority communities, only five per cent were ethnic minority men, who appear to be less successful in the selection process.

The NPS recognises these issues, which the *Probation Workforce Strategy* launched in 2020 addresses (HMPPS 2020c). The strategy includes setting regional PQiP diversity recruitment targets, supported by local outreach and a new progression route for existing probation service officers.

There is still a shortfall in ethnic minority staff in management grades in some areas. However, there are no specific local targets apart from the overall 14 per cent national target. Under the *Equality Act (2010)*, where there are lower participation rates, employers are permitted to introduce positive action schemes in order to achieve a more balanced management group. This could include setting targets that reflect the representation of ethnic minority groups in the local community, which might vary from around 40 per cent in London to 11 per cent in Liverpool. Each NPS region we visited has developed its own positive action initiatives for ethnic minority staff and other underrepresented groups seeking to progress. These included, for example, support and coaching in the North-West (Breaking the Barriers), Promoting Inclusion Staff Mentoring (PRISM) in the Midlands, and the Connect mentoring and reverse mentoring programmes in Yorkshire and the Humber. Most regions had trained panels of ethnic minority staff to participate in staff selection interviews. London had recently succeeded in increasing the proportion of senior managers from ethnic minority communities, who now form a third of the senior management group.

We did not find any specific positive action initiatives in the CRCs inspected, though the West Midlands NPS was opening up its mentoring programme to staff from Staffordshire West Midlands CRC. With the introduction of the new unified model of probation, there is a need to assess where in the country there is underrepresentation of ethnic minority groups in management grades and set targets and initiatives to address this.

Most of the responsible officers interviewed indicated that they received regular supervision. However, three-fifths said that they did not receive effective case-focused supervision that enhances and sustains the quality of work with service users from ethnic minority communities. For some, this was not on their regular supervision agenda, and many indicated that other priorities, such as performance and the management of risk, took precedence. The following comment was typical of some responsible officers' experience:

***“Never had discussion of the cultural needs of service users in supervision. The focus is on process and task oriented, risk, and updating systems”.***

From another:

***“I have never experienced conversations about diversity”.***

Some felt that their line manager would not be the best person to speak with about such matters because of their perceived lack of knowledge or experience and might approach other colleagues instead for their expertise and cultural understanding:

***“I am not confident that my SPO has the skills, knowledge and understanding to best support me with equality and diversity issues faced by my clients”.***

On a more positive note, a minority of managers were seen as very knowledgeable and interested, and diversity was a standard item on supervision agendas:

***“If discussing a case where the service user is from an ethnic minority background, my line manager will give support and advice on what will work best”.***

This was particularly true where the manager came from an ethnic minority community.

***“My SPO is a Sikh; he has a very good understanding of race and equality. He helps me to flourish”.***

Some indicated that, following Black Lives Matter and the Let’s Talk About Race initiative, there had been more discussion in supervision about the issues that ethnic minority service users and staff face, but this was not common. This is worrying and a missed opportunity to model expectations and to promote effective practice with ethnic minority service users.

We also asked responsible officers about their knowledge or experience of induction into the service, and how well issues of diversity and equality were addressed. Only 30 per cent said there is an effective induction process for staff that addresses issues of race equality and diversity. For some probation service officers, induction was very rudimentary:

***“Inductions are about health and safety and the building”.***

Others had a more positive experience, but still felt it was insufficient. When a caseworker joined the service, he was given a folder of information and told to read through it. There was a training module on equality and diversity, but he feels that this was not sufficient. He would have appreciated the opportunity to shadow and be mentored by other, more experienced, colleagues who were managing a diverse caseload.

A former training officer commented:

***“There is insufficient focus on race, diversity and anti-discriminatory practice for those staff entering the organisation. Staff tend to obtain information via informal communication channels – colleagues who have personal experience”.***

A diversity champion commented that she is aware that some new staff have had bad experiences and want to leave the service.

On a more positive note, one person said that when he first started his manager asked if he had any specific diversity needs. He informed his manager that he is a practising Muslim and asked for a space to do his prayers and said that he would wish to go to mosque on Friday for prayers. These requests were accommodated, and a room was made available.

For those training to become probation officers there is no specific module on diversity in the academic programme. This is a thread within their study, specifically in modules focusing on skills practice. The specific learning within the current qualification includes the mandatory online Civil Service e-learning, supplemented by a local workshop on equality and diversity. Some trainees felt this lacked sufficient depth or rigour.

We asked whether the service provided sufficient effective training on race equality, diversity and avoiding unconscious bias in decision-making. Again, only a third of responsible officers responded positively. Only 27 per cent of ethnic minority staff surveyed rated their organisation’s training on

equality and diversity as good or better. There was a common view that the online training is too superficial and does not engage with the reality of day-to-day work with service users. This shortfall in effective training has been acknowledged in both the Race Action Programme and the Probation Workforce Strategy, where it forms separate workstreams. We hope that learning on diversity and equality will be implemented in the new unified probation services.

For many, the only training on diversity they have received recently has been online training on avoiding unconscious bias, or the standard Civil Service training on equality and diversity. Face-to-face training has not been possible since March 2020 because of the Covid-19 pandemic. Training on unconscious bias can be problematic. The Equality and Human Rights Commission (2018) found evidence that unconscious bias training with a debrief session can raise awareness of unconscious bias and reduce (though not eliminate) implicit bias. However, such training does not reduce explicit biases and is rarely designed to tackle explicit bias. It can backfire – reinforcing stereotypes and beliefs that implicit bias cannot be reduced. We understand that it may be discontinued in the Civil Service.

There is a clear need for learning programmes that enable staff to understand racism and discrimination and their impact on non-white communities and individuals. Staff also need opportunities to reflect on their work and how far they are applying anti-discriminatory practice. This is difficult to do online and is more appropriate in face-to-face training or supervision where there is scope for challenge and debate. Staff also need to be confident in discussing racism and its impact with service users and colleagues. Some opportunities were made available in 2019-2020, first with the launch of 'Culture Clubs' in North-East NPS and 'Talking Difference' in London NPS, followed by the Let's Talk discussions nationwide, but these have been voluntary; levels of staff attendance in some areas have been poor. They are difficult to do remotely over video or audio-conferencing applications, where staff are less engaged, and it is not easy to judge individual reactions or to follow up issues.

Staff also need to develop cultural competence, a deeper understanding of the various cultures from which ethnic minority service users come, to appreciate what they don't know or understand. In Bradford, Touchstone, a community organisation that works with South Asian service users, has been involved in training staff in understanding different cultures, but we found few other examples.

Several managers we spoke with were uncertain about how to approach discussion of sensitive and difficult issues with staff and were aware of their own lack of skills and knowledge. This applied not only to white managers but also to some ethnic minority managers, who recognised that they also needed support in how to best address difficult issues and develop a climate where learning would happen, engaging those who were reluctant to speak and producing healthy debate and avoiding destructive responses. Half of ethnic minority staff surveyed did not believe that their leaders fully understood the issues they faced as a member of staff from a black, Asian or minority ethnic background. This is very worrying.

Some senior managers have provided opportunities for middle managers to reflect on their approach to leading discussions, and HMPPS has produced some useful material to support middle managers in this work. In NPS North-West there has been specific training in handling difficult conversations, but for many managers there was a clear need for opportunities to learn how to manage diversity in staffing, given the pivotal role they play in modelling and communicating appropriate responses to racism, inclusion and diversity. In London NPS, the regional director has acknowledged this issue and brought in training from an equality, diversity and inclusion consultancy to support managers in this task. Such initiatives are not widespread and should be considered in other regions.

### **2.3. Services for ethnic minority service users**

We found very few services specifically geared to the needs of ethnic minority service users. When the CRCs were created, they were not required to provide specific services for these groups; rather, they had to show that their commissioned services were responsive to the needs of black, Asian

and minority ethnic service users. As a result, some services were lost post-transition. For example, an award-winning programme for black service users in Liverpool, which provided mentoring by black staff and links to the ethnic minority community, was decommissioned. The staff left as this service was not resourced as it did not hold cases.

Providing specific services for ethnic minority groups may cost more, which is why in times of financial stringency they are at risk. Similarly, the Prison Link programme in the West Midlands ended. We could only find one programme that began prior to *Transforming Rehabilitation* that continues to be funded by CRCs. This was the SHAFa programme (meaning 'renewal, restoration and healing' in Urdu) in West and South Yorkshire.

### Good practice example

The SHAFa programme supports South Asian service users across West and South Yorkshire. It is run by Touchstone, which is a mental health wellbeing charity. It provides a culturally appropriate service, with particular emphasis on working with the Pakistani Muslim community. Through group work and individual mentoring, SHAFa works with probation to address service users' needs on plans agreed with each individual and links them to community resources. It focuses particularly on responding to individual cultural and religious needs. It uses a combination of paid staff and volunteers who can speak South Asian languages, some of whom have previous experience of the criminal justice system.

In London we met with Air Network, which has recently been commissioned by the CRC and the NPS to provide mentoring activity for ethnic minority service users. In Tower Hamlets, we spoke with the Osmani project, which has also been commissioned by the CRC and provides a specific focus on work with the large Bangladeshi community there. None of these organisations have contracts beyond June 2021, when the CRC contract terminates. Although there are some promising initiatives delivered by such community organisations, further evaluation is needed to prove their effectiveness in helping service users to desist from offending.

Of the responsible officers interviewed, only one-quarter agreed that there were appropriate services commissioned or provided, either in-house or through other agencies, to meet the identified needs and risks of ethnic minority service users. In our separate survey of ethnic minority staff, 59 per cent said they seldom or never have access to sufficient services to address the specific needs of black, Asian and minority ethnic service users. The *Lammy Review* recognised the problems that small local community organisations have in contracting with CRCs. While they bring community knowledge, cultural, and faith expertise and may speak relevant languages, they are often too small and too local to contract for larger packages of work, or to meet the requirements of MoJ commissioning or larger prime contractors.

The MoJ allocated £3 million in October 2020 to probation regional directors and to CLINKS, under the Strengthening Community Sentences Fund, to be spent by the end of March 2021. The funding is to be used to strengthen the capacity of black, Asian and minority ethnic (including Islamic faith) specialist voluntary sector organisations to prepare for commissioning of rehabilitative services under the Dynamic Purchasing Framework. However, there will be a gap, as these services will not initially be commissioned from June 2021, and some organisations will still find it difficult to engage. There may be more scope to use the Regional Outcomes Innovation funds held by probation regional directors to pilot new initiatives in conjunction with other commissioners, such as Police and Crime Commissioners (PCCs).

We asked responsible officers whether there were effective relationships with ethnic minority community organisations that support desistance through access to services both during the service user's sentence and after they have completed it. Again only 30 per cent agreed that these relationships were in place. While there are a number of organisations in the community that provide services that could be of use to ethnic minority service users, knowledge of these organisations was often limited. With probation services split since *Transforming Rehabilitation*,

there has often not been the capacity for managers and staff to invest in partnership work, to find out what is available, and to agree arrangements and referral protocols.

In Birmingham, we interviewed two organisations funded by the PCC and the multi-agency gangs initiative: AVision for Empowerment and Bringing Hope. They are delivering services to many individuals from ethnic minority communities, some of who are involved in gangs or on the periphery. Despite many years of involvement with individuals under probation supervision, the latter organisation had only recently completed an information-sharing agreement with the NPS.

### Good practice example: Muslim Women in Prison, Bradford

The Muslim Women in Prison rehabilitation project, based at the Khidmat centre in Bradford, is a culturally informed resettlement programme that supports women in rebuilding their lives after release from prison and back into the community. It is funded from charitable sources and the Lloyds Bank Foundation. This Through the Gate (TTG) support provides plans individually tailored to personal circumstances, which recognise cultural and faith needs. It works in conjunction with probation services in Bradford, and New Hall and Askham Grange Prisons. A report on its work can be found on the Khidmat Centres website: [www.khidmat.org.uk/community-led-desistance/](http://www.khidmat.org.uk/community-led-desistance/)

Each probation provider gave us details of the interpreting and translation services they use. The NPS uses The Big Word for in-person and telephone interpreting and translating. While these services seemed to be readily available in most cases, there were examples seen where the service user had limited fluency in English, and where the responsible officer made do without an interpreter, thereby providing a less effective service. There were problems in continuity when the same interpreter was not available for subsequent sessions, and a different interpreter was used who was not familiar with the responsible officer, the service user, or the technical nature of the subjects under discussion. Several staff commented that they would like training on how to work best with interpreters so they could use them more effectively.

Nine out of 10 responsible officers said there were insufficient services available that address racially motivated offending. While some knew of worksheets they could use, most felt ill-equipped to do this work and four-fifths said they had not received sufficient training. The Merseyside Probation Trust had developed a 22 session Against Human Dignity Programme in conjunction with the Anthony Walker Foundation. This was taken on by the Merseyside CRC and became the Promoting Human Dignity Rehabilitation Activity Requirement. However, sadly this programme has not been run for some time and appears to have fallen into disuse.

## 2.4. Use of data and information

We wanted to see whether probation services capture data on disproportionate outcomes and, if so, what they do with it. The *Lammy Review* proposed that if there was no clear explanation and justifiable reason for disproportionality, then action should follow to reform processes to achieve fairness between different ethnic groups.

Vast amounts of data are collected on service users as they progress through probation supervision. This includes data on sentencing, the proportion of individuals sentenced without a PSR, agreement between PSR proposals and sentences, sentence outcomes, service user needs and risks, breach and recall, successful completions, and accommodation and employment status at the beginning and end of the sentence. Race and ethnic monitoring of service users is good in the NPS but variable in the CRCs inspected, ranging from five per cent missing data in West Midlands CRC to 13 per cent in Merseyside and London.

What is less clear is how this data is interpreted and used. Most staff and managers identified this as an area of weakness. At the national level there is currently no published data on service user outcomes. Progress with the planned Equality Monitoring Tool has been too slow. Work on the tool

has been delayed due to a staff vacancy. It is still undergoing development, with the intention of it becoming operational in its first iteration by June 2021.

The Performance and Quality teams in each NPS division produce and analyse their own data on race equality together with their equality managers. However, this does not seem to filter down to operational units in a form that enables managers to identify actions they can take to improve outcomes for service users. The Eastern NPS Division has developed quite sophisticated reports which analyse trends on race and ethnicity in sentencing and outcomes for each local delivery unit (LDU). They display this data on a dashboard for use in accountability sessions with the heads of these units. However, this still requires more work with managers to translate the data available into information for action.

Use of data in the CRCs inspected was more variable. Although data is available in their annual diversity and equality reports, most CRCs do not analyse the data sufficiently to determine actions to improve race equality, which would be assisted by improved rates of completion of ethnic monitoring. Staffordshire West Midlands CRC has a sophisticated user-friendly information management system that allows a range of data on service users' progress and outcomes to be segmented or displayed by race and ethnicity in a variety of ways. This includes data from its Reoffending Analysis Tool, which identifies those offenders who are more likely to reoffend, their needs and priority for intervention.

London CRC analysed the rates at which service users were recalled to prison by ethnicity. This evidenced that ethnic minority service users were more likely to be recalled. To address this issue, the CRC added a further check to the recall process, meaning that all recalls on this group now have to be scrutinised by a senior manager before they can progress to ensure that all appropriate alternatives to recall have been considered.

The London NPS Division identified that a higher proportion of PSRs completed for ethnic minority service users recommended a custodial sentence than the courts were in fact making. Managers addressed the disproportionality in PSR proposals for black, Asian and minority ethnic service users by encouraging staff to use the Effective Proposal Framework Tool, which is a check against bias and identifies alternative suitable disposals for consideration. Senior probation officers were held to account for making improvements through their increased oversight of report writers, case discussions and checking of reports. As a result, the division found that the proportion of ethnic minority service users receiving custodial sentences reduced by 13 per cent.

HMPPS publishes an annual staff equalities report. The most recent one (HMPPS, 2020b) includes a range of data on staff working for the NPS, including recruitment, progression, appraisal outcome, sickness rates, investigations, disciplinary and grievances by grade and protected characteristics. This provides trends, but as a public document it does not analyse disparities or discuss specific responses. Declaration of protected characteristics is voluntary; rates are improving, though declaration of ethnicity is still at only 86.3 per cent for staff below management grades. CRCs publish a range of data on staffing in their annual equality reports. Declaration rates of ethnicity range from 92 per cent in Staffordshire West Midlands CRC down to 78 per cent in Merseyside CRC. Many managers interviewed seemed unfamiliar with the range of aggregated equality data available on staff, which was not routinely presented to them, and were therefore not fully considering the implications for staffing and HR processes.

## **2.5. Conclusions and implications**

A considerable amount of work is now beginning under the HMPPS Race Action Programme to address the concerns of staff about race equality. There is less of a clear strategy as to how issues of race equality will be addressed in relation to service users in the new unified probation service. David Lammy's 2017 *Independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system* made few references to probation. The specific workstreams that followed, about improving PSRs to reduce the proportion of ethnic minority individuals receiving custodial sentences and increasing the involvement of community organisations in the delivery of services, have yet to have much consistent impact.

While there have been initiatives to reduce potential bias in decision-making by probation staff through the use of the Effective Proposal Framework Tool, there has not been a consistent focus on identifying the specific needs of ethnic minority groups, especially ethnic minority men, and working out how best to support their desistance from offending in the community. A more comprehensive strategy is needed to address the needs of black, Asian and minority ethnic service users subject to probation supervision.

The probation service nationally is close to being representative of the working age ethnic minority population of England and Wales; however, this does not mean that it is equally representative of local communities. There should be a greater focus on engagement with and recruitment from local communities, and there is a particular need to attract more ethnic minority men, who are considerably under-represented and who could provide appropriate role models for some service users. Improving progression routes from PSO to PO would assist in attracting those who are not university graduates to develop a career in probation. In some areas there is under-representation of ethnic minority people in management grades. With the introduction of the new unified probation service, there is a need to assess where there is such under-representation and target positive action programmes, such as coaching and mentoring, at ethnic minority staff to help them apply for and succeed in obtaining promotion.

There is a general recognition that learning and development programmes in probation services for staff on race equality are insufficient. In developing training initiatives in the Race Action Programme and under the Probation Workforce Strategy, there needs to be an emphasis on interactive training that transfers learning into practice. Staff should be challenged and encouraged to reflect on their practice with service users, and to develop anti-discriminatory, culturally informed and culturally appropriate practice. This is critical if probation staff are to work effectively with individuals from ethnic minority communities to reduce their likelihood of reoffending. Many managers lack confidence in addressing issues of race equality with their staff and need support and opportunities to learn and reflect on how to do this best, so that they can handle difficult conversations and model appropriate practice in supervision and team meetings.

There are very few services specifically for ethnic minority service users, and especially ethnic minority men. Services are needed that work with local organisations that can provide culturally sensitive services and can work with different faith traditions. Further research is required into what would work best in supporting desistance with service users from ethnic minority communities. There is a lack of interventions to address racially motivated offending, and many staff feel unskilled and unprepared to deliver such work.

Effective commissioning of rehabilitative services for black, Asian and minority ethnic service users proved problematic under *Transforming Rehabilitation*, and some valued services that existed previously were lost. At the same time, cuts in funding have led to many local community services disappearing, and probation staff are not always aware of what is available in the community and do not always engage effectively with such services. There is an opportunity with the arrival of Commissioned Rehabilitative Services under the Dynamic Purchasing Framework, the Regional Outcome and Innovation Funds and potential for co-commissioning with PCCs to find new ways of delivering services geared to the needs of ethnic minority service users.

A lot of data is collected on outputs and outcomes for staff and service users, which can be analysed by race and ethnicity to identify needs, and disproportionate progress, treatment and outcomes, but this data is rarely analysed and made routinely available in ways that inform actions by managers and staff. In this area, probation is data rich and information poor. The challenge is to make information on disproportionality available at the right level of aggregation, over appropriate time periods, and in ways that enable managers to identify trends and see where action is required to improve equality and fairness.

## 3. Quality of reports and case supervision

We sampled 51 PSRs and 100 cases of black, Asian and minority ethnic service users across the five areas in this inspection. In this section, we review the quality of the PSRs and consider this in the context of recent and planned work across the NPS to make improvements. We then look at the quality of assessment and planning in a sample of cases under supervision. Finally, we review the quality of work to engage service users in delivery, to reduce reoffending, and to improve the outcomes of supervision. We compare these scores to the aggregate scores for assessment, planning, and implementation and delivery from HM Inspectorate of Probation's combined data from the last two of our core inspections of adult probation services.

### 3.1. Pre-sentence reports

The reports we inspected included short-format reports and transcripts of oral reports, along with a few full PSRs completed with OASys assessments. Some were completed by qualified probation officers and some by probation service officers.

There is considerable variance between different areas in the proportion of ethnic minority service users sentenced without the benefit of a PSR. In the South East and Eastern NPS division in 2019-2020, this ranged from 38 per cent in Bedfordshire to 71 per cent in Kent. While such data is available, it is unclear how it is used. There are cases where report writers propose custody, and the proportion of these proposals that relate to ethnic minority service users varies by area. In some instances, custody is the inevitable outcome, but in others the court does not go along with the proposal and makes an alternative disposal, often suspending the custodial element. We are unaware of any routine sign-off of such proposals.

The quality of PSRs was insufficient in too many cases, and not enough attention was paid to the service user's diversity. Of the 51 PSRs inspected, the quality of 58 per cent was judged sufficient. In only four cases was there evidence that the advice to court considered the service user's diversity. In some cases, there was conflicting information recorded about the service user's ethnicity or religion. In five of the 51 reports the service user's name was misspelt in the documentation seen. Poorer quality reports that fail to consider all relevant factors run the risk of service users receiving more punitive sentences.

In many cases there was insufficient analysis of factors relating to the service user's maturity or their experience of racism or trauma. The standard report framework now includes a heading about trauma, but this was not always explored properly and on occasions traumatic experiences were discounted, as in the following reports:

#### Poor practice examples

Anand is an 18-year-old Asian male. He explained that he was carrying a knife because a month before he was arrested, he was the victim of a knife attack and has since felt 'anxious and paranoid'. The report writer adds that Anand showed him the scars from the attack. Yet in the section of the report related to trauma it states, 'There is no evidence that the offender has experienced trauma'.

Barkhado had recently lost her husband, who had been attacked and killed when visiting his parents abroad. She has two children, who have experienced extreme emotional impact. She had been left without financial means and had to move into a shared flat with her children due to not being able to pay the rent or bills. The report author suggests that 'the offender has never experienced trauma'.

On occasion the report writer appeared to fail to engage appropriately with the service user, as in this case:

### Poor practice example

Farshid is a man of Iranian nationality. His ethnicity is unclear. It was recorded that he struggles to understand English and has problems with reading and writing in English. This was not fully explored and there is no evidence of him being offered interpreter services for the purpose of the report. He was sentenced to a 12-month community order with a Rehabilitation Activity Requirement (RAR) and 200 hours of unpaid work. Two months after sentence the order is returned to the court as the unpaid work element is unworkable due to the service user's significant struggles with his mental health. There is no evidence that his health was discussed at the PSR stage and no information relating to this in the report. Farshid is a failed asylum seeker, and there is no evidence that his feelings about this had been explored, or his ethnicity and whether this may make him feel uncomfortable in an unpaid work situation. The author of the PSR indicates that the service user is only entitled to £37 a week and that this is paid in vouchers, so he has no access to cash or a bank account. She records that this is likely to impact on his ability to travel to the unpaid work site but still proposes unpaid work as part of the sentence. She identifies that it is unlikely that he will be able to claim for reimbursement of the cost of travel from the CRC.

Language and terminology were appropriate in 86 per cent of reports. In a third of reports, probation staff had given insufficient time to analysing information and making judgements; in another third of reports it was unclear whether they had been given enough time. To reduce the potential for bias in decision-making it is important to allow enough time to consider information properly. We noted that many of the short-format reports had been completed during an adjournment of several days or weeks, which would have allowed enough time for the issues to be considered properly and for enquiries to be completed. On only one report was there evidence on file that quality control had been completed before the report was submitted.

We convened a focus group of PSR writers from across the five NPS divisions inspected. These report writers commented on the difficulty of having in-depth conversations with service users about their history, personal circumstances and any trauma they had experienced, in the rushed setting of court buildings. They confirmed that there is an Equality Information Form (EIF) that should be used when interviewing people for PSRs, but it is not always completed. The EIF can be used to start such conversations, but some use it simply as a way of gathering data, and some complete it after the interview.

Following an HMPPS internal audit in 2019, which found that the quality of reports on ethnic minority people was often poorer than reports on white people, a number of NPS divisions completed their own audits. In the North-West and Eastern division, they have developed guidance on producing inclusive PSRs, along with a new gatekeeping quality control form.

Three and a half million pounds is being invested in a new PSR pilot, which is being launched in March 2021 in 12 court centres and will run for a period of 18 months. Report writers will receive interactive training on avoiding unconscious bias and having difficult conversations. It is recognised that more time needs to be spent on preparing good-quality PSRs without the pressure of urgent court business intervening. One of the project's aims is to test the efficacy of reports prepared before individuals enter pleas, on the basis of understanding that guilty pleas are anticipated. Reports on more complex cases are planned to be completed on adjournment, including those on women and people under 25 years of age. The original intention was also to include ethnic minority service users in this group, but this has changed to include all individuals who are considered to be on the cusp of going into custody. Care will need to be taken to ensure, however, that the focus on improving the quality of reports on ethnic minority service users is not lost in the much larger scope of the pilot.

### 3.2. Assessment and planning

In addition to the 51 PSR cases, we inspected a further 100 cases of ethnic minority service users who were already under probation supervision. For these cases, we found that responsible officers had analysed service users' diversity sufficiently and considered the impact this had on their ability to comply and engage in only about one in six assessments. Just over half of service users were meaningfully engaged in their assessments. We judged that assessment of engagement required improvement. Just 55 per cent of cases met this HM Inspectorate of Probation standard compared with an average of 69 per cent of all cases in our local probation inspections from 2018 to 2020.

#### Scores for assessment and planning for this inspection, compared with all local inspections 2018-2020

	<b>Black, Asian and minority ethnic cases in this thematic inspection (n=100)</b> Percentage 'yes'	<b>All cases in our local probation inspections 2018-2020 (n=4,542)</b> Percentage 'yes'
Does assessment focus sufficiently on engaging the service user?	55%	69%
Does assessment focus sufficiently on the factors linked to offending and desistance?	68%	68%
Does assessment focus sufficiently on keeping other people safe?	51%	58%
Does planning focus sufficiently on engaging the service user?	56%	66%
Does planning focus sufficiently on reducing reoffending and supporting the service user's desistance?	70%	67%

There were several cases where information on the service user's race, ethnicity or religion was absent or incorrect, and there were many cases where issues of experience of racism and discrimination were not explored. Sometimes this was because the responsible officer did not consider this as something they should ask about, or they would only ask if the service user raised issues in relation to it. One commented that:

*"If I had asked him about his experiences in relation to race and ethnicity, I would not have been equipped or prepared for whatever he would have said".*

Having such a conversation could be a revelation, as in this case:

### Good practice example

A meaningful discussion about Black Lives Matter took place with the responsible officer. Marvin spoke about his experiences and racism in the criminal justice system. He shared that he feels anxious when the police drive past and that his parents taught him to always keep receipts in case he is stopped. The responsible officer recorded that Marvin ***'feels that there are so many things instilled in him that he does to prevent suspicion when shopping/out and about/being judged as dodgy'***. In the interview with the responsible officer, the discussion with Marvin was clearly enlightening and had a huge impact on her. She was distressed to hear about his experiences and reflected on her own experience and the things she took for granted. For example, she reflected that she hardly ever asks for a receipt or keeps them, and it was shocking to hear that Marvin is so concerned to have a receipt in case he is stopped. The impact of the exchange with Marvin extended far beyond her improved understanding of him. She said, ***"I don't know how to talk about race. As a white person I can't relate to what they've been through"***. She described being really nervous about broaching the discussion with Marvin. She relayed that Marvin sharing why it is so important to him to keep receipts was a ***"mind blowing moment"*** that she ***"will never forget"*** and that she has ***"shared it with a lot of people"***.

There were many examples of missed opportunities to deepen the responsible officer's understanding of service users' heritage, culture, family history, education, immigration status or experiences of trauma, which would have improved the OASys assessments considerably. However, the only section on OASys that mentions experience of discrimination is in the sentence planning section, in relation to its impact on planned work. In most cases this section was left blank, or worse stated 'no issues' when there were clearly relevant factors that had not been explored.

### Poor practice example

Assad is a young male of Somali origin who received a 12-month community order for failing to engage with an earlier community order. He sent his partner, who was assessed as vulnerable, several threatening text messages, including one that said, 'I will kill you'. The initial assessments were completed with very little information 'to meet targets' and barely informed the reader of the risk factors in the case. Some cultural mental health support was delivered via a specialist mental health support service for refugees and people of black, Asian and minority ethnic backgrounds. The impact of this and of Assad's experiences of a change in culture, country and language were not discussed with him at all. This service user was socially isolated and would have benefited from general community support, ideally from someone from a similar ethnic background to him. The responsible officer, who was also from an ethnic minority background, did not discuss the service user's experiences of discrimination because being from a minority group ***'you assume you know what they've gone through'***. The responsible officer recognised that this was not a helpful assumption.

There were a few positive examples where the responsible officer had carefully considered an individual's background and included relevant information in the OASys assessment which would improve understanding and engagement, as here:

### Good practice example

Tendai's background has clearly been explored and the reader is afforded a picture of his life in Zimbabwe and the circumstances of him coming to the UK in 2003 as a refugee. Both his parents died as a consequence of the political tensions in Zimbabwe. His father was shot before he was born. In his late teens, his mother, who had actively opposed conscription, was killed in an attack on the family. The traumatic impact of these events is recognised in the initial OASys.

On a few occasions, assessments may have been biased due to misunderstandings about how an individual presents, their culture, ethnicity or religious practice. Sometimes factors that may have supported a service user's desistance were not recognised and supported, as in this case:

### Poor practice example

In Muhammad's case there were opportunities to engage in culturally sensitive conversations that were not pursued. This appeared to be because of unconscious bias on the part of the responsible officer. When Muhammad stated that he wanted to resume Friday prayers, the responsible officer did not explore this with him as a factor to support desistance. It was seen rather as a superficial effort to 'display' a positive image. It was the responsible officer's view that **'just going to Friday prayers'** did not mean that Muhammad was someone who followed his faith well and there had to be **'more to it than that'**.

In 68 of the 100 cases, assessment of factors linked to desistance was good and in line with the aggregate score for our core local probation inspections. Assessment of risk of serious harm required improvement in almost half of these cases, which is slightly worse than the average score for our core inspections. In most of the cases where the inspectors disagreed with the responsible officer's assessment of the risk of serious harm, this was because the risk of harm was assessed as too low.

Planning took sufficient account of service users' diversity and how this might affect engagement and compliance in only 13 of the 100 cases. Service users were also less involved in planning and their views were less likely to be taken into account when compared with the average score for cases in our core local inspections. Overall, engagement in planning was assessed as 'requires improvement', with 56 per cent of cases meeting the standard compared with 66 per cent in core inspections. Planning to reduce reoffending was judged to be good in a reasonable majority of cases in line with the aggregate score for our core inspections.

Where the assessment of an individual's diversity needs and how to engage them was insufficient, this frequently resulted in insufficient or inappropriate plans to address their offending. In some cases, the individual's expressed needs in the self-assessment questionnaire were ignored, and in others the individual was not fully involved in planning because of language or cultural barriers. On occasions, incorrect assumptions were made about an individual's right to work in the country. In some cases, there were delays in ascertaining an individual's immigration status. This impacted negatively on the work that was planned.

### Poor practice example

Abdul is a Bangladeshi Asian who follows the Muslim faith. He was granted immigration bail on the date of his release from prison.

The sentence plan was completed immediately following Abdul's induction meeting on release. There is no evidence in the plan of any discussion about Abdul's cultural or religious needs or any other personal diversity factors that may impact on his engagement. Because of his limited understanding of English, there is no discussion about his feelings about the sentence plan or about the requirement to attend an accredited programme to address his offending. There is no offer of interpreter services even though Abdul was not considered suitable for programmes in prison due to the language barrier. The case manager assesses that Abdul's understanding of English has improved since he was in prison, but there is no evidence that he was asked about this. Some relevant objectives are set within the plan but there are no timescales. It is recorded that, while committing the offences, Abdul was becoming increasingly depressed and stressed; however, the plan does not focus on supporting him to cope with his feelings of 'shame and guilt'. There is a lack of focus on mental health and wellbeing and no objective relating to this. The case manager sets himself actions to seek information about immigration via Abdul's solicitor but takes three months to make contact. The plan contains an objective for employment and training, although Abdul cannot work or undertake training as he has no recourse to public funds.

By way of contrast, there were also cases where a very comprehensive assessment of the individual's diversity and engagement was completed. These resulted in plans which took into account the person's familial, cultural and religious needs so that the work planned was delivered in an appropriate and accessible way, building on relevant desistance factors, as in this case:

### Good practice example

Hakim is a Muslim Pakistani man who was given a prison sentence and is managed under Multi-Agency Public Protection Arrangements (MAPPA), with significant involvement from the local police.

After a period in an approved premises, Hakim has returned to live with his wife and four children in their home. He remains on a night-time curfew and Global Positioning System (GPS) tag. He has been fully compliant with all conditions and with a very high level of contact and reporting. The responsible officer used his language skills and cultural knowledge to form a good working relationship with Hakim, using expressions and phrases that were readily understood by him. The OASys assessment builds on other extensive assessments of Hakim while he was in custody. The responsible officer recognised that Hakim can have difficulty following guidance and has modified his approach, including using Punjabi on occasions, which is Hakim's first language. The plan focuses on employment, monitoring Hakim's drug misuse and victim-focused work from the Developing Dialogue Programme. Hakim's local mosque has been identified and information shared with those in charge so that Hakim can attend. There have been several home visits to check the family situation and to support this important protective factor.

There were some examples where probation staff did not refer service users to relevant cultural or religious organisations in the local community, as they did not have sufficient information about them or did not consider that they would be useful.

### 3.3. Service implementation and delivery

The engagement of ethnic minority service users in delivery of their sentences requires improvement. A lower proportion of these cases were effectively engaged than in our core local probation inspections. A lower proportion of licence cases had sufficient contact with their responsible officer prior to release than in local probation inspections. However, in a reasonable majority of cases the responsible officer focused sufficiently on maintaining an effective relationship with the service user, including addressing issues of difference and trust. A higher proportion of cases required enforcement (73 per cent compared with 62 per cent in our core local inspections), which suggests that engagement was less effective. However, in 84 per cent of cases where enforcement was undertaken, we found that enforcement actions (for example breach, recall and warning letters) were applied fairly and appropriately, with sufficient time for reflection and consideration of alternative actions.

#### Scores for service implementation and delivery for this inspection, compared with all local inspections 2018-2020

	Black, Asian and minority ethnic cases in this thematic inspection (n=100) Percentage 'yes'	All cases in our local probation inspections 2018-2020 (n=4,542) Percentage 'yes'
Is the sentence/post-custody period implemented effectively with a focus on engaging the service user?	63%	74%
Does the implementation and delivery of services effectively support the service user's desistance?	51%	54%

The *Lammy Review* (2017) recognised that many ethnic minority service users are distrustful of the criminal justice system because of their previous life experiences. Probation staff have to make every effort to build a trusting relationship. Reaching out to service users while they are still in custody is an opportunity to build trust, but this happened less often with ethnic minority service users.

#### Poor practice example

Kevin is a 19-year-old young man who is of mixed white and Asian heritage. He has no previous experience of adult probation services. He was subject to a youth rehabilitation order. He has had a difficult childhood, has spent time in care and is vulnerable to exploitation. Kevin did not engage throughout most of the supervision period. He spent half of it in custody on remand for further offences and still awaits trial. It was particularly concerning that no attempts were made to contact Kevin during his period of remand. There was no recognition or acknowledgement of Kevin's ethnicity other than a very recent conversation with his responsible officer.

There were, however, several examples of good practice where responsible officers had gone the extra mile to develop positive relationships with service users, persevering through difficulties and making referrals to organisations in the community who could provide appropriate support, as in this case:

### Good practice example

The responsible officer made face-to-face contact with Jasmine via video link before her release to build the basis for an effective working relationship. The responsible officer showed perseverance and resilience in continuing to manage Jasmine, given her complaints and extreme demands. The senior probation officer met with Jasmine to re-enforce boundaries and wrote to her to evidence the discussion and the outcomes required. This was done in a motivational and encouraging manner. The responsible officer was aware of Jasmine's personal circumstances and adverse childhood experiences, which potentially impacted on her behaviour and engagement. It was evident that the responsible officer had some awareness of Jasmine's mixed race, ethnicity and cultural identity. She encouraged Jasmine to access other professional agencies who could support her complex needs, despite Jasmine's reluctance to engage. An early referral was made to Anawim (Birmingham's Centre for Women) and the personality disorder pathway. The responsible officer used the personality disorder assessment to plan and deliver work with Jasmine.

Some cases suffered from too many changes of responsible officer, which meant that trust gained could soon be lost. There were instances of responsible officers failing to respond appropriately to service users' requests for help, including an example where they failed to respond when a service user experienced racial harassment. There were opportunities to work with family members and community organisations to strengthen ties and build social capital to support desistance. However, these opportunities were sometimes missed, as in this case where lack of effective engagement resulted in recall to prison.

### Poor practice example

Amar is a man of Indian origin. He has a Sikh name but follows the Christian faith. He breached a suspended sentence order and received 12 months' imprisonment. Amar was not involved in discussing his plan, which does not address the issues he saw as important. There is no exploration of his diversity or his racially aggravated behaviour. There are family members who could provide support, but his relationship with his family is not assessed as to whether it is a protective factor, even though he appears to get support from his father, brother and uncle. There is no exploration of Amar's culture, his family network, or potential support from his uncle (a church minister). On release, there was confusion over his accommodation and he soon returned to substance misuse and was recalled for 28 days. On re-release there was again confusion over his accommodation. The relationship between Amar and the responsible officer remained difficult and conflictual. On occasions Amar has been found accommodation which the responsible officer has not approved, and he appears to feel unsafe in some of the properties the responsible officer finds. The day after his recall was initiated, Amar's support worker got in touch to inform him about the new accommodation he had himself sourced, but no consideration was given to rescinding the recall.

In too many cases, delivery of services to address desistance requires improvement. Compared with our core inspections, fewer services were delivered when required, especially services that address issues with family and relationships, lifestyle and associates, drugs and alcohol. Fewer organisations were involved in delivering supervision, and this was slightly less well coordinated than in our core inspections. Fewer key individuals were involved in supervision and service users were less likely to be engaged in local services to support and sustain desistance compared with core inspections.

## Percentage of sufficient services delivered in cases in this inspection compared with all local inspections 2018-2020

Were sufficient services delivered for the factors related to offending which inspectors identified as most important in these cases?	This inspection Percentage 'yes'	All local probation inspections 2018-2020 Percentage 'yes'
Attitudes to offending	31% (21/68)	39% (851/2,208)
Family and relationships	19% (8/42)	39% (844/2,177)
Thinking and behaviour	40% (38/94)	45% (1,710/3,804)
Lifestyle, including friends and associates	28% (19/67)	40% (959/2,413)
Drug misuse	26% (13/50)	44% (948/2,171)
Alcohol misuse	30% (6/20)	41% (738/1,790)
Education, training and employment	52% (13/25)	51% (281/556)
Accommodation	68% (15/22)	58% (659/1,141)

Many of the cases we inspected were mixed race, where outcomes for services users are often worse. These cases need to be handled carefully, especially with young people leaving the care system, where an assessment of maturity is advisable. The following is a positive example of work where the responsible officer has paid careful attention to issues of ethnic and cultural identity:

### Good practice example

The responsible officer in Ibrahim's case took full account of his adverse childhood experiences. She demonstrated an extensive awareness of how these might impact on Ibrahim's everyday life and ability to comply with a court order, as he had transitioned from youth offending to adult probation supervision during his sentence. The responsible officer is aware of Ibrahim's ethnicity, his mum being white and his dad being Pakistani. She explores with Ibrahim his upbringing in the care system, how he had never known his family, and how this had impacted negatively on his cultural identity. He does not identify with a particular ethnicity/culture and she explores his feelings about this during induction and assessment. She is very aware that Ibrahim struggles with his learning difficulty and diagnosis of autism. This is a particular focus given that the case manager herself has an autistic son. Ibrahim completes a self-assessment questionnaire, and the responsible officer uses this in assessment and planning, encouraging Ibrahim to express his views. She develops a good understanding of Ibrahim and his struggles during childhood when considering his support needs. She organises meetings of professionals, which are attended by the leaving care worker, education, and accommodation support staff to discuss the best way to work together. Meetings focus on concerns about Ibrahim being involved in county lines drugs trafficking. The responsible officer takes time to build a trusting working relationship with Ibrahim before beginning offence-specific work on relationships, taking account of Ibrahim's personal and diversity needs. Ibrahim has made progress with his compliance and willingness to engage.

Of the 100 cases inspected, we judged that in 56 per cent there had been sustainable progress in the service user's engagement with probation and other interventions during the period inspected.

In half of these cases, there was evidence of sustainable improvement in terms of the service user's desistance from offending during the course of the order or licence period. In 42 per cent of cases there had been a reduction in the service user's offending since the start of the order or licence period compared with the previous 12 months.

### 3.4. Conclusions and implications

The proportion of black, Asian and minority ethnic people who are sentenced without a PSR varies between areas, with the result that the range of alternative sentences and requirements may not be fully considered in some cases. The NPS should monitor the availability of PSRs to identify why this is so and the implications for ethnic minority service users. There appear to be instances where PSR authors are proposing custodial sentences for ethnic minority individuals which courts are not imposing. This should be monitored, and systems put in place to ensure it does not happen inappropriately.

The quality of PSRs on black, Asian and minority ethnic people requires improvement. In too many cases, probation staff are paying insufficient attention to service users' diversity, including the impact of discrimination and disadvantage on the factors underlying their offending. In some cases, report authors appear reticent about addressing diversity factors, which may be due to insufficient awareness or training. More of these reports should be completed on adjournment to give staff space for longer interviews, to make further enquiries, to have more time to consider their proposals to avoid potential bias, and for quality control to take place before sentencing.

There were several instances where individuals struggled with spoken English when it seems that understanding and engagement would have improved with the use of an interpreter. The availability of suitable interpreters should be reviewed, and staff given training on how to work with them to best effect.

In too many of the cases inspected, staff paid insufficient attention to service users' diversity when undertaking assessments or formulating plans to work with and engage individuals in supervision. Sometimes this was because of insufficient training or experience, or fear of saying the wrong thing. The impact of this was seen in poorer engagement and quality of work in some cases. Improvements are needed in the use of the OASys assessment tool so that issues of diversity and experience of discrimination are considered throughout the assessment and not just in the section on sentence planning, which comes later.

While the engagement of ethnic minority service users in delivery of supervision was better, and there were positive examples of work, there was still considerable room for improvement. We did not find that breach or recall was being used inappropriately in the large majority of cases. However, the proportion of cases that were breached or recalled (73 per cent) was higher than the average for all service users in our core inspections (62 per cent), suggesting less effective engagement in some instances.

Trusting relationships with ethnic minority service users serving custodial sentences could be built by increasing contact with them before release. Paying greater attention to heritage, religion and culture in the way services are delivered would improve the quality of work with some service users. Improving links with families, community organisations and key individuals in service users' lives would increase the chance of individuals desisting from offending in the longer term.

## 4. Perspectives of black, Asian and minority ethnic staff

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A key objective of this inspection was to gather the perspectives of black, Asian and minority ethnic staff about what it is like working in the NPS divisions and CRCs we inspected. For a service to be effective, it needs to have staff who are representative of the community they work with, and who are included, supported, developed and motivated to deliver high-quality services. We sent an electronic survey to all black, Asian and minority ethnic staff working in the five local delivery units where we did our fieldwork, and received 100 responses. We conducted follow-up interviews with 19 individuals who responded to our survey and asked for an individual meeting with a member of the inspection team. We also conducted focus groups in each area with groups of ethnic minority staff, and managers separately, totalling 49 staff and 41 managers.

In this chapter, we consider ethnic minority staff's perceptions of organisational culture, how inclusive it feels, and how far their voices are heard. We also review ethnic minority staff's perceptions of the extent to which managers understand the issues they face and the support that is available to them. We consider perceptions of fairness in relation to opportunities to develop, progress and achieve promotion, before looking at issues of how complaints and grievances are dealt with.

### 4.1. Culture and inclusivity

Of the respondents to the survey of black, Asian and minority ethnic staff, 59 per cent believed that there is an inclusive culture in their organisation and that their organisation values difference 'somewhat' or to 'a great extent'. This is similar to the responses of the responsible officers interviewed, where 51 per cent considered that probation managers in their area are effective at promoting an inclusive culture where the needs and concerns of service users and staff from ethnic minorities are identified and addressed. This leaves a considerable proportion who are not yet convinced that the culture in probation is as inclusive as it ought to be. This fits with the results of the 2020 People Survey of NPS staff, which show that black, Asian and minority ethnic staff were less satisfied as a group compared with white staff across the full range of headline metrics, especially in relation to factors relating to inclusion. However, these differences are not statistically significant.

It is clear that the responses of many probation leaders to the death of George Floyd and the Black Lives Matter protests have had an impact. For example, there has been a series of listening events in the NPS and some CRCs; the Let's Talk Difference day of action and follow-up events; and the establishment of a Black Inclusion Group in London CRC. As one member of probation staff put it:

***"Prior to the tragic murder of George Floyd: African/Caribbean/Asian service users were not considered a priority... Post the murder of George Floyd there have been the painful but necessary 'Let's Talk' events and the networks: RISE and PROUD forums have been excellent – with their choice of speakers and events – the best I have ever seen in my 20 years in probation".***

However, there were concerns expressed that some white members of staff did not engage in 'Let's Talk'. Some of these NPS events were facilitated by diversity champions but, given the sensitivity of the subject matter, some would have preferred for them to have been delivered by an external facilitator. There has been no formal evaluation of the effectiveness of these events so far.

Some considered that their local leaders should have been quicker to respond to the events of the summer and felt they had to be prompted. Many felt that probation's response to issues of race equality has taken a much lower priority in recent years and were therefore sceptical that the recent flurry of activity would result in any lasting change. It is therefore critical that the HMPPS Race Action Programme, just launched, is promoted and communicated well across the new unified probation organisation.

When asked to note what probation does well on race equality, there were many references to events such as Black History Month and various cultural celebrations.

There were several staff and middle managers who commented that probation leaders are not good at listening when black, Asian and minority ethnic staff raise concerns about discrimination and injustice. They felt that if they spoke out, they would be labelled as 'troublemakers' or indeed victimised as a result. Comments from these staff included:

*"I have observed that if you are BAME and vocalise thoughts and feelings relating to practice issues or concerns you are unfairly racially profiled as aggressive, domineering and a 'troublemaker' and that you will be scrutinised and subject to work improvement measures. Ultimately BAME practitioners are cautious to truly express concerns that may result negatively on their employment and consequently their own emotional wellbeing".*

*"BAME staff do not have a voice. When issues are raised, we are made to feel like we are the problem. Why should we bother? Who's listening to us?"*

*"Just because I express my views assertively does not make me an aggressive black woman".*

Another said they would like:

*"Being able to talk freely about the impact that the organisation is having upon black and ethnic minorities without being punished for your views or input".*

Clearly there will continue to be a need to ensure that effective channels of communication are kept open where staff feel able to express their views in a safe environment and for their concerns to be responded to.

## **4.2. Understanding and support from managers**

When asked: 'Do you believe that your leaders fully understand the issues you face as a member of staff from a black, Asian and minority ethnic background?', 51 per cent of ethnic minority staff said their leaders understood 'a little' or 'not at all'. This is concerning and emphasises the need for ongoing dialogue. We also asked: 'In the past 12 months have you received sufficient supervision to enable you to flourish in your role?' and only 57 per cent confirmed that they had. Many staff and middle managers spoke positively about their immediate line managers, but a significant number felt they were not supported to progress and their concerns were not listened to. They told us it helps if matters of experience of racism and discrimination are put on the supervision agenda and if staff are asked about their own experiences. This is likely to be received positively, as in this case:

### **Good practice example**

[I appreciated] *"discussions around race and inclusion freely during supervision and with my practice teacher assessor (PTA). My PTA asked me how I felt about the current racial climate across the world and recent events, because he recognised that I am biracial, which I found thoughtful and well-timed. He also explained that it may seem random or awkward, but he thought it important to not ignore difference but celebrate and discuss it. Again, I found this a breath of fresh air and a nice surprise from other places I have worked where people often avoid the subject".*

However, it is important not to rely on ethnic minority staff to educate white staff about race issues. Recognising this, in the West Midlands NPS division, the equality manager set up a series of 'Teach Yourself Workshops'. The aim of these was for white participants and allies to:

***“take the first steps to acknowledging some of the barriers that prevent individuals from fully participating in society on an equal platform. Workshops intend to focus on dialogue specific to communities, cultures and characteristics”.***

Another equality champion delivered a series a series of lunchtime events on different cultures. Other initiatives included producing lists of films and books for people to educate themselves on the experiences of ethnic minority people in the United Kingdom, including a free book scheme in London CRC.

We asked ethnic minority staff: “In the past 12 months have you been allocated a case, without discussion, of someone convicted of a hate crime/racial motivation?” Of those who had been allocated a case, 28 (43 per cent) said there had been no discussion, which is insensitive and poor practice. Although some black, Asian and minority ethnic staff may be willing to work with such cases, managers cannot presume this, and the potential for re-living past trauma or experiencing further racism must be recognised. It is important that training and support for working with these cases are made available.

We learned that, for 79 per cent of staff who responded to the survey, since the lockdown in March 2020 due to the Covid-19 pandemic, sufficient attention has been paid to their health and wellbeing some or most of the time. However, a minority felt that at times there were gaps in arrangements where they considered that procedures were not sufficient or were not being followed. This requires attention given the increased risk posed by the virus to those from ethnic minority communities.

Ethnic minority staff place a high value on appropriate staff support networks. In 2016 the Association of Black Probation Officers (ABPO) and the National Association of Asian Probation Staff (NAAPS) had their funding withdrawn, and in their place was formed the Racial Inclusion and Striving for Equality (RISE) staff network, covering both prisons and probation. There are area leads but no area meetings. However, some leads have established informal support meetings via the Microsoft Teams application. Probation staff who are civil servants can also access PROUD (People from Diverse Racial Origins Uniting the Department). PROUD aims to improve the recruitment, retention and career progression of staff at all grades from diverse racial origins throughout the MoJ. CRC staff can now access RISE; however, 24 per cent of those who responded to the survey said they had not been provided with any information about support groups, so further publicity is needed.

### **4.3. Fairness, development and progression**

Of the ethnic minority staff surveyed, 67 per cent indicated that equality and diversity policies and procedures were promoted well in their organisation. However, only 19 per cent believe that there is equal opportunity in staff recruitment in their organisation, with 60 per cent saying this was not the case, and 21 per cent answering that they don’t know. This is concerning and in the view of most black, Asian and minority ethnic staff who responded suggests a disjuncture between the official policies of their organisations and what they perceive as happening in reality.

Many staff commented that there was an under-representation of ethnic minority staff in management grades, particularly at the top of their organisation, with some senior management teams appearing to be predominantly white. Greater transparency is needed in staffing data at the local or regional level to demonstrate where there is under-representation of ethnic minority staff, with a clear story about the position and identified actions required to address this issue.

A number of staff commented that they felt recruitment processes were not open or fair and that there were instances of people appearing to gain promotion without posts being advertised. Several staff were clearly distressed by feeling that they had been passed over for promotion, with less qualified or experienced white staff being preferred.

There have been concerns expressed in the NPS about temporary promotions and how they are advertised. However, staffing data (HMPPS, 2020b)<sup>21</sup> shows that at management grades these temporary promotions were more likely to be filled by ethnic minority staff. Across the NPS divisions there have been initiatives to try and ensure that interview panels include at least one black, Asian or minority ethnic person, with such staff encouraged and trained to be available for these panels to increase reassurance that decisions taken will not be biased. Vacancy managers must account for whether a sufficiently representative panel has been achieved, but it has not always proved possible.

Less than half of those surveyed said that they had been actively encouraged to progress their careers in probation, and in the individual interviews we heard several complaints from long-serving members of staff about lack of recognition.

***“In all my career, I have never had an outstanding rating despite my consistently high performance”.***

***“You have to work harder than the next person, to be recognised or have acknowledgement”.***

***“I don’t want favours; I just want them (managers) to understand that we are different. I just want things to be fair”.***

***“As an Asian woman, I have made many sacrifices in order to work for the probation service. I have so much to offer but I am not listened to. Do they know how hurt I feel when they bypass me?”***

In the NPS there has been concern about ethnic minority staff being over-represented in the proportion of staff judged as underperforming on their annual Staff Performance Development Review (SPDR), and under-represented in the ‘outstanding’ category. This has resulted in some benchmarking exercises to try and address disparities. In the past year, because of Covid-19 nobody has been marked as ‘requires improvement’; however, at the same time almost twice as many white staff and managers have received an ‘outstanding’ rating compared with ethnic minority managers and staff.<sup>22</sup>

Only 13 per cent of staff surveyed said they have a learning and development plan that supports them as a member of staff from a black, Asian and minority ethnic background. In the NPS, talent management plans only operate for those of senior probation officer (SPO) grade and above. Some staff identified this as a significant gap, and indicated that they would like:

***“A more targeted approach to development and progression, focusing on the strengths and gaps of staff as individuals, rather than the generic approach currently undertaken. Informed guidance as to gaps in knowledge or experience that are likely to stand as a barrier to development”.***

While the SPDR approach focuses on performance in the current role, staff need to have a clearer idea of how they might progress their career, and what steps and opportunities they need to take, along with encouragement and accurate feedback about their potential. Without this, staff may feel blocked in their career aspirations or have unrealistic expectations.

We heard of various development and mentoring schemes that ethnic minority staff could access in the NPS. We did not hear of any in the CRCs inspected, though with the forthcoming transition to the new service, some schemes are being opened up to CRC staff. Only 27 per cent of staff surveyed confirmed that their organisation offers any mentoring or talent management schemes for

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<sup>21</sup> Ministry of Justice. (2020). *HM Prison and Probation Service annual staff equalities report: 2019 to 2020*. Table 3b. <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-annual-staff-equalities-report-2019-to-2020>

<sup>22</sup> Ministry of Justice. (2020). *HM Prison and Probation Service annual staff equalities report: 2019 to 2020*. Table 5b. <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-annual-staff-equalities-report-2019-to-2020>

staff from a black, Asian and minority ethnic background, while 30 per cent said there were none, and 43 per cent did not know whether there were any or not.

#### **4.4. Handling of complaints and grievances**

In the focus groups with black, Asian and minority ethnic staff, and black, Asian and minority ethnic managers, we heard different experiences of working in probation. In Bradford, for example, we heard how senior managers were very responsive and supportive in dealing with issues when ethnic minority staff raised concerns. However, this was not true everywhere. In another CRC we were told:

*“Working in this CRC has been the worst experience of my life, soul destroying”.*

*“Seeing the way my colleagues have been dealt with, I would never apply for a management role in this CRC”.*

The 19 members of staff who responded to the survey and asked for a follow-up interview with an inspector described a range of experiences of racist and discriminatory behaviour that they had experienced from colleagues and managers while working for probation. Many of them had worked for probation for many years and felt quite broken by what had happened. By the time we spoke with them, two had already left the service. Some of the experiences described were very distressing and upsetting. One probation officer described an experience where she was propositioned by a white male colleague because he had not had sex with a black woman before. This was an example of her experience of:

*“oppression, alienation, exclusion, isolation, bullying and harassment”.*

There were examples of stereotyping and racist language being used and false allegations made against ethnic minority staff. Sometimes the experiences described were much subtler, less easy to define or described as micro-aggressions.

Of the 96 ethnic minority staff who responded to this question, 55 per cent did not feel safe in raising issues of racial discrimination in their organisation. A total of 30 had raised issues of discrimination, but of these only two felt that it had been dealt with to their satisfaction. It is not surprising therefore that 61 per cent of those responding to the survey did not feel confident that if they raised issues with their organisation they would be dealt with appropriately. They told us that they wanted:

*“Transparent and honest handling of staff grievances and complaints made about racial discrimination”.*

*“To find a way that BAME staff can share concerns without being made to feel that they are just being overly sensitive when they may experience/witness discriminatory behaviour/comments by managers. It’s harder to challenge a manager without consequences”.*

There seemed to be a reluctance at times for managers to call out racism for what it is. We heard of complaints of racist language being found to be swearing, or racial slurs dismissed as banter, and an example where a complaint of a black colleague being passed over for a white colleague on a significant training opportunity was found to be favouritism and not racism. The staff affected were distressed that their experiences of racism had not been taken seriously.

HMPPS has set up the Tackling Unacceptable Behaviours Unit as a place where NPS staff can raise their concerns, anonymously if they wish, and through which action can be taken. However, it is also important for middle and senior managers to be able to deal with racism and discrimination sensitively as it arises, to act fairly and to seek informal and formal resolution of grievances at the lowest appropriate level. This requires skill and training for managers to be able to do this confidently and competently.

We asked HR business partners whether they were aware of data on complaints and grievances and whether there was any disproportionality. None we spoke with could point us to figures or trends. Most said that data was not kept on lower-level issues and that more serious matters in the NPS were dealt with by HR case managers. In one CRC diversity and equality report, we discovered that in 2019 ethnic minority staff were overrepresented in capability, disciplinary and grievance procedures. When we asked why this was, told us that they would look into the reasons for it.

Considering the NPS data in the *HMPPS annual staff equality report* for 2018-2019, we find that ethnic minority staff raised 65 per cent more grievances than white staff per head, and were less than half as likely to have their grievances upheld. In 2019-2020, we find that ethnic minority staff raised three-quarters more grievances than white staff per head but were only a third as likely to have their grievances upheld.<sup>23</sup> These trends give weight to the concerns we heard from black, Asian and minority ethnic staff that there is a lack of fairness in the way that their grievances are dealt with and that ethnic minority staff are less likely to be believed.

#### **4.5. Conclusions and implications**

The initiatives senior managers have taken since last summer to listen to the concerns and perspectives of ethnic minority staff, and to structure a debate around issues of race discrimination, have been broadly welcomed as an approach towards achieving a more inclusive environment. However, there is a concern that the focus will dim. There is a need to continue to develop effective structures for consulting with ethnic minority staff at all levels in the new probation organisation, so that their voices are heard in the development of policy and practice.

Support for frontline ethnic minority staff and ethnic minority middle managers is variable, and there is a need for training for managers in understanding their role in addressing issues of racism and managing complaints and grievances effectively. Too many racially motivated offenders are allocated to ethnic minority staff without discussion. Middle managers should be involved in allocating such cases rather than the cases being allocated automatically according to workload, and ethnic minority staff need appropriate support and training when they take on such cases.

The NPS needs to recognise where there is under-representation of black, Asian and minority ethnic people in management roles and have in place clearly agreed plans as to how this is being addressed. Recruitment and selection processes need to be clear and transparent so that ethnic minority staff have confidence that they are conducted fairly.

In the NPS there is an imbalance in 'outstanding' appraisal marking between ethnic minority and white staff. SPDR ratings should be scrutinised and arrangements put in place to ensure fair and equitable treatment. Many ethnic minority staff are unclear about how they might progress their careers and a number feel overlooked. The NPS should ensure that all staff have discussions with their line managers about how they might develop. Consideration should be given to extending talent management arrangements to all frontline staff so that they are clear about what opportunities might be open to them, and what they need to demonstrate to access them.

We heard some distressing accounts about how some ethnic minority staff have been treated while working for probation. Too many ethnic minority staff lack confidence that if they raise a complaint or grievance about how they are being treated then it will be dealt with fairly. As part of the Race Action Programme, HMPPS should review how the existing complaint and grievance procedures operate, in consultation with ethnic minority staff.

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<sup>23</sup> Ministry of Justice. (2020). *HM Prison and Probation Service annual staff equalities report: 2019 to 2020*. Tables 7b(i) and 7b(ii). <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-annual-staff-equalities-report-2019-to-2020>

## 5. Perspectives of black, Asian and minority ethnic service users

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An important part of this inspection was to gain the perspectives of black, Asian and minority ethnic service users about their experiences of being supervised by probation. We engaged the organisation Empowering People: Inspiring Change (EP: IC) to undertake this task. A full report on its findings is published alongside this inspection. The four lived experience consultants who undertook the interviews for EP: IC were from ethnic minority communities and all had previous experiences of imprisonment. In total they conducted remote interviews with 81 individuals, ranging from 12 minutes to an hour and 20 minutes in length. This sample was 76 per cent male and 24 per cent female. Approximately half were identified by the probation services inspected, and the rest were identified through community organisations that EP: IC was in contact with.

Of the sample of service users, 30 identified as Asian or Asian British, 33 were black or black British, 17 were of mixed heritage and one self-identified as 'Arab'. The sample included 68 (84 per cent) who were on licence having been released from prison, of which three were subject to life licences.

In this chapter we first consider the service users' experience of racism and disadvantage in the community and the CJS, which provides the background to their supervision by probation services. We then look at their experiences of probation, the strength of relationships formed with probation staff, referrals made to services to address the issues underlying their offending, and whether they thought they were treated fairly. Finally, we consider their perspectives on how best probation might address issues of diversity, and whether it is important to match service users with responsible officers who share their ethnicity.

### 5.1. Service users' experience of racism

The majority of service users recounted various experiences of racism from childhood onwards. Some had experienced racist bullying, growing up in predominantly white areas. Others spoke of growing up in care in *"racist parts of the country"* and being the only ethnic minority in a children's home. Sometimes racism took the form of racial stereotyping and assumptions:

*"Black women are seen as more aggressive and treated as so, just because we are known to be loud".*

Some Muslim service users were affected by racial and cultural stereotyping, in particular by being labelled or perceived as *"terrorists"*. Some spoke about continued police harassment through repeated and aggressive stop and search procedures, effectively creating a division between groups of black, Asian and minority ethnic young people and the police. Many spoke about growing up in poverty, achieving little or being excluded from school, and becoming involved in criminality. Lack of job opportunities was often a barrier to succeeding in life.

A number had come from other countries and did not speak English as a first language:

*"I think my parents fleeing Somalia and coming here, being poor and not having help with education also led me to crime".*

Some had experienced trauma in their upbringing, for example violence in the childhood home, parental mental illness or witnessing people dying as a result of crime. Some had been exposed to trauma by living in, and then escaping, countries where there was conflict and war, and witnessing violence and killings that contributed to poor mental health and desensitised them to violence.

Not one interviewee talked about accessing services to discuss race-related trauma. Service users told us (or we inferred) that they didn't feel supported to talk about what it means to be black or Asian.

Despite the Black Lives Matter movement last year, there were more service users than we might expect who had not considered the role of race and ethnicity in their journey within the CJS. For those who did experience racism, this was more intensely felt in the earlier stages, with the police, courts and prison systems.

Many of the cohort experienced racial profiling by the police:

*“In one year, I was stopped 34 times by the police. They would often say ‘nice car’ as though I didn’t fit the description of someone having a nice car. They would assume I was a drug dealer even though I was a chef and have worked since age 16”.*

The handing out of longer sentences within the court system to black and Pakistani Asian men seemed to be accepted as a given among the cohort. This reinforced their perceptions of a race divide in sentencing and bolsters views that the CJS makes decisions and takes actions that are systemically racist.

All the service users who had served custodial sentences prior to probation said that they had experienced recent racism in prison from both staff and residents. Experiences of racism in probation were spontaneously compared with previous experiences; service users were grateful to now be within the probation service, as opposed to another service. The relationship service users have with probation, and their perceptions of their treatment within it, will have been influenced by these experiences.

The mixed-heritage men (predominantly white/black Caribbean) were overwhelmingly in agreement that probation labelled them as black. These service users felt their identity was far more complex and they did not think probation, or the CJS as a whole, recognised what it is to be mixed race and how different an experience it is. None of the male service users we spoke to who were mixed race felt probation comprehended how *“that label doesn’t fit”* and no one had been asked.

By the time black, Asian and minority ethnic men and women reach probation, many have experienced financial disadvantage, early trauma, crime and violence in their communities, family and friends caught up in the criminal justice system and, crucially, acts of racism from multiple places. This racism may start in childhood, influenced by racial stereotypes perpetuated in the media, and is particularly significant in the earlier stages of the CJS. All these experiences will affect how service users interact with probation, including matters of self-worth, identification of racism, and trust in the service to treat them fairly. It also affected service users’ decisions about whether there is any point and value in challenging systemic racism.

## **5.2. Service users’ experience of probation**

Against the backdrop of systemic racism outlined by our interviewees, we found around half of the service users in our cohort had been able to form good individual relationships with probation staff. We heard many service users refer to probation staff as being kind and well-meaning, and say that staff had *“never judged”* or *“looked down on”* them. However, this wasn’t always the case, and the other half were either neutral or less positive, with little being done to address the relationship or build trust.

Many felt they could not be open and honest with their responsible officers, but service users did show some awareness that this might be because of their learned distrust of services and their past *“experience with authority,”* in particular with white people in authority. Some said that there wasn’t time to build a relationship with officers as meetings were too short. Further, one man described *“being afraid to open up”* because the appointments were so short; his feeling was that it was *“better to keep it all in,”* so as not to leave any contact or meeting feeling exposed.

It appears from our sample that it can be hard for white probation staff to really understand the backgrounds of service users from ethnic minority groups. The experiences of each individual or community do not fit neatly into one box, and therefore a generic approach to support is unhelpful.

More culturally appropriate and culturally informed support was viewed as likely to help individuals make progress.

One man said:

***“We don’t get along because there is a lot of things that I’ve been through which he doesn’t understand, and I can’t just talk to people without struggling. It takes time for me and I’ve always been like that, but I just don’t think he accepts that and a lot of the time, he says that I’m not complying but I’m there listening and I’m making an effort to get involved”.***

Men across the cohort said that they have been told repeatedly throughout their lives not to express emotions, which, although also true of many white offenders, was thought to be interlinked with issues of cultural identity. Some Asian men spoke about their feelings of bringing shame upon their community, which was hard to talk about, and some black men spoke of how they were expected to present as strong in their community. This has discouraged many from talking openly and trusting people with their feelings and emotions, and from engaging in cooperative relationships with criminal justice professionals.

Only around a quarter of the people we spoke to had received referrals or assistance in an area known to affect re-offending (such as accommodation, drugs and alcohol, and mental health), leaving a substantial three-quarters without this sort of support. In particular, there appeared to be limited support or signposting to mental health services, which presented as a real area of need within this cohort. The majority of the men we spoke to who were prepared to talk about their mental health felt that their needs were often overlooked, with one man stating:

***“I wanted support for my childhood trauma, but I have not been referred to anyone or anything”.***

Many women interviewed left prison homeless but found suitable accommodation by engaging with wider third-party community services. Most individuals who were employed had secured this themselves with no support from probation. Those who were seeking work opportunities reported that they were yet to receive support for this. None had been referred to a relevant service that specialises in helping people find employment.

There were just two people who had been referred or signposted to organisations in the community that provide specialist support to ethnic minority service users. One said:

***“Once in the first few days of me coming out of prison, he put me in touch with my local mosque and signed me up for religious studies. He contacted the head of the mosque personally and we had a meeting with him. I was getting free classes to learn Arabic and the Quran. It was really helpful. I still study today and I’m grateful that my probation officer helped me with this”.***

Generally, those who had sought help from black-led organisations such as Inner-City Life, Concept Housing, Second City Housing, Bringing Hope, and AVision knew of these from contact in prison, through their places of worship or through friends and family. Most service users had found support that worked to meet their needs.

All of the women bar one had self-referred to receive support from women’s centres such as the Muslim Women in Prison Project (Bradford), Anawim (Birmingham) and Women in Prison (London). They described the support of these organisations as ***“life changing,”*** stating that the workers had the ability to ***“understand my needs”*** and ***“did not judge me”***.

There was a lot of uncertainty among our interviewees about whether they had been treated fairly within the CJS. They had difficulty answering this question, reflecting that they did not know how white people are treated within the CJS, though clearly not all white people are treated fairly. Within our sample, most service users did believe they had been treated fairly by probation. Some felt being treated fairly varied depending on who your responsible officer is.

There was a lack of clarity about the role of probation generally. We heard from one person:

*“I have no idea of their purpose. I just turn up. I tell them a bunch of lies and I go home”.*

One woman said:

*“Some genuinely care but we will always be a number and they have to do their job”.*

Most of those interviewed viewed probation as predominantly a ‘box ticking exercise’, though they didn’t blame their individual officers.

From those we spoke to, the initial and early relationships with probation were key to how successfully these ongoing relationships developed, starting for some at the point of their PSR. Four participants said they had ‘good chats’ with probation staff in their PSR interview and understood them to be a support and advocacy service. They formed these views both because of what the officer had said during the interview, and also because of their supportive dialogue and positive body language. The role of probation was not fully explained or well understood. They were then **‘shocked’** and **‘horrificed’** when the report was delivered in court, which was different to the conversations they had had, with the result that this **“destroyed trust in the service”**.

A clear theme emerged for most people interviewed that experiences of racism were not discussed with probation staff, despite being a core feature of their lives. However, more conversations were had about faith. Some service users had spoken about race or culture with their responsible officer, but it was a small proportion of the overall sample. In all but one of these cases this was with a member of staff who was also from an ethnic minority community. There was a sense that mentioning diversity is very much another ‘box ticking’ exercise, with no appropriate space or time to explore through discussion how race or ethnicity impacted on people’s lives and whether it presented any barriers to service users.

In some cases, service users were unsure whether their ethnicity was even recorded on their file. There was a perception that probation staff may have been scared to say something in case it came across as racist – which limited opportunity for further discussions. Those who spoke about racism with their responsible officers were also those who had received support on other areas such as housing or offending behaviour work. These service users appeared to be having a better experience overall with probation.

However, the general feeling from those we spoke with is that probation staff **“lacked interest in race”** or **“misunderstood [their] cultural/racial needs”**. One service user told us he had raised ethnicity in one supervision session but was left **“feeling uncomfortable”** when his officer did not want to engage in the conversation, and he therefore shut it down.

One woman said:

*“I don’t feel comfortable to talk about race with my probation officer as she is white, and my experiences of racism are from white people. I have made complaints in the past about police and it goes nowhere so there is no point in trying to do it here”.*

There were mixed views on whether race and culture should be raised in probation meetings. Many service users did not see any value in raising it, and one person said that they would not like **“white staff talking to me about that”**. There was a sense that bringing up race issues may **“reinforce racism”**.

Importantly, there was some concern that decision-making in the probation service is affected adversely by race, nationality and religion. We heard from one Jamaican man who said that the probation service would not support an application for him to attend a family funeral in his homeland because of what they said was a risk of potential drug-related crime. He felt this was discriminatory and wholly connected with their perceptions of Jamaican men, rather than of him personally. He had not been convicted of a drug-related offence. He questioned the disparity of his experience with others:

*“My white mates got approval to go on a jolly to Spain, but I can’t go to Jamaica for a funeral”.*

### 5.3. Addressing diversity by probation

Many of those who cited good relationships with their responsible officers said they were able to trust them. Some who felt their relationships were just ‘ok’ were also able to trust their responsible officers. This is important and interesting, given what we had heard about the legacy of structural racism and how this affects trust. It highlights the importance of individual relationships and the power of humanity in making them worthwhile. We did see the opposite, of course: numerous examples of service users who trusted nobody in the CJS, exhausted by experiences of structural racism.

There was very little evidence of strong partnership working with local communities or specialist services; and there is a gap in commissioning by probation of services for ethnic minority service users. There was a palpable loneliness in some interviewees, especially those who were estranged from their family. One man spoke about the Sikh community being *“close”* and his desire to reconnect with this community if he had the support to do so.

Many Muslim respondents felt that their community offers a sense of belonging and kinship and highlighted their need to *“reconnect”* as significant but recognised that this required assistance. Many spoke about how their faith offers them a different type of support to that of the probation service and how *“having a community to fall back on”* was reassuring. There was a common theme throughout that faith gives those we spoke to *“strength”* and a sense of connectiveness.

#### Good practice example

Hafiz is from London, in his early 40s and of mixed heritage. He is on probation for the remaining four years of his licence, following a prison sentence. He spoke about having a positive relationship with his probation officer, who he describes as an older white woman who is both *“lovely and kind”*. He says that the sessions have helped him to reflect on his past trauma while exploring ways to better take control of his future. Hafiz states that he has an open and honest relationship with his officer, who has helped him through a variety of issues.

More importantly for him, his probation officer respects his faith. She understands that this is very important to him and avoids meetings that may clash with faith obligations.

Sessions have been used to explore ethnicity and religion, and because of this he has gained an understanding of what it means to him to be a Muslim of mixed heritage and an awareness of faith expectations and how these influence his daily life and choices.

Hafiz has been involved in his sentence planning and acknowledges that it is also down to him to get through it, though he is confident in the support from his probation officer.

The trusting relationship has meant that, even if or when things become difficult to get through alone, he knows his probation officer will be there to support him.

There were important nuances of understanding that were significant to the service users that demonstrate the need for more time and consideration to be given to culture and ethnicity in probation meetings. For example, it was raised that there was a lack of cultural understanding about the shame that can be experienced by young Asian men about being on probation due to family and community expectations, and how this is a significant additional stressor for them.

One young man said:

*“There’s so much shame and negative feelings that others in our community have towards families that experience this. It alienates us but if we were able to connect with our community again, we’d have a strong support system”.*

Those service users who were able to speak *“in depth about Black history”* found it an *“enjoyable and empowering”* experience which offered a sense of *“connection”*.

One man said:

*“I talk about Black History Month to my probation officer [who is black] and we discuss things about it relating to the curriculum, such as the importance of doing your own research beyond what you are told because not all of our history is covered and so many key figures in black history aren’t spoken about in school.”*

All the women service users we interviewed said they were more ‘comfortable’ speaking with a probation staff member who was of the same ethnicity. They said it immediately felt more comforting and this reassurance meant trust could be built easily. Moreover, some women expressed that having a black responsible officer meant there was a *“lived understanding”* of their needs that did not constantly need explaining. One woman spoke of the cultural values and expectations of Caribbean people and felt her responsible officer was able to *“get it”*.

One woman said:

*“I felt a sense of calmness. My probation officer was a black woman and I felt really comfortable, and we built up a rapport. She has since left the service for retirement and my new probation officer is also black and again, I feel comfortable with her”.*

A number of men shared the same sentiment – although not as high a proportion as in female interviewees. Overall, there was an assertion that *“people get on with their own kind”*. Further, black female responsible officers were seen to be able to *“understand my experiences as a black man”*. This highlighted that ethnicity was a more important connecting factor than gender. There were also practical examples of service users and probation staff benefiting when they shared the same ethnicity, such as communicating in their *“mother tongue”* or *“communicating with non-English speaking family members”*. This seems particularly helpful to those who have English as their second language.

In contrast, several male service users believed that probation staff of the same ethnicity are harder on them than white probation staff. A couple of service users said, *“they don’t want to look to be favouring their own kind”* and they *“had to impress someone”* at the top.

Previous Home Office research (Calverley et al., 2004) found that about a third (35 per cent) of black and Asian service users wanted to be supervised by someone from the same ethnic group, 56 per cent said that it made no difference, and 10 per cent did not know whether it mattered.

It is particularly important not to assume that service users and probation staff who share the same ethnicity always make a good match. There was an instance where an Asian male service user was being supervised by an Asian male probation officer. This service user found their relationship difficult and said that he *“did not like him”*. When he reflected on this, he felt that it was connected to them being from different religions. When he was matched with another male of the same religion as him, he felt far more comfortable and a more positive relationship was established.

Several service users said that it was more important to have a desire to help people than be from a particular ethnicity. One black man told us about a great relationship he had with a white probation officer who had previously been a police officer. He told the service user that:

***“he had left his job as a police officer because he had realised that he couldn’t arrest everyone who committed crime because of poverty.”***

This service user clearly appreciated this conversation, and said he trusted the probation officer as a white man more than the black probation officer he previously had because he understood his reasons for being in the role now. Another man said that having a probation officer who ***“genuinely cares”*** about helping was more important than a shared ethnicity.

There was a call for more peer support and employment into probation staff roles of those with lived experience of the CJS and of being from ethnic minority communities. This would bridge some of the gaps that result from not wanting to talk about race and ethnicity, and connect service users to probation services better, helping to build understanding and relationships.

A challenge posed by one of the service users we spoke to was:

***“Tell me why they don’t have people who’ve been through the system running the system”.***

Some service users felt they should have much more of a voice in how the service is delivered and welcomed the concept of peer support. Others commented on the need for probation to be ***“multicultural”*** and ***“representative,”*** with encouragement for ***“ex-cons working within the service”*** in order to really understand what service users have been through.

The young men we spoke to, many of whom did not have father figures, expressed the need for relatable role models in the community. Many felt that they would benefit from having a ***“mentor from the black community”*** and saw value in ***“having opportunities to meet black business leaders or entrepreneurs”***.

## **5.4. Conclusions and implications**

Black, Asian and minority ethnic service users often arrive at probation having experienced overt acts of racism from mainstream society and component parts of the CJS, including the police, courts and prison services. We heard from many who had grown up in areas of deprivation, around crime and violence, and with substantial trauma peppered throughout their lives.

We also heard of less overt acts of discrimination, which were harder to understand and identify. It emerged strongly in our fieldwork that subtle racism had been normalised to some extent and was seen to be ***‘just how it is’***. We heard that there was a lack of cultural understanding (and sometimes interest) within probation services, and that probation staff showed some reluctance to broach conversations related to race and ethnicity. This reluctance mirrors what some probation staff themselves said in our interviews with them. There did not appear to be a safe outlet to talk about this, or at least service users did not know about it.

Probation services should recognise the likelihood of these events happening for black, Asian and minority ethnic service users, and provide a non-judgemental space to talk about these experiences from the very start of their journey with the service. Service users need to feel confident that probation will ‘see’, ‘hear’ and ‘believe’ them. They also need to see that probation is committed to acting on racism and to supporting increased cultural awareness within its services with openness, compassion and care. In 2021, it is no longer enough to just be ‘not racist’; we also need to take positive action to tackle the consequences of previous inaction.

Strong relationships between probation staff and black, Asian and minority ethnic service users are possible, and we saw that within our interviews. We saw this can happen across genders, faiths and ethnicities. Core to those relationships was a spirit of openness, a willingness to learn and to offer help. On occasions, matching the ethnicity of service user and responsible officer will provide added value because of improved cultural understanding or shared language. It is important to make links for service users with their communities and wider support networks. However, we did not see much evidence of tangible support offered, despite some positive relationships between staff and

service users. We heard from people who do not believe probation can meet their needs, with several being confused about the purpose of supervision or what support can be provided.

The service users we spoke to just wanted fair treatment and equal opportunities to progress, but this requires awareness from probation services that for black, Asian and minority ethnic service users their starting positions may be different, and support should be tailored to their needs in order to achieve equality of outcomes.

It is important to ask ethnic minority service users what would work for them and then learning from these experiences to ignite change. For this reason, we would encourage ethnic minority service users to be supported to feed into the design and delivery of training for staff. It is also important to consult ethnic minority service users about their experiences of probation services and provide opportunities for former service users to act as volunteer mentors and in paid roles, so they can influence change and help to achieve more culturally sensitive services.

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## Annexe 1: Glossary

<b>CRC</b>	Community Rehabilitation Company
<b>Foreign national offender</b>	A foreign national who has been convicted of a crime in the UK
<b>HMPPS</b>	Her Majesty's Prison and Probation Service (HMPPS): the single agency responsible for both prisons and probation services. See note below on NOMS
<b>LDU</b>	Local delivery unit
<b>MAPPA</b>	Multi-Agency Public Protection Arrangements: where probation, police, prison and other agencies work together locally to manage offenders who pose a higher risk of harm to others. Level 1 is ordinary agency management where the risks posed by the offender can be managed by the agency responsible for the supervision or case management of the offender. This compares with levels 2 and 3, which require active multi-agency management
<b>MoJ</b>	Ministry of Justice
<b>nDelius</b>	National Delius: the approved case management system used by the NPS and CRCs in England and Wales
<b>NPS</b>	National Probation Service: a single national service that came into being in June 2014. Its role is to deliver services to courts and to manage specific groups of offenders, including those presenting a high or very high risk of serious harm and those subject to MAPPA
<b>OASys</b>	Offender assessment system currently used in England and Wales by the NPS and CRCs to measure the risks and needs of offenders under supervision
<b>Partners</b>	Partners include statutory and non-statutory organisations, working with the participant/offender through a partnership agreement with the NPS or CRC
<b>Providers</b>	Providers deliver a service or input commissioned by and provided under contract to the NPS or CRC. This includes the staff and services provided under the contract, even when they are integrated or located within the NPS or CRC
<b>PSR</b>	Pre-sentence report. This refers to any report prepared for a court, whether delivered orally or in a written format
<b>PO</b>	Probation officer: this is the term for a 'qualified' responsible officer who has undertaken a higher education-based course for two years. The name of the qualification and content of the training varies depending on when it was undertaken. They manage more complex cases
<b>Rehabilitation Activity Requirement (RAR)</b>	From February 2015, when the <i>Offender Rehabilitation Act</i> was implemented, courts can specify a number of RAR days within an order; it is for probation services to decide on the precise work to be done during the RAR days awarded
<b>Responsible Officer (RO)</b>	The term used for the officer (previously entitled 'offender manager') who holds lead responsibility for managing a case

## Annexe 2: Methodology

The inspection set out to answer the following:

### Probation service delivery for black, Asian and minority ethnic service users and staff thematic: inspection questions

#### 1. Is there an effective vision and strategy driving the delivery of a high-quality service for ethnic minority service users?

- Does the NPS/CRC have an effective strategic approach to ensuring that ethnic minority service users receive fair and appropriate services that meet their needs?
- How well are NPS and CRC leaders engaging with ethnic minority community stakeholders and service providers in developing services?
- How well are NPS and CRC leaders promoting an inclusive culture where the needs and concerns of service users and staff from ethnic minorities are identified and addressed?

#### 2. Does the operating model, including exceptional delivery models, support effective service delivery, meeting the needs of ethnic minority service users?

- How well are NPS and CRC operating models designed and personalised to meet the diverse needs of service users from ethnic minority communities?
- How do these operating models differ between localities in response to variations in demography and geography?
- To what extent do current operating models build trust between those delivering services and service users from ethnic minority communities?

#### 3. Does the profile of staff support the delivery of a high-quality service for ethnic minority service users?

- How far does the race and ethnic profile of staff in each area match the profile of service users and the local community?
- Are ethnic minority volunteers and mentors recruited and assigned where appropriate to support service users from ethnic minority communities?
- Is there an appropriate strategy in place that effectively identifies and develops the potential for ethnic minority staff to progress into more senior roles?

#### 4. Does the oversight of work support high-quality delivery to ethnic minority service users and professional development of ethnic minority staff?

- Do ethnic minority staff receive appropriate support and supervision to enable them to flourish in their roles?
- Do white staff receive effective case focussed supervision that enhances and sustains the quality of work with service users from ethnic minority communities?
- Is there an effective induction process for staff that addresses issues of race equality and diversity?
- Are appraisal processes conducted fairly with due regards to unconscious bias and

stereotyping?

- Is poor performance in addressing racial equality and meeting diverse needs identified and addressed?

#### **5. Are arrangements for learning and development comprehensive and responsive, addressing issues of race equality and unconscious bias?**

- Do the CRCs and NPS divisions have comprehensive staff development plans for addressing race equality and diversity issues, including training on avoiding unconscious bias?
- Is training on addressing discrimination and racially motivated offending available and effective?
- Is there sufficient access to pre-qualifying training to ensure a representative workforce and to enable ethnic minority staff to progress?
- Does the organisation actively promote a culture of open dialogue, learning and improvement where issues of racial equality and diversity can be progressed?

#### **6. Do managers pay sufficient attention to engagement of ethnic minority staff?**

- How are NPS and CRC senior leaders monitoring and seeking to improve engagement of ethnic minority staff?
- Is appropriate attention paid to the safety and wellbeing, and building resilience of ethnic minority staff?
- Are ethnic minority staff given the time and opportunity to engage with relevant staff networks?
- Do ethnic minority staff have equitable access to promotion, reward and recognition?

#### **7. Do the NPS and CRCs use a sufficiently comprehensive and up-to-date analysis of the profile of service users to deliver well-targeted services to ethnic minority service users?**

- Does the analysis pay sufficient attention to diversity and issues of disproportionality in relation to race equality?
- Does the analysis capture sufficiently the desistance and offending-related factors presented by ethnic minority service users?
- Is the analysis used effectively to target services for ethnic minority service users?

#### **8. Do the NPS and CRCs provide the volume, range and quality of services to meet the needs of ethnic minority service users?**

- Are appropriate services commissioned or provided, either in-house or through other agencies, to meet the identified needs and risks of ethnic minority service users?
- What are the future plans for commissioning services that are relevant and appropriate for ethnic minority service users?
- Are diversity factors and issues of disproportionality sufficiently addressed in the way that services are delivered to ethnic minority service users?
- Are there effective relationships with ethnic minority community organisations that support desistance through access to services both during and after the sentence?

- Are sufficient services delivered that address racially motivated offending?

**9. Are analysis, evidence and learning used effectively to drive improvement on race equality?**

- Is sufficient management information available and disseminated to monitor issues of racial disproportionality in the delivery of services and staffing?
- Is there sufficient analysis of the available information to explain and address issues of racial disproportionality?
- Are there appropriate targets and improvement plans for addressing issues of racial disproportionality?
- Are the views of ethnic minority service users sought, analysed and used to review and improve the effectiveness of services?

**10. Are the pre-sentence information and advice provided to court sufficiently analytical, personalised to ethnic minority service users, free from discrimination and bias, and do they support the court in making fair and objective decisions?**

- Are ethnic minority service users meaningfully involved in the preparation of their reports, and are their views considered?
- Does the advice consider all relevant factors related to the likelihood of reoffending?
- Does the advice consider factors related to risk of harm and are risk of harm assessments accurate?
- Does the advice consider ethnic minority service users' diversity and personal circumstances?
- Is the language and terminology used in reports appropriate, avoiding stereotyping?
- Is sufficient time given to analysing information and making judgements when preparing reports?
- Are proposals appropriate?
- Is there a process for quality assuring reports?

**11. Does assessment and planning focus sufficiently on engaging ethnic minority service users?**

- Does assessment correctly analyse ethnic minority service users' motivation and readiness to engage and comply with sentences?
- Does planning take sufficient account of ethnic minority service users' readiness and motivation to change which may affect engagement and compliance?
- Does assessment analyse ethnic minority service users' diversity and personal circumstances, and consider the impact these have on their ability to comply and engage with service delivery?
- Does planning take sufficient account of ethnic minority service users' diversity and personal circumstances which may affect engagement and compliance?
- Are ethnic minority service users meaningfully involved in assessment and planning, and are their views taken into account?

**12. Are sentence/post-custody periods implemented effectively with a focus on engaging ethnic minority service users and delivering services that support their desistance?**

- Is sufficient focus given to maintaining an effective working relationship and building up trust with ethnic minority service users?
- Are sufficient efforts made to enable ethnic minority service users to complete their sentences, including flexibility to take appropriate account of their personal circumstances?
- Are risks of non-compliance identified and addressed in a timely fashion to reduce the need for enforcement actions?
- Are enforcement actions taken when appropriate with sufficient time for reflection and consideration of alternative actions?
- Are the delivered services those most likely to reduce reoffending and support desistance?
- Wherever possible, does the delivery of services build upon ethnic minority service users' strengths and enhance protective factors?
- Are the most appropriate organisations involved in the delivery of services and are they sufficiently well-coordinated?
- Are key individuals in ethnic minority service users' life engaged where appropriate to support their desistance?
- Is the level and nature of contact sufficient to reduce reoffending and support desistance?

**13. Is there evidence of sustainable progress in terms of ethnic minority service users' engagement and desistance?**

- Have positive relationships been established with ethnic minority service users built on mutual trust?
- Have there been improvements in ethnic minority service users' motivation and readiness to engage?
- Has there been a reduction in non-compliance?
- Have there been improvements in those factors most closely linked to offending?
- Have there been increases in ethnic minority service users' strengths and protective factors?
- Has there been a reduction in offending?

**14. Do service leaders capture the data they need to scrutinise potential disproportionality relating to ethnicity in service delivery and use of enforcement powers? Where such data shows disproportionality, have they taken action to deal with it?**

**15. In the individual cases inspected, were enforcement actions (for example breach, recall and warning letters) applied appropriately and fairly? Was management information collected on this?**

## Fieldwork

The fieldwork was completed between October and December 2020. Due to the Covid-19 pandemic, the inspection was done remotely using video conferencing technology such as MS Teams. Five local delivery units were chosen for the inspection, taking account of the diversity of the population served:

Bradford and Calderdale	NPS Yorkshire and the Humber Region and West Yorkshire CRC
Liverpool and Sefton	NPS North-West Region and Merseyside CRC
Hackney and Tower Hamlets	NPS London Region and London CRC
Bedfordshire	NPS Eastern Region and BeNCH CRC
Birmingham	NPS West Midlands Region and Staffordshire & West Midlands CRC

Each NPS region and CRC provided us with a range of comprehensive evidence in advance against our inspection questions and standards.

## Inspection of cases

We inspected a total of 100 cases of black, Asian and minority ethnic service users which had commenced supervision 12 months previously, in October and November 2019. This included work that had started before the Exceptional Delivery Models were introduced in March 2020 because of the Covid-19 pandemic. We tracked the work with these cases forward over the following 12 months up to the date of the fieldwork. We selected 20 cases from each local delivery unit, 10 from the NPS and 10 from the CRC. These selections included a balance of cases that represented the different ethnic groups (41 per cent Asian, 34 per cent black, 17 per cent mixed and eight per cent other), with a proportion of male and female cases, community orders and people supervised on prison release licences, in line with the Offender Management Statistics. For each case we read the assessments and case records and interviewed the responsible officer via Teams or telephone. In total, we spoke with 84 different responsible officers who managed these cases.

## Inspection of pre-sentence reports

We also read 51 pre-sentence reports and associated records completed in January 2020, which were spread across the five NPS local delivery units. We conducted a focus group with nine PSR writers from these different areas. We also interviewed senior managers responsible nationally for the development of court and report work.

## Interviews and focus groups

In each area we inspected we interviewed senior managers responsible for the local delivery units, HR business partners, and organisations delivering interventions for ethnic minority service users. We also spoke with the equality and diversity managers for each NPS region.

Focus groups were conducted with responsible officers and with middle managers in each area. In some areas it was agreed to include NPS and CRC responsible officers, and NPS and CRC middle managers together; in other areas the CRC and NPS focus groups were conducted separately. In total the focus groups included 41 middle managers and 47 responsible officers.

In a similar fashion we also arranged focus groups with black, Asian and minority ethnic staff, and black, Asian and minority ethnic managers. In some areas it was agreed to include NPS and CRC ethnic minority staff and NPS and CRC ethnic minority managers together; in other areas the CRC and NPS focus groups were conducted separately. In total these focus groups included 49 black, Asian and minority ethnic staff, and 41 black, Asian and minority ethnic managers.

### **Survey of black, Asian and minority ethnic staff**

In each local delivery unit inspected, we asked the CRC and NPS to distribute to their ethnic minority staff an electronic link to a confidential e-survey. As those distributing the link would not know everybody who falls into this category, as such information is confidential, in some areas the link was distributed to all staff in that area, for the attention of ethnic minority staff, to ensure that all ethnic minority staff received it. As not all staff in these areas have declared their ethnicity, we cannot be sure how many staff were eligible to complete the survey. Out of a total of at least 313 black, Asian and minority ethnic staff, we received exactly 100 completed surveys. We offered those who responded to the survey who wished to have an individual interview with a member of the inspection team the opportunity to have a follow-up telephone call. This resulted in 19 subsequent telephone interviews. We also had a call with a group of five probation staff from one area.

### **Survey of black, Asian and minority ethnic service users**

We contracted with Empowering People: Inspiring Change (EP: IC), a research and consultancy collective, to undertake interviews with black, Asian and minority ethnic service users. They provided a team of four ethnic minority consultants with lived experience of imprisonment and the criminal justice system to undertake these interviews. Due to the Covid-19 pandemic, these interviews had to be conducted remotely via telephone or Zoom. We asked each NPS region and CRC to provide the names of 10 service users who would be willing to speak with EP: IC and were provided with 75 names, of which it proved possible to conduct interviews with 43 individuals. We thought it was important to also identify other individuals with recent experience of probation service supervision through contact with local community organisations, to ensure that we had a balance of views. Through these links a further 38 individuals were contacted and interviewed.

### **Other interviews**

We conducted a range of other interviews with individuals with national roles with responsibility for issues of race and diversity. These included, among others, the chair of the RISE staff network, a representative of CLINKS, senior managers responsible for taking forward the *Lammy Review* recommendations, the Probation Workforce Programme, and the heads of HMPPS and NPS Equalities.