

Research Paper

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***“They’re your responsibility, you should have thought of that before you committed the crime”:  
How women with caring responsibilities experience the criminal court system***

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**Executive Summary**

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## Executive Summary

### Background

There has been a growing recognition of the devastating impact that custodial sentences disproportionately have on women and their children. Yet there is a striking gap in the research literature and policy discourse on the distinct challenges women face earlier in their criminal justice journey – particularly in the court system.

Judicial guidance in England and Wales acknowledges that the interests of justice are unlikely to be served by either party being late or distracted because of worries over childcare, and calls for caring responsibilities to be “accommodated as far as reasonably possible”. If this standard is not met in our courts, it is likely to have a disproportionate impact on women, who are the primary carer of 90% of UK families.

Through qualitative interviews with 12 women, this research seeks to examine the extent to which the caring responsibilities of women are accommodated “as far as reasonably possible”, and the impact this has on their ability to attend and engage with the court process, as either a defendant or a witness. While small-scale, this project is an important start to the conversation about the shape of reform needed for the women, and their children, who come through our courts.

### Key Findings:

- I. Court hearings were set without consideration for the ability of the caregivers to attend, which was often constrained by the hours of the school day, the school holidays, and their ability to arrange alternative care for their children. This issue was compounded by the absence of childcare facilities at court, and the lack of clarity over whether children were permitted to enter the court building. Caregivers attending court as a witness during a trial faced similar issues.
- II. The court system’s approach to listing cases created several logistical challenges which made physically attending court difficult. Hearings were not set at a specific time, which meant the

caregivers had to wait at court for long periods, uncertain when they would be able to leave. Their hearings were also frequently delayed and rescheduled at short notice. This complicated making alternative care arrangements for their children. Caregivers attending court as a witness during a trial faced similar issues.

- III. Many of the caregivers felt that the courts did not provide sufficient support to help them overcome these practical issues, and were not willing to adapt the process around their caring responsibilities. The women who attended court as defendant were told by court staff, magistrates and solicitors to just be there or face arrest for absconding from court. They felt judged for being a mother involved with the criminal justice system.
- IV. The caregivers who were attending court as a defendant often experienced poor mental health in the build-up to their court date, particularly those facing a custodial sentence, and the prospect of being separated from their children. This anxiety was heightened by knowing they would not be able to return home to prepare or tell their children.
- V. Worrying about childcare arrangements impacted the ability of some of the caregivers to concentrate and engage with the court proceedings. Their children’s welfare consumed their thoughts, which meant they struggled to take in and understand fully what was happening during their hearing.
- VI. The ability of the caregivers to engage with the court process was often dependant on friends or family taking care of their children; nine of the interviewees were single parents, or the primary carer of their child. A number of barriers made getting this support in place difficult each time, for example: their child had additional needs and required specialist support, their support network had their own health challenges which impacted the care they could provide, while some did not have a support network at all.
- VII. The lack of accommodation from the court service, and the fear of being arrested, meant that some caregivers were forced to leave their children with people who were inappropriately placed to care them. This led to children waiting for hours in the court carpark, teenagers going shopping with teachers after school, vulnerable adults left alone and babies cared for by guards in court cells.

## Conclusion

The experiences of the women interviewed for this research indicate that caring responsibilities are far from being “accommodated as far as reasonably possible” by the courts in England and Wales. A process that is hard for most people to engage with - getting to a court far from home, waiting there for hours, and being subjected to delays and rescheduling – can result in significant hardships if you are a woman with caring responsibilities. These hardships are greater if your child requires additional support, you have limited family networks, or you belong to one of the 1.8 million single parent families in the UK. Yet the court system fails to adapt to the caring needs of women, and instead, judges them for being a mother in the system. It is in no-one’s interest, and counter-productive to the justice system, if a woman struggles to attend or maintain focus during court proceedings due to issues with the care of their child.

## Recommendations

### ***Every police force should:***

- 1) Ask every person on arrest if they have dependants, and make them aware of their rights for the justice process to be adapted;
- 2) Make every effort to divert women away from court and make use of out of court resolutions.

### ***The HM Courts and Tribunal Service should:***

- 1) Include on every summons to court a copy of the “Before Court: Going to a Criminal Court as a Defendant” leaflet, the court helpline number, a number to contact a women’s centre or at-court advice service (where provision exists);
- 2) Provide a minimum 72-hour warning before rescheduling a caregiver’s hearing;
- 3) Schedule witnesses with caring responsibilities to give evidence at a specific date and time;
- 4) Enable defendants and witnesses to attend court via video link;
- 5) Create child-friendly areas in court waiting rooms;
- 6) Pilot and evaluate a scheme where court hearings and trials are scheduled at specific times.

***The Ministry of Justice should:***

- 1) Provide payment for childcare costs;
- 2) Review the post-sentencing arrangements for care-givers who have received a custodial sentence to contact their family;
- 3) Roll out at-court advice services to every court in in England and Wales.

***The prison service should***

- 1) Ensure that remote hearings are the default for women attending court from a Mother and Baby Unit.

ENDS

