



Canolfan
Llywodraethiant Cymru

Wales Governance
Centre

PRISON, PROBATION AND SENTENCING IN WALES: 2019 FACTFILE

DR ROBERT JONES
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PREFACE

About Us

The Wales Governance Centre is a research centre that forms part of Cardiff University's School of Law and Politics undertaking innovative research into all aspects of the law, politics, government and political economy of Wales, as well the wider UK and European contexts of territorial governance. A key objective of the Centre is to facilitate and encourage informed public debate of key developments in Welsh governance not only through its research, but also through events and postgraduate teaching.

About This Project

Cardiff University's Wales Governance Centre launched the *Justice and Jurisdiction* project in July 2018. It brings together an interdisciplinary group of academic researchers consisting of political scientists, criminologists, constitutional law experts and political economists to investigate the operation of the legal and justice system in Wales. The project is funded by a combination of the Economic and Social Research Council, the Welsh Government and Cardiff University.

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Contact details

Dr Robert Jones, Research Associate
Jonesrd7@cardiff.ac.uk // 029 2087
4133

Wales Governance Centre
Cardiff University
Law Building
Museum Avenue
Cardiff CF10 3AX

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EXECUTIVE SUMMARY

Following the publication of *Imprisonment in Wales (2018)* and *Sentencing and Immediate Custody in Wales (2019)*, this report provides an up-to-date account of imprisonment, probation and sentencing in Wales. Using data published by the Ministry of Justice as well as information obtained via the Freedom of Information Act 2000, this factfile identifies a number of important issues and themes. Some of the key findings are outlined below.

COVID-19 AND PRISONS IN WALES

- Since the outbreak of Covid-19 there have been a disproportionate number of confirmed COVID-19 infections in the Welsh prison estate. One in five (20%) of all confirmed cases amongst prisoners in England and Wales had been reported at Welsh prisons as of 19th June 2020. This is despite the fact that Welsh prisons held only 6% of the prison population of England and Wales at the end of June 2020 .
- As of 19th June, there had been more confirmed cases amongst prisoners (101) than prison staff (90) in Wales. In England, there have been twice as many confirmed cases amongst prison staff (882) than prisoners (398) since mid-March.
- There had been a total of 191 confirmed cases of COVID-19 in the Welsh prison estate as of 19th June. Three people have died in the Welsh prison estate due to the effects of Covid-19.

PRISON POPULATION

- The average Welsh prison population was 4,702 in 2019.
- The number of receptions into Welsh prisons continued to fall in 2019. This is despite the fact that HMP Berwyn began to accept remand prisoners for the very first time in December 2019.

- On average, 1,651 prisoners from England were being held in Welsh prisons in 2019. This is the equivalent population of HMP Parc.
- 543 people were released from Welsh prisons without a fixed address to return to in 2018/19. On average, six people a week were released from HMP Cardiff without a fixed address to return to in 2018/19.
- Wales had an 'in-country' imprisonment rate of 151 prisoners per 100,000 in 2019. This compared to an 'in-country' rate of 139 per 100,000 in England.
- In 2019, there were 149 Welsh prisoners (based on home address) per 100,000 of the Welsh population. This compared to a rate of 136 English prisoners per 100,000 of the population of England.

PRISON SAFETY

- Self-inflicted deaths rose in Wales in 2019 at a time when the number fell in England by 12%.
- Self-harm incidents fell at three prisons in Wales in 2019. Overall, the number of self-harm incidents in Wales (excluding HMP Berwyn) fell by 2% in 2019.
- At HMP Berwyn, self-harm incidents rose by 86% in 2019. The prison's population increased by 18% during this period.
- Prisoner-on-prisoner assaults and assaults on staff fell across Wales in 2019.
- There were a total of 5 cases where prison staff at HMP Berwyn were subject to either Investigations or Conduct and Discipline for charge of "Assault/Unnecessary use of force" on a prisoner in 2018/19.
- The number of drug, alcohol, tobacco and weapon finds in Welsh prisons increased in 2019.

PROBATION

- Since 2014, the year before the introduction of CRCs took full effect in Wales and England, the use of community sentences has fallen by 19% in Wales.
- The total number of pre-sentence reports prepared in Wales has fallen by 25% since 2014.
- 9% of all pre-sentence reports prepared in Wales in 2019 recommended that a custodial sentence be given. This compared to 6% of reports in England.
- In 93% of cases where custody was recommended in Wales a custodial sentence was handed out. In England, there was an 88% concordance rate for custody in 2019.
- Since 2013, there have been proportionately fewer English people in prison *and* fewer people in England under probation supervision than in Wales.
- There were 222 people serving a court order per 100,000 of the population in Wales in 2019. The rate in England was 183 per 100,000 inhabitants.
- 62 people under probation supervision died in Wales 2018/19. 44% of these deaths were classified as self-inflicted.

SENTENCING AND IMMEDIATE CUSTODY

- Prosecutions and convictions continued to fall across Wales in 2019.
- The proportion of cases resulting in a conviction has been higher in Wales than in England in six of the last seven years.
- The average custody rate was higher in Wales than in England at both the Magistrates' and Crown Court in 2019.

- In September 2019, there were 279 Welsh women in prison. This is the highest quarterly reading since the Wales Governance Centre began collecting disaggregated data in 2013.
- On average, there were 25 Welsh children in prison in 2019. This compared to an average of 116 in 2010
- Although the number of children first entering the criminal justice system has fallen, the rate has declined unevenly across different ethnic groups in Wales. While the number of White children first entering the criminal justice system in Wales fell by 87%, the number of Asian children declined by 69% and those from Black backgrounds fell by 59%.
- The level of over-representation in prison for Black, Asian and Mixed groups was higher in Wales than in England in 2019.
- In 2019, there were 91 Black people from Wales in prison for every 10,000 of the population. This rate compared to just 14 White people per 10,000 of the population. There were 28 Asian people in prison per 10,000 and 41 people from a Mixed background per 10,000 in prison in 2019.
- For every 10,000 Black people living in Wales 129 were under probation supervision in 2019. This compared to a rate of 46 per 10,000 for individuals from a White background, 48 for Asian and 80 for those from a Mixed ethnic group.
- Individuals from a Black (76%), Asian (75%) and Mixed (70%) ethnic group recorded a higher custody rate at the Crown Court in Wales than White (64%) defendants in 2019.
- Welsh prisoners from a Mixed and Black ethnic group are more likely to serve a higher proportion of their determinate sentences in prison than any other ethnic group.
- The average custodial sentence length in Wales was higher for Mixed (35 months), Asian (33.8 months) and Black (30.4 months) defendants sentenced in Wales in 2019 than for those from White (19.5 months) ethnic groups.

- Two-fifths of the Welsh prison population in 2019 had either been convicted of violence against the person (24%) or sexual offences (19%).
- The average custody rate was higher at Magistrates' Courts in Wales in 11 out of 12 offence groups and nine offence groups at the Crown Court in 2019
- The average custodial sentence length increased by 3 months in 2019. The average custodial sentence length in Wales has risen from 13.3 months in 2013 to 17.5 months in 2019.
- Almost one in five (19%) women sentenced to immediate custody in Wales in 2019 were handed sentences of one month or less. In total, 99 immediate custodial sentences of one month or less were handed to women in Wales in 2019.

NOTES ON TEXT

Welsh and English adult prison population data were obtained from the Ministry of Justice using the Freedom of Information Act 2000. The Freedom of Information Act provides a “powerful tool” for social researchers carrying out research in areas where data are not made publicly available (Savage and Hyde, 2014: 315). The Ministry of Justice does not publish Welsh-only or English-only prison population data. Information on probation caseloads in Wales and England are, however, published by the Ministry of Justice every quarter. Other sources of probation data were accessed by Freedom of Information requests including breakdowns by sex, offence and ethnicity.

All data relating to the ‘home address’ of prisoners is based on a prisoner’s origin address (home address on reception into custody). The Ministry of Justice state that around 97% of prisoners have an origin location; i.e. addresses that are recorded on its central IT system. If no address is given, an offender’s committal court address is used as a proxy for the area in which they are resident. Those with no recorded origin are typically foreign nationals or those recently received into custody. No address has been recorded and no court information is available for around 3% of all offenders; these figures are excluded from the tables included in this report.

Statistics on prison safety are routinely published by the Ministry of Justice. The latest data on drug, alcohol, weapon and tobacco finds as well as incidents of concerted indiscipline were made available by the Ministry of Justice in the Annual HM Prison and Probation Service digest: 2019 to 2020. Information on the number of confirmed cases of Covid-19 in the prison estate have come from the Ministry of Justice in response to written parliamentary questions. The Ministry of Justice began routinely publishing data on the number of cases in prison on 26 June 2020, this information does not provide a disaggregated breakdown for Wales and England.

Some of the data presented in chapter three were gathered from the Home Office offence code data tool. The notes accompanying the data tool provide further information on the source of the data. According to the Ministry of Justice, the more detailed offence groups shown in the data broadly align with the groups presented by the Home Office counting rules, but these categorisations will not match completely in terms of group names or the codes included. These

differences result from a range of factors, including differences in the offences included (e.g. the Home Office only include recorded crime) and the focus of each classification.

Figures for ethnicity are categorised using the 5+1 self-identified classification based on the 16+1 classification used in the 2001 Census. The not applicable category for self-identified ethnicity includes all individuals tried for summary offences or tried prior to 2009 for indictable offences, for whom the quality of the data available is insufficient to justify inclusion, and all companies. (Ethnicity is only able to be shown for indictable offences from 2009 onwards due to improvements in data quality, in magistrates' courts associated with the introduction of the LIBRA case management system at that time). The not stated category includes all others for whom ethnicity information is not available, either because they have chosen not to state their ethnicity or because no information has been recorded.

The Ministry of Justice has acknowledged that the recording of ethnicity data for defendants at Magistrates' Courts has been insufficient, with high proportions of unknown ethnicity. The recording of ethnicity data for indictable offences has been more complete than summary offences because in charged cases the defendant will have been seen by the police and asked about their ethnicity. In cases where the defendant received a summons, they will not have been seen by the prosecutor, and may not have appeared in court. High levels of missing data limit what conclusions can be drawn from immediate custody data by ethnic group at Magistrates' Courts in England and Wales.

Sentencing data broken down by police force area is used in this report to compare sentencing outcomes at courts in Wales and England. Although it is understood that not *all* people sentenced at Welsh courts will be domiciled in Wales, there is an expectation that many people sentenced at courts in Wales will be domiciled in Wales (the same rule applies to England). Section 30 of the Courts Act 2003 provides directions to ensure that where a person is required to appear before a magistrates' court they are required to appear in a place 'in the local justice area'. This includes a location in the local justice area in which the offence is alleged to have been committed, a place in which the person charged resides, a place in which witnesses (or the majority of witnesses) reside, or a place where other cases raising similar issues are being dealt with. There are 10 local justice areas in Wales following the introduction of the Local Justice

Areas Order 2016.¹ At the Crown Court, Criminal Procedure Rule 9.3 states that in deciding the Crown Court centre at which trial will take place, one of the considerations should be the convenience of the courts location for parties and witnesses involved in the case.²

The data used to calculate the custody rates in Wales and England were gathered from the Ministry of Justice's Court Outcomes by Police Force Area data tool (Pivot Table): December 2017. According to the notes accompanying the data tool, all statistics on sentencing included in the pivot table are either derived from the LIBRA case management system, which holds the magistrates' courts records, or the Crown Court's CREST system which holds the trial and sentencing data. The data includes offences where there has been no police involvement, such as those prosecutions instigated by government departments, private organisations and individuals.

Ministry of Justice updates may lead to some variation between the data published in the Court Outcomes by Police Force Area across different years. In the update for December 2018, for example, the total number of immediate custodial sentences in Wales increased to 6,292 from the number (6,285) reported in the Court Outcomes by Police Force Area: December 2017. Differences can also appear between updated figures for self-harm incidents and finds in prison.

The figures given in the pivot table relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

The calculation of custody rates reveal the proportion of sentences resulting in immediate custody in England and Wales. There are eight possible sentencing outcomes included in the data tool: absolute discharge, conditional discharge, fine, community sentence, suspended sentence, immediate custody, otherwise dealt with, and compensation. The calculation of

¹ North West Wales; North Central Wales; North East Wales; Montgomeryshire; Cardiff; Mid Wales; Gwent; Carmarthenshire; Ceredigion; West Glamorgan.

https://www.legislation.gov.uk/ukxi/2016/941/pdfs/ukxiem_20160941_en.pdf

² Other considerations include how soon a suitable courtroom will become available; and the directions on the allocation of Crown Court business. <https://www.justice.gov.uk/courts/procedure-rules/criminal/docs/crim-proc-rules-2014-part-09.pdf>

average custody rates and average custodial sentence lengths are used in this report to compare trends between Wales and England. These measurements are frequently calculated and included within the Ministry of Justice's quarterly *Criminal Justice Statistics* bulletins. However, while such "headline statistics" are described by the Sentencing Council (2018: 2) as "broad brush" measures that do not take account of the full range of legal factors that determine sentencing outcomes, the unavailability of detailed Welsh-only sentencing data limits what analysis can be undertaken on a disaggregated level.

The Ministry of Justice began to routinely publish Covid-19 prison data on its website on 26 May 2020. This information, however, does not provide a disaggregated data for Wales despite the fact that the responsibility for prison healthcare is devolved to the Welsh Government. The data included in Chapter 1 have been drawn from responses given by the UK Minister of State, Lucy Frazer QC, to written parliamentary question about confirmed cases in the Welsh prison estate.

In Chapter two 'Settled accommodation is defined by the Ministry of Justice as: (i) any accommodation that provides a permanent independent housing solution including as owner occupier; tenant in a tenancy available for a minimum 3 month period; living as part of a family where the Applicable Person is able to reside in that home permanently and is able to return to that home; living with a friend with a bedroom available for the Applicable Person's use and access to domestic facilities; a caravan or boat that is viewed by the Applicable Person as his permanent home; (ii) supported housing provided by an accredited housing agency that is provided for a minimum 3 month period and includes support for the Applicable Person in relation to moving to a permanent independent housing solution

'Bail/probation accommodation' includes probation Approved Premises, Bail Accommodation Support Services (BASS) accommodation and accommodation provided by the Home Office Immigration Enforcement Service. "Other homeless" refers to individuals who identify as homeless but have not been identified as sleeping rough. In some cases, it is not recorded whether an individual that is identified as homeless is rough sleeping. These cases have been included in the "Other homeless" category. "Other unsettled accommodation" refers to individuals living in transient/short term accommodation that does not provide a long term solution to housing need.

All Accommodation Circumstances are recorded on a 'first night' basis, i.e. the status that is current to the first night following release from custody (including release from court) or the first night following sentencing to a Community Sentence.

SENTENCING AND IMMEDIATE CUSTODY IN WALES

INTRODUCTION

2019 was significant year for criminal justice in Wales. In October, the Commission on Justice in Wales published its long-awaited report following a two-year inquiry into the Welsh justice system. The Commission's report, the first review of the Welsh justice system for over two hundred years, outlined a series of major recommendations, chief amongst them was that legislative responsibility for criminal justice in Wales be transferred from Westminster to the Welsh Parliament. The Commission's report was preceded in May by the publication of two separate blueprint strategies for a distinct Welsh approach to supporting female offenders and improving youth justice in Wales. Both strategies were co-produced by the Welsh Government and Ministry of Justice.

2019 also saw the publication of the House of Commons Welsh Affairs Committee's (2019) *Prison Provision in Wales* report. This followed the Committee's third inquiry into the Welsh prison estate since 2007. Two HM Inspectorate of Prisons (HMI Prisons) reports were published in 2019 including the very first inspection of HMP Berwyn in Wrexham. Finally, in December a major overhaul to the structure of probation services in Wales came into effect. While services in England remain unchanged, the National Probation Service is now responsible for all aspects of case management in Wales, replacing the role previously played by the Wales Community Rehabilitation Company.

Against the backdrop of these many developments, this latest factfile offers up-to-date information on imprisonment, probation and sentencing in Wales. It follows the publication of the Wales Governance Centre's *Imprisonment in Wales (2018)*, *Sentencing and Immediate Custody in Wales (2019)*, and *Sentencing and Imprisonment in Wales (2019)* which uncovered rising levels of prison violence as well as the startling finding that Wales has the highest imprisonment rate in Western Europe. This latest report returns to these issues and contains yet more sources of original data as we continue to enhance our understanding of the Welsh context. These include data on the use of pre-sentence reports; assaults committed by prison staff; prisoner homelessness on release; probation caseloads by ethnicity; prisoner complaints;

deaths amongst those under probation supervision; mandatory drug testing; and the proportion of determinate sentences served in prison.

This latest report is published amidst growing calls for the UK Government to make Welsh-only criminal justice data more freely available (Commission on Justice in Wales, 2019; House of Commons Welsh Affairs Committee, 2019; Public Health Wales, 2019). It also comes at a time when the Welsh prison system is gripped by the outbreak of Covid-19. Despite the focus of this report on developments in 2019, a modest attempt is made in the first chapter to shed light on the extent of the outbreak in Welsh prisons. In its five chapters on Covid-19 and the prison estate in Wales; the prison population; probation; prison safety in Wales; and the use of immediate custody, this report covers a range of areas including prison rates, probation caseloads, deaths in custody, prison disturbances, drug and alcohol finds, custody rates and custodial sentence length. By returning to these issues, this latest factfile reiterates the need for politicians, policy makers, academics and government officials to engage on a more serious level with the current state of the criminal justice system in Wales.

1. COVID-19 AND PRISONS IN WALES

- 1.1** The first case of Covid-19 in prisons in England and Wales was reported in the media on 18 March at HMP Manchester (Bulman, 2020). The first prisoner to die from Covid-19 was reported at HMP Littlehey in Cambridgeshire on 26 March 2020.
- 1.2** The outbreak of Covid-19 has presented an unprecedented set of challenges to prison officials across England and Wales. On 12 March the UK Minister of State, Lucy Frazer QC, announced that the UK Government was “doing everything it can” to combat the outbreak of COVID-19, including within prisons in England and Wales (Frazer, 2020a). The statement came after the World Health Organisation’s Director-General had declared Covid-19 a pandemic on 11 March. The minister also reported that the Ministry of Justice were working closely with a number of agencies including “Public Health England, the NHS and the Department of Health and Social Care” to help overcome the challenges posed by Covid-19 (Frazer, 2020a).
- 1.3** On 24 March 2020, the Ministry of Justice announced that all prison visits in England and Wales were to be cancelled to help curb the spread of Covid-19. The following week, the Lord Chancellor and Justice Secretary, Robert Buckland QC, revealed that pregnant prisoners deemed to be low risk were to be temporarily released to protect them and their unborn baby from the spread of the virus. By 7 April 2020, 6 pregnant women had been released from prisons in England (Beard, 2020).
- 1.4** On 17th March 2020, HM Chief Inspector of Prisons (2020a) announced a suspension of full inspections and adopted a model of short scrutiny visits. Inspectors visited HMYOI Parc in April 2020 alongside two other young offender institutions in England (HMI Prisons, 2020b) . In total, 21 adult male establishments in England have been visited to examine the protective measures in place as of 25th August. HMI Prisons announced on 25th August that it will be carrying out a scrutiny visit at HMP Swansea in the week commencing 31st August.
- 1.5** Due to rising staff absences, HM Prison and Probation Service (HMPPS) began writing to 9,000 former prison officers in March to offer them temporary contracts to increase capacity during the outbreak (Prison Offices Association, 2020). It is unknown how many

prison staff working in Wales have been forced to take leave since mid-March. At the end of December 2019, there were a total of 1,497 operational and non-operational staff working in public sector prisons in Wales (HMPPS, 2020a).

- 1.6** In May 2020, HM Prison and Probation Service (HMPPS) reported that it had adopted a “three pronged” approach to dealing with COVID-19 in the prison estate (Frazer, 2020b). The first response involved a ‘compartmentalisation’ strategy to isolate those displaying symptoms and shield vulnerable prisoners.
- 1.7** The second was its End of Custody Temporary Release scheme (ECTR) in which risk-assessed prisoners within two months of their release date are temporarily released. These plans do not extend to those convicted of violent or sexual offences or to those deemed to be a “security concern” (Ministry of Justice, 2020a). 43% of Welsh people in prison at the end of December 2019 had either been convicted of a violent or sexual offence.³
- 1.8** The Ministry of Justice’s third approach was to temporarily expand the prison estate, with 500 temporary cells installed to provide extra space to limit the spread of the virus. Although the Ministry of Justice’s (2020b) announcement on 9th April focused exclusively on prisons in England, HMPPS in Wales have confirmed that single occupancy cell units have been introduced at HMP Prescoed with plans to further expand capacity at HMP Parc.
- 1.9** The unit at HMP Prescoed can hold 40 men and each cell has a single bed and bathroom facilities. According to HMPPS in Wales, prisoners have also been transferred from HMP Parc and HMP Cardiff to HMP Prescoed to provide additional capacity. HMPPS are also planning to provide 48 additional accommodation spaces at HMP Parc.
- 1.10** The Welsh Government has stated that a single all-Wales outbreak control team has been set up and COVID-19 outbreaks are being managed in line with the outbreak plan for prisons in Wales. The Welsh Government has confirmed that testing across the prison estate is “taking place strategically” (Hayward, 2020).

³ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

- 1.11** The Ministry of Justice's plans to combat the spread of the virus have been met with criticism as well as concerns over whether or not its response goes far enough. In April, the Prison Governors Association claimed that plans to release 4,000 prisoners will do little to ease overcrowding (Beard, 2020). The Chief Executive of HMPPS, Jo Farrar, agreed that around 10,000 and 15,000 prisoners would have to be released to achieve single cell occupancy (Beard, 2020). The UK Government's plans to release approximately 4,000 prisoners meant that, based on equal share of the prison population, 228 Welsh prisoners could have been released as part of the plans.
- 1.12** As of 29th May, just 79 prisoners had been released as part of the ECTR scheme. A total of 16 prisoners had been released from Welsh prisons as part of the ECTR scheme as of that date. These include HMP Berwyn (3 or fewer); HMP Cardiff (3 or fewer); HMP Parc (5); HMP Prescoed (6); and HMP Swansea (3 or fewer) (Frazer, 2020c).
- 1.13** Inspections carried out by HMI Prisons since the outbreak began have raised wide-ranging concerns including those relating to the conditions that prisoners are being held in. In visits to three category C training prisons in England, inspectors found that prisoners were being forced to spend longer periods in their cells and were often forced to eat meals inside cell accommodation (HMI Prisons, 2020c). In Wales, the lockdown has meant some prisoners spending at least 23 hours a day in their cells and has led to fears that violence and self-harm will increase across the Welsh prison estate (Rees, 2020).

CONFIRMED CASES IN WALES

- 1.14** Neither the Ministry of Justice nor Public Health Wales have routinely made disaggregated data on the number of confirmed cases of COVID-19 in the Welsh prison estate publicly available. The data included here have been drawn from responses given by the UK Minister of State, Lucy Frazer QC, to written parliamentary questions about the extent of the outbreak of Covid-19 in the Welsh prison estate and from monthly reports produced by Public Health Wales that the author has been given access to.
- 1.15** The first confirmed cases of COVID-19 in a prisoner and staff member in Welsh prisons were on 17th and 18th March 2020 respectively.

1.16 As of 19th June 2020, there had been a total of 191 confirmed cases of COVID-19 in the Welsh prison estate (Frazer, 2020d).

Figure 1.1

Confirmed cases of Covid-19 amongst prisoners and staff in Wales, June 2020

Prison	Prisoners	Staff	Total
Berwyn	41	33	74
Cardiff	22	24	46
Parc	7	6	13
Swansea	12	10	22
Usk/Prescoed	19	17	36
Total	101	90	191

1.17 There had been more confirmed cases of Covid-19 at HMP Berwyn than at any other prison in England and Wales as of 19th June. HMP Berwyn had the second largest prison population in England and Wales at the end of June 2020.

1.18 Three COVID-19 related deaths have been recorded across the Welsh prison estate. Two prisoners (one at HMP Berwyn and one at HMP Usk) and one member of staff (HMP Usk) have died due to the virus (Frazer, 2020d).

1.19 There have been a disproportionate number of confirmed COVID-19 infections in the Welsh prison estate. One in five (20%) of all confirmed cases of COVID-19 amongst prisoners in England and Wales had been reported at Welsh prisons as of 19th June 2020. This is despite the fact that Welsh prisons held only 6% of the prison population of England and Wales at the end of June 2020 (Ministry of Justice, 2020c).

1.20 In England, there have been twice as many confirmed cases amongst prison staff (882) than prisoners (398) since mid-March. In Wales, however, there had been more confirmed cases amongst prisoners (101) than prison staff (90) as of 19th June (Frazer, 2020d).

- 1.21** In a research paper commissioned by the Howard League for Penal Reform, Professor Richard Coker (2020: 2) argued that due to the nature of prison environments, social distancing and personal infection control measures are “almost impossible in overcrowded settings with sanitation limitations”. Overcrowding, poor ventilation and unsanitary conditions are also likely to increase the speed at which the virus will spread. The Chair of the House of Commons Justice Committee has described the prison estate as “a potential hotbed for viral transmission” amidst growing concerns over poor conditions and overcrowding (Neil, 2020).
- 1.22** The prison population in Wales fell by 5% between March and June 2020. As a whole, however, the Welsh prison estate remains overcrowded, with a population level of 104% of estate’s capacity (Ministry of Justice, 2020c).
- 1.23** Four out of five prisons in Wales were operating at a level above their Certified Normal Accommodation (CNA) in June 2020. HMP Berwyn (91%) is the only Welsh prison to be operating within its CNA.

Figure 1.2

Cell sharing in Welsh prisons, May 2020

Prisons	Total number of prisoners sharing cells	Proportion (%)
Berwyn	1,124	63
Cardiff	436	61
Parc	678	43
Prescoed	66	29
Swansea	294	77
Usk	213	86
Total	2,811	60

- 1.24** The proportion of prisoners sharing cells in Wales (60%) is higher than the England and Wales average (36%). Although it is currently operating within its CNA, HMP Berwyn has a particularly high level due to the fact that “most prisoners” share double cells at the

prison (HMI Prisons, 2019a: 13). A total of 2,811 prisoners were sharing cell accommodation in Wales at the beginning of May 2020 (Frazer, 2020e).

- 1.25** The degree of overcrowding and cell-sharing may account for the disproportionate number of confirmed COVID-19 cases in Welsh prisons, but no official explanation has been forthcoming. Neither the Welsh Government nor the Ministry of Justice has thus far offered any kind of explanation for the high number of cases in the Welsh prison estate.
- 1.26** Public Health Wales (2020) added a section to its website in June 2020 to provide some information on the outbreak of Covid-19 in the Welsh prison estate. This includes confirmation that prisons in Wales are following guidance from Public Health England and HMPPS.
- 1.27** Public Health Wales announced in June that it is publishing monthly reports on the outbreak of Covid-19 in the prison estate. As of the beginning of September, these reports have yet to be made publicly available.⁴

⁴ Public Health Wales 'Covid-19 Prison in Wales Monthly Summary' – <https://phw.nhs.wales/topics/prison-health-in-wales/covid-19-prison-in-wales-monthly-summary/>

2. PRISON POPULATION

- 2.1 The average Welsh prison population was 4,702 in 2019.
- 2.2 The number of Welsh people in prison fell by two in 2019 at a time when the number of English prisoners increased by 94.⁵
- 2.3 At the end of December 2019, one in three (34%) of all Welsh prisoners were being held in prisons in England. This compares to 37% of prisoners at the end of 2018.
- 2.4 Welsh people were being held in 105 prisons in England at the end of December 2019.
- 2.5 The majority of Welsh people being held in the Welsh prison estate were housed at HMP Parc (41%) followed by HMP Cardiff (19%), HMP Berwyn (16%), HMP Swansea (12%), HMP Usk (7%) and HMP Prescoed (5%) in 2019.
- 2.6 Due to the fact that there are no high security prisons in Wales all category A prisoners from Wales are held in England. There were 32 prisoners from Wales held as category A in 2019.
- 2.7 Welsh female prisoners were being held in 11 out of the 12 women's prisons in England at the end of 2019. Two-thirds (67%) of Welsh women were placed at HMP Eastwood Park (128) and HMP Styal (39).
- 2.8 The population within the Welsh prison estate increased by 8% in 2019. In line with trends from the two previous years, the rise is largely due to an increase in the number of prisoners held at HMP Berwyn (Ministry of Justice, 2020c).

⁵ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.
Wales: From 4,704 in 2018 to 4,702 in 2019.
England: From 76,497 in 2018 to 76,591 in 2019.

Figure 2.1

The average prison population in Wales by establishment, 2017 to 2019

Prison	2017	2018	2019
Berwyn	521	1,123	1,448
Cardiff	745	707	717
Parc	1,726	1,650	1,642
Swansea	442	395	417
Usk/Prescoed	528	523	523
Total	3,962	4,398	4,747

2.9 The English prisoner population in Wales continued to rise throughout 2019. Since HMP Berwyn opened in February 2017, the number of English prisoners held in Wales has risen by 185% from 622 in December 2016 to 1,774 in December 2019.⁶

2.10 70% of prisoners held at HMP Berwyn at the end of December 2019 were from outside of Wales (based on home address prior to entering custody).⁷

2.11 On average, 1,651 prisoners from England were being held in Wales in 2019. That is the equivalent population of HMP Parc.

2.12 The number of receptions into prison continued to fall in Wales in 2019. This is despite the fact that HMP Berwyn began to accept remand prisoners for the very first time in December 2019.

⁶ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁷ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

Figure 2.2

The number of first prison receptions in Wales by establishment, 2017 to 2019

Prison	2017	2018	2019
Berwyn	0	0	57
Cardiff	3,002	2,711	2,459
Parc	353	355	345
Swansea	1,697	1,330	1,333
Usk	0	1	0
Total	5,052	4,397	4,194

2.13 The number of prison receptions fell by 5% in 2019. In total, 203 fewer prisoners were received into Welsh prisons than during the previous year.

2.14 A study published by the Ministry of Justice in 2012 found that 15% of prisoners reported being homeless prior to entering custody (Williams et al, 2012). Despite representing a decline on the previous year, one in four (25%) of all people arriving at prisons in Wales were homeless in 2019.⁸

2.15 Almost a third (30%) of all prisoners arrived at HMP Swansea without a fixed abode in 2019.⁹

RELEASES AND HOMELESSNESS

2.16 The Housing (Wales) Act 2014 removed prisoners from the list of people given automatic 'priority need' status for temporary accommodation in Wales. Since its introduction there have been numerous calls to re-introduce priority need for prisoners amidst growing concerns over rising levels of rough sleeping and homelessness upon release (Mackie, 2017; Welsh Parliament's Equality, Local Government and Communities Committee, 2018; Shelter Cymru, 2017).

⁸ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁹ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

- 2.17** A survey carried out by Shelter Cymru in 2017 discovered that 13% of rough sleepers in Wales first became homeless after being released from prison with no accommodation to return to (Jackson, 2018). The research also found that people were often recalled to prison because they had no fixed address. According to Jackson (2018: 29), this finding “strongly suggests” that the removal of priority need status for prison leavers has been a “contributing factor” to this problem.
- 2.18** Inspections carried out by HMI Prisons in Wales in recent years have raised a number of significant concerns about levels of prisoner homelessness upon release. At HMP Swansea, inspectors found that half of all prisoners were not returning to “sustainable accommodation” upon release (HMI Prisons, 2018a: 5). An “extremely high” level of homelessness was also reported at HMP Cardiff (HMI Prisons, 2019b: 20) while inspectors at HMP Parc were concerned that the prison fails to monitor how many prisoners manage to sustain their accommodation for 12 weeks after their release (HMI Prisons, 2020d). Similar concerns about monitoring were raised by inspectors after visiting HMP Prescoed in 2017 (HMI Prisons, 2018b). At HMP Berwyn, inspectors were told that around 7% of prisoners were homeless upon release (HMI Prisons, 2019a) while the majority of men leaving HMP Usk went on to approved premises because of the risks they posed on release (HMI Prisons, 2018b).
- 2.19** Ministry of Justice data show that 543 people were released from Welsh prisons without a fixed address to return to in 2018/19. The majority of those released from prison as homeless were at HMP Cardiff (327) followed by HMP Swansea (105); HMP Parc (85); HMP Berwyn (19); and HMP Prescoed (7).¹⁰
- 2.20** One in five (20%) of all prisoners released from HMP Cardiff in the year ending March 2019 had no fixed address to return to. Although the percentage of prisoners leaving HMP Cardiff homeless fell in 2018/19, the actual number of those released without a fixed address to return to increased 35% from 243 in 2017/18 to 327 in 2018/19.

¹⁰ Number of offenders released from prison with no fixed address by releasing establishment, 2017/18 - 2018/19, England and Wales. Ministry of Justice - FOI releases for May 2020.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902641/FOI_200413004_Prisoners_released_to_no_fixed_address_by_releasing_establishment_table ods

A value of less than 3 was recorded at HMP Usk.

2.21 On average, six people a week were released from HMP Cardiff without a fixed address to return to in 2018/19.

2.22 Separate official figures also reveal the levels of homelessness amongst those being managed by Welsh probation services following their release from prison. In 2018/19, 134 people were rough sleeping after being released from prison.¹¹ The Welsh Government’s own figures estimate that a total of 347 people were rough sleeping in Wales in 2018/19 (StatsWales, 2020a).

Figure 2.3

Type of accommodation on release from custody, by Community Rehabilitation Company Wales (CRC) and National Probation Service Wales (NPS), 2018/19

Type of accommodation	CRC	NPS	Total
Settled	1,474	894	2,368
Bail/ Probation accommodation	68	324	392
Rough Sleeping	73	61	134
Other homeless	426	262	688
Other unsettled	310	290	600
Unknown	285	933	1,218
Total	2,636	2,764	5,400

2.23 Less than half (44%) of those released from prison custody who were managed by Welsh probation services in 2018/19 went into settled accommodation. This compared to a level of 50% in England.¹²

¹¹ Table 9 and Table 10 – Community Performance Quarterly, update to March 2019 (Accommodation Circumstance Tables).
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869558/accommodation-201819-revised.ods

¹² Table 9 and Table 10 – Community Performance Quarterly, update to March 2019 (Accommodation Circumstance Tables).
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/869558/accommodation-201819-revised.ods

33,011 people supervised by probation services in England were in settled accommodation following release in 2018/19 out of a total of 66,256.

2.24 Despite growing concerns over prisoner homelessness in Wales, the number of households where former prisoners are found to be eligible for assistance under the new Welsh housing legislation has fallen in recent years. While the total number (all groups) of households found eligible for support has increased by 27% since 2016/17, households where a former prisoner is deemed vulnerable due to being held in custody and therefore eligible for assistance has fallen by 39% (StatsWales, 2020b).¹³

Figure 2.4

The number of prison releases in Wales by establishment, 2017 to 2019

Prison	2017	2018	2019
Berwyn	22	253	676
Cardiff	1,770	1,678	1,560
Parc	1,150	1,165	921
Prescoed	255	224	212
Swansea	1,114	976	845
Usk	29	38	59
Total	4,340	4,334	4,273

2.25 A total of 4,273 people were released from Welsh prisons in 2019.¹⁴

2.26 On average, 82 prisoners a week were released from Welsh prisons into the community in 2019.¹⁵

2.27 Prisoners who are serving a sentence of 12 months and over are released from prison, in most cases automatically at the half-way point of their sentence, under licensed supervision to the Probation Service. Released prisoners are subject to a set of standard

¹³ From 84 households in 2016/17 to 51 in 2018/19.

¹⁴ Table 3.3 - Offender Management Statistics quarterly: October to December 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805265/releases-q42018.ods

¹⁵ This figure is based on 260 working days in a year. If a prisoner has an automatic release date that falls on a weekend or Bank Holiday, they are released on the Friday before. The exception to this is prisoners serving very short sentences – of less than 5 days – where there is specific statutory provision for them to be released on a Saturday if their release date falls on a weekend. <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-02-02/222892/>

licence conditions that require them to report regularly to the Probation Service. Those who are released on licence are subject to recall to prison immediately if the probation service reports that an individual has breached the conditions of their licence.

- 2.28** On average, there were 2,186 supervised persons on licence in Wales in 2019.¹⁶
- 2.29** 458 Welsh people were in prison in 2019 having been recalled from licence. Recalled prisoners accounted for approximately one in ten (9.7%) of the Welsh prison population in 2019 (see Figure 5.8).
- 2.30** The recall population has increased in England and Wales in recent years as prisoners serve longer sentences and are therefore subjected to licence conditions for longer periods (Ministry of Justice, 2020d). The number of Welsh people in prison having been subject to recall has increased by 8.5% since 2017.¹⁷
- 2.31** In the year ending March 2020, six prisoners were released in error from Welsh prisons. There have been 31 prisoners released in error in Wales since 2010.¹⁸

IMPRISONMENT RATES

- 2.32** On average, there were 82,782 people in prison in England and Wales in 2019 (Ministry of Justice, 2020c).
- 2.33** In November 2018, The Institute for Criminal Policy Research published the twelfth edition of the *World Prison Population List*. First produced by the Home Office in 1999, the most recent report provides a breakdown of imprisonment rates for 223 prison systems worldwide using a calculation based on the number of people held in prison in national borders. Since it was first published in 1999, England and Wales has recorded

¹⁶ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

¹⁷ On average, there were 422 Welsh people in prison because of recall in 2017.

¹⁸ HMPPS Annual Digest: April 2019 to March 2020: Chapter 1 tables – Escapes, Absconds, Failure to return from ROTL, Releases in error.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904662/Ch-1-Escapes-etc.xlsx

HMP Berwyn (2); HMP Cardiff (1); HMP Parc (1); HMP Swansea (2)

the highest rate of imprisonment in Western Europe in half of the twelve *World Prison Population Lists*.

- 2.34** Taking all twelve published World Prison Population Lists, England and Wales has recorded the highest prison population rate in Western Europe since 1999.
- 2.35** With a combined population of 59,439,900, the England and Wales prison rate was 139 prisoners per 100,000 population in 2019.¹⁹
- 2.36** There were 78,035 people held in 112 English prisons in 2019. Based on the 'in-country' method used in the World Prison Population List, England's rate of imprisonment was 139 per 100,000 in 2019.
- 2.37** In June 2020, the Ministry of Justice (2020e) re-outlined its commitment to building 10,000 additional prison places in England. While this policy will undoubtedly result in an increase in England's 'in-country' prison population, the country's imprisonment rate will remain below that of Wales once HMP Berwyn reaches full operational capacity.
- 2.38** On average, 4,747 people were held in Welsh prisons in 2019. Based upon the number of prisoners held in the Welsh prison estate, Wales had an 'in-country' imprisonment rate of 151 prisoners per 100,000 in 2019.
- 2.39** The 'in country' rate of imprisonment in Wales is likely to continue rising as HMP Berwyn's population steadily increases. In December 2019, the 'in-country' rate of imprisonment in Wales had increased to 158 per 100,000 compared to a rate of 138 per 100,000 in England.²⁰

¹⁹ Population data for England and Wales were obtained from Office for National Statistics – mid-2019 population estimates.

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates#timeseries>

England: 56,287,000

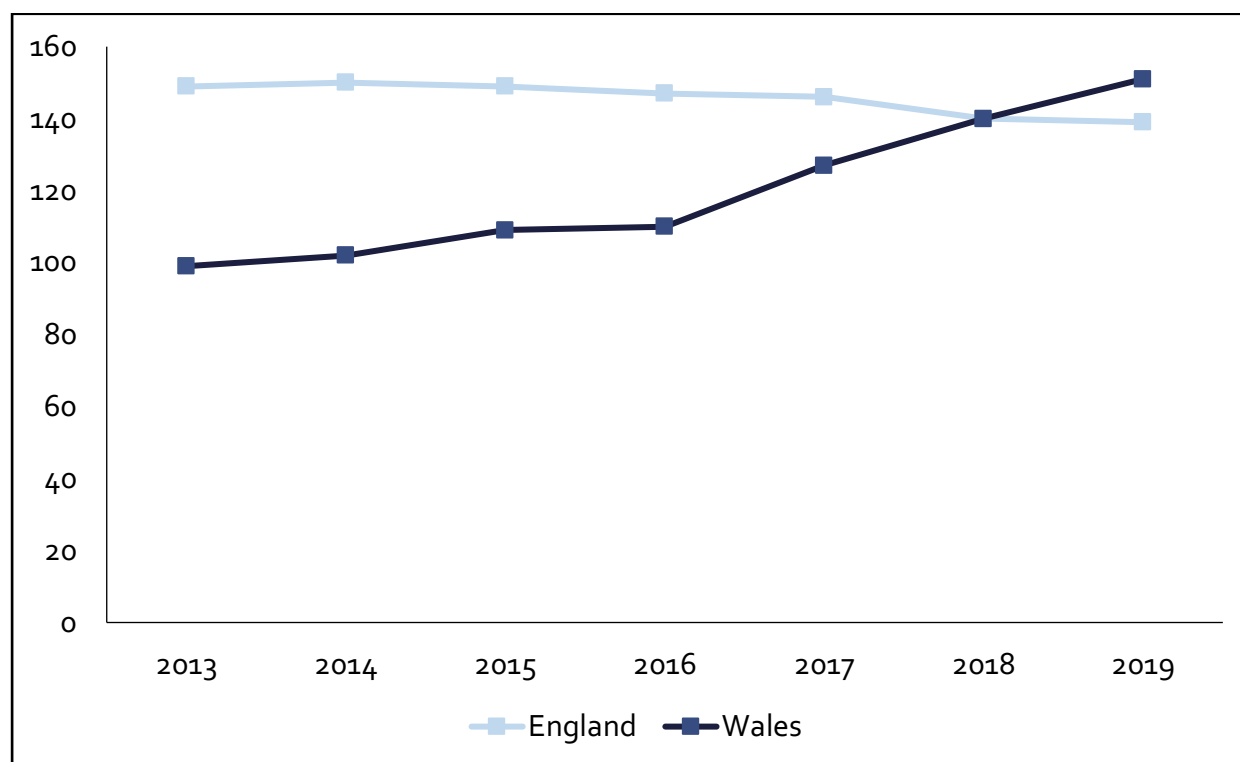
Wales: 3,152,900

²⁰ England: 77,791 (December 2019)

Wales: 4,980 (December 2019)

Figure 2.5

Prison population rates per 100,000 in England and Wales using 'in-country', 2013 to 2019



2.40 The Wales Governance Centre's *Sentencing and Immediate Custody in Wales (2019)* used disaggregated data to provide an alternative calculation of prison rates in England and Wales. According to the Ministry of Justice, there were a total of 81,293 people in prison with a home address in either England or Wales in 2019.²¹

2.41 'Home address' data shows that Wales has recorded a higher rate of imprisonment than England in each year since 2013 (see Figure 2.6).

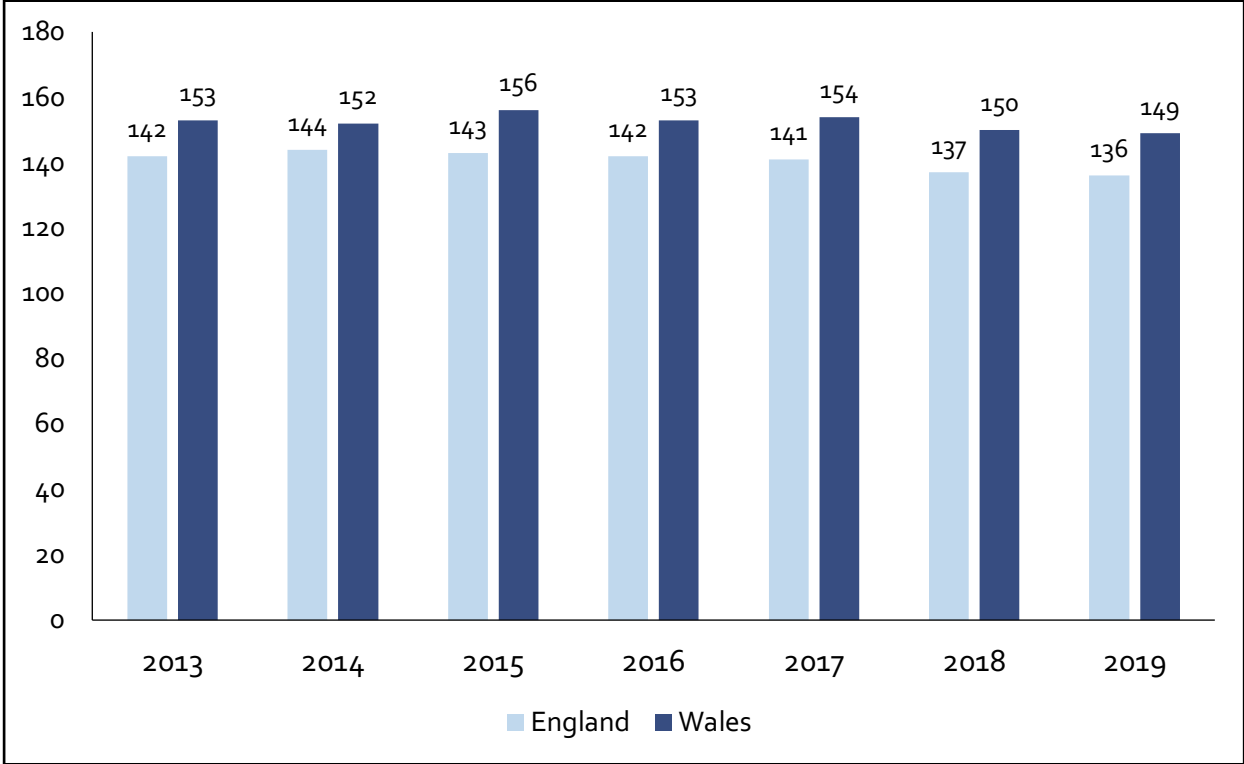
2.42 In 2019, there were 149 Welsh prisoners per 100,000 of the Welsh population. This compared to a rate of 136 English prisoners per 100,000 of the population of England.²²

²¹ Those excluded from the total number include individuals with a recorded home addresses outside of England and Wales or with no recorded home address.

²² English prisoners (based on home address): 76,591
Welsh prisoners (based on home address): 4,702

Figure 2.6

Prison population rates per 100,000 in England and Wales using home address, 2013 to 2019



2.43 This trend exists despite the fact that police recorded crime in Wales was lower than England in every year between 2013 and 2019. The average rate of offences per 1,000 people in Wales was 70 compared to 76 offences in England (Home Office, 2020).

2.44 The general Welsh population would need to increase by 300,000 to bring the Welsh imprisonment rate in line with England’s in 2019. Alternatively, the English prisoner total recorded in 2019 would need to rise by 7,250 (9.5%) to achieve an imprisonment rate equal to Wales.

2.45 1 in every 671 people from Wales were in prison in 2019. This figure compares to 1 in every 735 people from England.

3. PRISON SAFETY

- 3.1** HM Chief Inspector of Prison's Annual Report for 2018-19 raised concerns over the continuing deterioration of prison safety in England and Wales.²³ Of those prisons inspected during 2018-19, only 41% of HMI Prison's (2019c) previous recommendations on safety had been achieved, 10% partially achieved and 49% not achieved.
- 3.2** In the most recent round of adult prison inspections in Wales, HMI Prisons found that only 46% of its previous recommendations on safety in Welsh prisons had been achieved in full, 20% were partially achieved and 34% had not been achieved (see Figure 3.1).
- 3.3** After its previous inspection of the Young Persons' Unit at HMP Parc in 2018, HMI Prisons made eight recommendations on prison safety. During its most recent visit to the prison in November 2019 inspectors found that only two recommendations had been achieved in full, the remaining six recommendations were not achieved (HMI Prisons, 2020e).

Figure 3.1

HMI Prisons recommendations on prison safety achieved by Welsh prisons between 2017-2019

Prison	Achieved	Partially Achieved	Not Achieved	Total
Cardiff	12	3	4	19
Parc (adult)	6	0	1	7
Swansea	2	3	12	17
Usk/Prescoed	7	6	3	16
Total	27	12	20	59

- 3.4** HMI Prisons carried out an unannounced inspection of HMP Cardiff in July 2019. Inspectors found that 12 of its previous 19 recommendations on prison safety had been achieved and reported that prison safety had improved from 'Not Sufficiently Good' to 'Reasonably Good' on its 'healthy' prison test. Notwithstanding these improvements,

²³ Due to the outbreak of Covid-19, HM Chief Inspector of Prisons' annual report for 2019/20 will not be published until October.

inspectors highlighted concerns over increases in self-harm (see Figure 3.3) and the absence of any kind of strategy in place to reduce it. HMI Prisons (2019b) also noted that the prison had failed to embed previous recommendations made by the Prison and Probation Ombudsman into its working practices.

- 3.5** During an inspection of the adult unit at HMP Parc in November 2019, inspectors reported that the prison's safety performance had also improved from 'Not Sufficiently Good' to 'Reasonably Good'. HMI Prisons (2020c: 5) highlighted that HMP Parc had also managed to "buck the trend" in increasing violence across the prison estate. However, despite this conclusion inspectors also found that levels of violence remained "marginally higher" at HMP Parc than at similar prisons. Inspectors found that levels of self-harm had increased and that there had been six self-inflicted deaths since its last visit in 2016 (HMI Prisons, 2020c: 12).
- 3.6** HMI Prisons (2019a: 5) carried out its first unannounced inspection of HMP Berwyn in March 2019. Its report identified "impressive" support procedures in place for new arrivals but found that use of force was considerably higher than at similar prisons. Inspectors also raised concern over the prison's failure to analyse or investigate violent incidents with no robust strategy in place to "drive and monitor" plans to reduce violence and improve prison safety (HMI Prisons, 2019a: 11). One in four prisoners (23%) told HMI Prisons that they felt unsafe at HMP Berwyn.
- 3.7** At HMP Usk and Prescoed, HMI Prisons (2018b: 13) reported a "very low" level of recorded self-harm incidents and found that there had been no self-inflicted deaths since its last inspection in 2013. Inspectors did, however, highlight the need for improvements to the "strategic management" of suicide and self-harm prevention at the prison (HMI Prisons, 2018b: 23). This included setting recommendations to develop a more enhanced understanding of the different needs of prisoners held at HMP Usk and HMP Prescoed given the diverse population at each prison.
- 3.8** During an unannounced inspection at HMP Swansea in August 2017, HMI Prisons found that there had been four self-inflicted deaths at the prison since its previous visit in October 2014. Inspectors reported that each of these deaths had "occurred within the

first seven days” of prisoners arriving at HMP Swansea (HMI Prisons, 2018a: 21). Despite being given a number of “highly relevant” recommendations by the Prison and Probation Ombudsman, HMI Prisons (2018a: 5) found that prison staff had failed to implement them. This included recommendations relating directly to “early days procedures” for new prisoners arriving at HMP Swansea (HMI Prisons, 2018a: 11).

DEATHS AND SELF-HARM

- 3.9** Analysis carried out by INQUEST (2020) into files on 61 inquests into deaths in prison custody uncovered a range of failings that have contributed to both self-inflicted and non-self-inflicted deaths since 2013. These include “inconsistent and insufficient” mental health services; poor communication and information sharing between health officials and prison staff; poor emergency care including delays in calling for emergency services; problems relating to prescription and illicit drugs including delays in accessing medication; and “wide-ranging failures” in providing basic medical care to prisoner suffering from physical and mental health problems (INQUEST, 2020: 7-8).
- 3.10** There have been 801 self-inflicted deaths recorded in prisons in England and Wales over the last decade.²⁴ The self-inflicted death rate per 1,000 prisoners has increased from 0.68 in 2010 to 1.01 in 2019.²⁵
- 3.11** HM Chief Inspector’s Annual Report for 2018-19 reported further increases in the number of self-inflicted deaths as well as a “disturbingly high” level of self-harm in England and Wales (HMI Prisons, 2019c: 7).

²⁴ Safety in custody: quarterly update to December 2019. Table 5: Deaths in prison custody by apparent cause by quarter, England and Wales
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905014/Safety-in-custody-summary-q1-2020-final-tables.xlsx

²⁵ Safety in custody: quarterly update to December 2019. Table 1.1 Deaths in prison custody and rates by apparent cause by calendar year since 1978,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861738/deaths-prison-custody-1978-2019.xlsx

- 3.12** Although the number of self-inflicted deaths recorded in prisons in England fell by 12% in 2019, self-inflicted deaths rose in Wales in 2019.²⁶
- 3.13** There were five self-inflicted deaths recorded at Welsh prisons in 2019. Two deaths were recorded at HMP Parc (2) while one death was recorded at HMP Cardiff (1); HMP Swansea (1); and HMP Usk (1).
- 3.14** On average, there was one self-inflicted death recorded every 73 days in the Welsh prison estate in 2019.
- 3.15** There have been 31 self-inflicted deaths in Welsh prisons since 2010. The recorded figures show that, on average, a prisoner in Wales takes their own life every four months.
- 3.16** A report published by the House of Commons Health and Social Care Committee (2018: 14) in 2018 identified 'natural cause' deaths as the "leading cause of mortality" in prisons in England and Wales.²⁷
- 3.17** The Prison and Probation Ombudsman (2017) has determined that a large number of 'natural cause' deaths can be explained by inadequate prison healthcare as well as an increase in the older prisoner population. Evidence submitted by South Wales against Wrongful Conviction to the Welsh Parliament's Health, Social Care and Sport Committee's inquiry into prison healthcare in Wales described the poor treatment of elderly prisoners as a "national scandal" that, in some cases, amounts to "inhumane and degrading treatment" (South Wales against Wrongful Conviction, 2019: 5).
- 3.18** The average age of prisoners who die from natural causes in England and Wales is 56 (Prison and Probation Ombudsman, 2012). At HMP Usk, where 41% of the prison

²⁶ Safety in custody: quarterly update to December 2019. Table 1.16: Apparent self-inflicted deaths by prison since 1978, England and Wales
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861738/death-s-prison-custody-1978-2019.xlsx

England: from 90 in 2018 to 79 in 2019.

One death was recorded at HMP Parc and HMP Swansea in 2018.

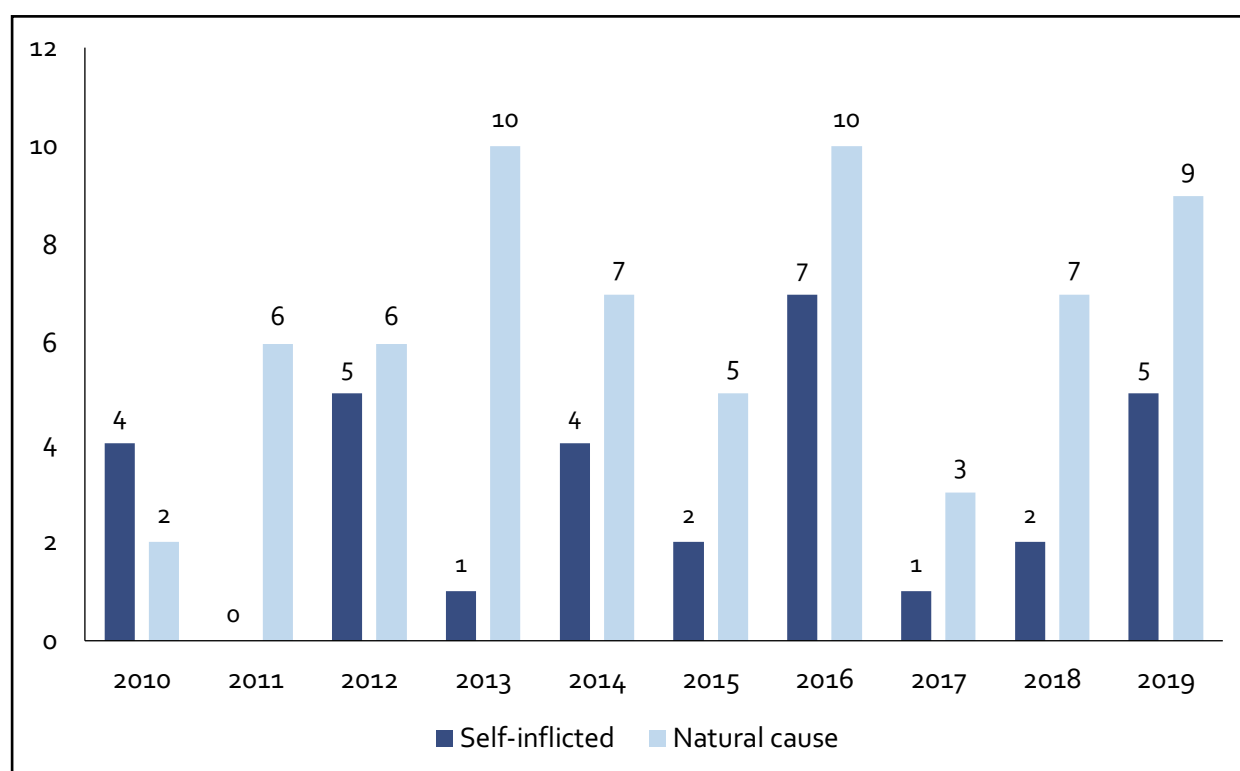
²⁷ The Welsh Parliament's Health, Social Care and Sport Committee launched its own inquiry into prison healthcare in Wales in February 2019. <http://senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=24408>

population were aged 50 or above at the end of December 2019, there have been eight natural cause deaths since 2013.²⁸

3.19 1,515 prisoners have died due to natural causes in England and Wales over the last decade. The rate of natural deaths per 1,000 prisoners increased from 1.49 in 2010 to 1.99 in 2019.²⁹

3.20 In Wales, the number of 'natural cause' deaths increased from two to nine between 2010 and 2019.³⁰

Figure 3.2
The number of self-inflicted and 'natural cause' deaths recorded at prisons in Wales, 2010 to 2019



²⁸ There were 110 prisoners aged 50 or above at HMP Usk at the end of December 2019.

²⁹ Safety in custody: quarterly update to December 2019. Table 5: Deaths in prison custody by apparent cause by quarter, England and Wales.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905014/Safety-in-custody-summary-q1-2020-final-tables.xlsx

³⁰ Safety in custody: quarterly update to December 2019. Table 1.17 – Natural cause deaths by establishment since 1978, England and Wales.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861738/deaths-prison-custody-1978-2019.xlsx

- 3.21** The number of prisoners who died by 'natural causes' in England and Wales was 33% higher in 2019 than the level recorded in 2010.³¹
- 3.22** All deaths in custody in Wales are subject to a clinical review by Health Inspectorate Wales. This review is completed on behalf of the Prisons and Probation Ombudsman as part of their investigations into deaths in Welsh prisons.
- 3.23** Two deaths recorded in the Welsh prison estate in 2019 are yet to be classified.
- 3.24** Across England and Wales there has been a 136% rise in self-harm incidents since 2010.³²
- 3.25** The Wales Governance Centre's *Imprisonment in Wales* reported that self-harm incidents had reached record levels in Welsh prisons in 2017. Our follow up report in 2019 revealed that another record level was reached in 2018 (Jones, 2019). The most recent figures show that the number of self-harm incidents in Wales (excluding HMP Berwyn) fell by 2% in 2019. In England, self-harm incidents increased by 15% in 2019.³³
- 3.26** Self-harm incidents fell at HMP Parc (24%), HMP Swansea (8%) and at HMP Usk/Prescoed (51%) in 2019.
- 3.27** The number of self-harm incidents recorded at HMP Cardiff increased by 81% in 2019.

³¹ Safety in custody: quarterly update to December 2019. Table 5: Deaths in prison custody by apparent cause by quarter, England and Wales

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905014/Safety-in-custody-summary-q1-2020-final-tables.xlsm

From 126 'natural cause' deaths in 2010 to 167 in 2019.

³² Safety in custody: quarterly update to December 2019. Table 9a - Self-harm incidents^{1,2} by month, year and prison, 2004 - December 2019, England and Wales

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893372/safety-in-custody-summary-q4-2019-tables.xlsm

From 26,979 self-harm incidents in 2010 to 63,622 in 2019.

³³ From 2,482 in 2018 to 2,439 in 2019.

Figure 3.3

Self-harm incidents in Welsh prisons between 2013 and 2019

Prison	2013	2014	2015	2016	2017	2018	2019
Berwyn	-	-	-	-	231	551	1,015
Cardiff	43	41	116	201	243	459	829
Parc ³⁴	440	534	890	1,452	1,576	1,517	1,159
Swansea	34	42	92	149	300	467	432
Usk/Prescoed	0	0	0	29	13	39	19
Total	517	617	1,098	1,831	2,363	3,033	3,454

3.28 At HMP Berwyn, self-harm incidents in 2019 rose by 84% at a time when the prison’s population increased by just 18%.³⁵

3.29 The rate of self-harm in 2019 was highest at HMP Cardiff with 116 incidents per 100 prisoners. The second highest level was recorded at HMP Swansea (104 per 100) followed by HMP Parc (71 per 100), HMP Berwyn (71 per 100) and HMP Usk and Prescoed (4 per 100).³⁶

ASSAULTS

3.30 A report recently published by the European Committee for the Prevention of Torture (2020: 5) warned that prison violence in England and Wales was “spiralling out of control”. In 2018/19, HMI Prisons (2019c) found that violence had increased in more than half of the prisons visited by inspectors.

³⁴ All data relating to ‘Safety Statistics in Custody’ at HMP Parc include incidents within the adult facility and the Young Persons’ Unit. The Ministry of Justice has confirmed that they do not currently have a mechanism for “separating incidents involving under-18s from those involving adults” at the prison.

³⁵ The population at HMP Berwyn increased from 1,223 in 2018 to 1,448 in 2019.

³⁶ Rates are calculated using average prison populations in the year ending December 2019.

HMP Berwyn: 1,448; HMP Cardiff: 717; HMP Parc: 1,642; HMP Swansea: 417; HMP Usk/Prescoed: 523

- 3.31** The total number of prisoner-on-prisoner assaults in England and Wales fell by 5% in 2019.³⁷
- 3.32** In Wales (excluding HMP Berwyn), prisoner-on-prisoner assaults fell by 9% from 916 in 2018 to 838 in 2019.³⁸
- 3.33** At HMP Berwyn, where the population increased by 18%, the number of prisoner-on-prison assaults rose by 143% in 2019.³⁹
- 3.34** The rate of prisoner-on-prisoner assaults was highest at HMP Berwyn in 2019 with 39 incidents per 100 prisoners. The second highest level was recorded at HMP Parc (35 per 100) followed by HMP Cardiff (24 per 100), HMP Swansea (20 per 100) and HMP Usk and Prescoed (3 per 100).⁴⁰
- 3.35** The total number of assaults on prison staff in England and Wales decreased by 2% in 2019.⁴¹
- 3.36** In Wales, assaults on prison staff (excluding HMP Berwyn) declined by 30% in 2019.⁴²
- 3.37** Despite this fall, the number of assaults recorded on prison staff in Wales (excluding HMP Berwyn) was 233% higher in 2019 than the level recorded in 2010.⁴³

³⁷ England and Wales: From 24,441 in 2018 to 23,217 in 2019

³⁸ Safety in custody: quarterly update to December 2019. Table 8c: Prisoner-on-prisoner assaults, by establishment, 2003 - March 2020, England and Wales
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893372/safety-in-custody-summary-q4-2019-tables.xlsm

³⁹ From 231 in 2018 to 561 in 2019.

⁴⁰ Rates are calculated using average prison populations in the year ending December 2019. HMP Berwyn: 1,448; HMP Cardiff: 717; HMP Parc: 1,642; HMP Swansea: 417; HMP Usk/Prescoed: 523.

⁴¹ From 10,203 in 2018 to 10,033 in 2019.

⁴² Table 8.e – Safety Statistics Summary tables to December 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893372/safety-in-custody-summary-q4-2019-tables.xlsm

From 342 in 2018 to 240 in 2019.

⁴³ From 72 in 2010 to 240 in 2019.

- 3.38** The number of assaults on staff at HMP Berwyn increased by 25% in 2019. There were more assaults on prison staff recorded at HMP Berwyn (257) in 2019 than at the other Welsh prisons combined (240).⁴⁴
- 3.39** The rate of recorded assaults on staff in Wales was highest at HMP Berwyn (18 incidents per 100 prisoners) in 2019. This is followed by HMP Cardiff (10 per 100), HMP Parc (8 per 100) and HMP Swansea (6 per 100).⁴⁵
- 3.40** There were no assaults on prison staff recorded at HMP Usk/ Prescoed in 2019.
- 3.41** Although the Ministry of Justice's *Safety in Custody* statistics include information on the number of assaults on prison staff, these data do not provide details of the number of assaults that have been reportedly committed by prison staff. Despite well documented accounts and testimonies of staff violence against prisoners (e.g. Davis, 2003; Scraton and McCulloch, 2009; Woolf, 1991), Scott (2020) has argued that there remains a "crisis of visibility" when it comes to prison officer violence in England and Wales.
- 3.42** The European Committee for the Prevention of Torture's (2020: 6) inquiry into inhumane or degrading treatment in the prison estate uncovered evidence of "unjustified violence" by prison staff towards prisoners in England and Wales. The Committee (2020: 6) found that the problem is compounded by the fact that the necessary accountability procedures are "underdeveloped" including reporting systems and oversight structures that can help to monitor and tackle prison officer violence.
- 3.43** Data obtained from the Ministry of Justice through the Freedom of Information Act 2000 show that there were a total of 5 cases where prison staff at HMP Berwyn were subject to either Investigations or Conduct and Discipline for charge of "Assault/Unnecessary use of force" on a prisoner in 2018/19. There was at least one case recorded at HMP Cardiff in 2018/19.

⁴⁴ From 206 in 2018 to 257 in 2019.

⁴⁵ Rates are calculated using average prison populations in the year ending December 2019. HMP Berwyn: 1,448; HMP Cardiff: 717; HMP Parc: 1,642; HMP Swansea: 417; HMP Usk/Prescoed: 523.

Figure 3.4

Number of assaults on prisoners by prison staff who were subject to either Investigations or Conduct and Discipline for charge of “Assault/Unnecessary use of force on a prisoner” in Welsh prisons, 2018/19⁴⁶

Prison	Further action or progressed to Conduct and Discipline action	No Further Action	Total
Berwyn	~	~	5
Cardiff	~	0	~
Swansea	0	0	0
Usk/Prescoed	0	0	0
Total			

3.44 In 2019/20, the Prison and Probation Ombudsman received 16 complaints from prisoners about staff behaviour in Wales. The majority were made by prisoners held at HMP Berwyn (9) followed by HMP Parc (4), HMP Cardiff (1), HMP Swansea (1), and HMP Usk/Presoced (1).⁴⁷

3.45 A total of 162 complaints were received by the Prison and Probation Ombudsman from prisoners held in Wales in 2019/20. Despite holding only 32% of the prison population in Wales, almost half (49%) of all complaints were received from prisoners held at HMP Berwyn and one in three (35%) were submitted by prisoners held at HMP/YOI Parc.

3.46 HM Prison and Probation Service’s most recent *Annual Digest* presents information on the number of disturbances recorded within prisons across England and Wales. In 2019/20, there were 265 incidents of concerted indiscipline⁴⁸ at prisons in England and Wales. 161 were classified by the Ministry of Justice as being ‘active’ disturbances.⁴⁹

⁴⁶ ~ denotes suppressed values of 1 or 2. In some cases, secondary suppression is carried out which would allow values of 1 or 2 to be derived by subtraction. Low numbers are suppressed to prevent disclosure in accordance with the Data Protection Act, 1998.

⁴⁷ Data were obtained from the Prison and Probation Ombudsman via the Freedom of Information Act 2000.

⁴⁸ Disturbances or ‘acts of concerted indiscipline’ are defined by the Ministry of Justice as incidents “involving two or more prisoners acting against the requirements of the regime of the establishment, or presents a wider threat to the good order or discipline of the establishment”.

⁴⁹ HMPPS Annual Digest: April 2019 to March 2020: Chapter 8 Tables – Protesting Behaviour: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904129/Ch-8-Protesting-behaviour.xlsx

- 3.47** While the number of incidents of concerted indiscipline in England fell by 25% in 2019/20, prison disturbances in Welsh prisons increased by 26% in 2019/20.⁵⁰ This rise is largely accounted for by an increase at HMP Berwyn where the number almost doubled in 2019/20.⁵¹
- 3.48** 13 incidents of concerted indiscipline were recorded at HMP Berwyn in the year ending March 2020. Nine incidents took place at HMP Parc while a single incident was recorded at HMP Cardiff and HMP Swansea.
- 3.49** The number of 'active' disturbances recorded at Welsh prisons increased from 13 to 15 between 2018/19 and 2019/20.⁵²
- 3.50** Seven 'active' incidents of concerted indiscipline were recorded at HMP Berwyn and HMP Parc with one incident recorded at HMP Swansea in 2019/20.
- 3.51** There were no incidents of concerted indiscipline recorded at HMP Usk and Prescoed in 2019/20.
- 3.52** Separately recorded data reveal that there were five hostage incidents recorded at Welsh prisons in the year ending March 2020. This represents a decline of 64% on the previous year.⁵³
- 3.53** In 2018/19, 14 hostage incidents were recorded at Welsh prisons, 11 of which took place at HMP Berwyn. The prison in Wrexham recorded the highest number of hostage incidents in England and Wales in the year ending March 2019.

Immigration Removal Centres have been removed from this total.

⁵⁰ England: From 351 in 2018/19 to 265 in 2019/20.

Wales: From 19 in 2018/19 to 24 in 2019/20.

⁵¹ From 7 incidents at HMP Berwyn in 2018/19 to 13 in 2019/20.

⁵² According to HMPPS "The act of concerted indiscipline can be active or passive (i.e. involving aggression and violence or not) and the protagonists do not necessarily need to be acting in a common cause".

⁵³ HMPPS Annual Digest: April 2019 to March 2020: Chapter 8 Tables – Protesting Behaviour:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904129/Ch-8-Protesting-behaviour.xlsx

From 14 in 2018/19 to 5 in 2019/20.

FINDS IN PRISON

- 3.54** The Ministry of Justice's (2016) *Prison Reform* White Paper outlined the government's commitment to reducing the supply and demand of illicit items across the prison estate. Its plans included a pledge to improve searches to reduce the flow of contraband into prisons as well as modify its framework for testing new psychoactive substances. In 2018, the Ministry of Justice announced that specialist search teams would be deployed across the prison estate to carry out body, property and cell searches (HMPPS, 2020b).
- 3.55** In April 2019, HM Prison and Probation Service (2019: 3) published its *National Prison Drug Strategy* as it stepped up its efforts to combat what it described as "one of the biggest challenges" facing the criminal justice system in England and Wales. This included a commitment to providing additional investment, extra staff, and security equipment such as body scanners at 10 prisons in England facing "significant challenges" with drug use (HMPPS, 2019: 6).⁵⁴
- 3.56** In January 2020, the Ministry of Justice (2020f) announced that more prisons across England and Wales would be fitted with body scanning devices to help reduce the number of weapons and drugs entering the prison estate. Following an inspection of HMP Cardiff in July 2019, HMI Prisons (2019b: 15) concluded that the absence of body scanners "undermined" the efforts being made to reduce the supply of drugs within the prison. HMP Cardiff was one of 16 local prisons included as part of the Ministry of Justice expansion of the body scanning programme in early 2020.
- 3.57** In his most recent annual report,⁵⁵ the Chief Inspector of Prisons identified a "clear link" between rising prison violence and an increase in the use of illicit substances in England and Wales (HMI Prisons, 2019c:11).

⁵⁴ HMP Hull; HMP Humber; HMP Isis; HMP Isle of Wight; HMP Leeds; HMP Lindholme; HMP Moorland; HMP Nottingham; HMP Ranby; HMP Wealstun; HMP Wormwood Scrubs.

⁵⁵ Due to the outbreak of Covid-19, HM Chief Inspector of Prisons' annual report for 2019/20 will not be published until October.

- 3.58** The number of drug finds in prison increased by 65% in England and Wales between 2018 and 2020.⁵⁶
- 3.59** While the number of prisoners held in Wales (excluding HMP Berwyn) has decreased by 3% since 2018,⁵⁷ there was a 94% increase in the number of drug finds in Welsh prisons (excluding HMP Berwyn) during this period.⁵⁸
- 3.60** There were a record 1,270 drug finds in Welsh prisons (excluding HMP Berwyn) in the year ending March 2020. The number of drug finds in Wales (excluding HMP Berwyn) increased by 21% in 2020.⁵⁹
- 3.61** The number of drug finds at HMP Berwyn increased by 92% in the year ending March 2020. The prison's population increased by 31% during this period.⁶⁰

Figure 3.5

Incidents where drugs were found in Welsh prisons, years ending March 2018 to 2020

Prison	2018	2019	2020
Berwyn	46	168	323
Cardiff	151	360	434
Parc	383	475	560
Prescoed	11	19	19
Swansea	110	194	253
Usk	1	4	4
Total	702	1,220	1,593

⁵⁶ HMPPS Annual Digest: April 2019 to March 2020: Chapter 9 Tables – Finds in Prison:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904129/Ch-8-Protesting-behaviour.xlsx

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904137/Ch-9-Finds.xlsx

From 13,118 in the year ending March 2018 to 21,575 in the year ending March 2020.

⁵⁷ From an average population of 3,408 in the year ending March 2018 to 3,318 in the year ending March 2020.

⁵⁸ From 656 in 2018 to 1,270 in the year ending March 2020. HMP Berwyn is excluded here to account for the fact that its population has steadily increased during this period.

⁵⁹ From 1,052 in the year ending March 2019 to 1,270 in the year ending March 2020.

⁶⁰ HMP Berwyn's population increased from an average of 1,210 prisoners in the year ending March 2019 to 1,582 in the year ending March 2020.

- 3.62** In the year ending March 2020, HMP Cardiff (60) had the highest number of drug finds in Wales per 100 prisoners. HMP Swansea (59 per 100) recorded the second highest rate followed by HMP Parc (34 per 100), HMP Berwyn (20 per 100) and HMP Usk/Prescoed (4 per 100).⁶¹
- 3.63** In the most recent round of prison inspections in Wales, one in five prisoners surveyed by HMI Prisons at HMP Parc (21%), HMP Cardiff (20%), HMP Swansea (19%) and HMP Berwyn (19%) told inspectors that they had developed a drug problem while being held at the prison (HMI Prisons, 2018a; 2019a; 2019b; 2020c).
- 3.64** Mandatory drug testing (MDT) is conducted on a random sample of either 5% or 10% of a prison's population each month. The 5% rate is for populations of more than 400 prisoners and the 10% rate for populations of less than 400 prisoners.
- 3.65** 12% of mandatory drug tests for 'traditional' drugs were recorded as positive in Welsh prisons in the year ending March 2020. There were 385 positive mandatory drug tests carried out for 'traditional' drugs in Wales in 2020.⁶²
- 3.66** The highest number of positive tests were recorded at HMP Berwyn (130) followed by HMP Parc (126), HMP Swansea (76), HMP Cardiff (39), HMP Prescoed (12), and HMP Usk (2).⁶³
- 3.67** The most common substance detected through mandatory drug testing in Welsh prisons in the year ending March 2020 was cannabis. Over a third (35%) of positive samples recorded last year were for cannabis.⁶⁴
- 3.68** Almost one in five (19%) of all mandatory tests for 'traditional' drugs at HMP Swansea were recorded as positive in the year ending March 2020.

⁶¹ All rates are calculated using average prison populations year ending March 2020.

HMP Berwyn: 1,582; HMP Cardiff: 720; HMP Parc: 1,652; HMP Swansea: 426; HMP Usk/Prescoed: 520.

⁶² 3,312 tests for 'traditional' drugs were administered in Welsh prisons in the year ending March 2020.

⁶³ HMPPS Annual Digest: April 2019 to March 2020: Chapter 7 Tables – Random mandatory drug testing.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904136/Ch-7-RMDTL.xlsx

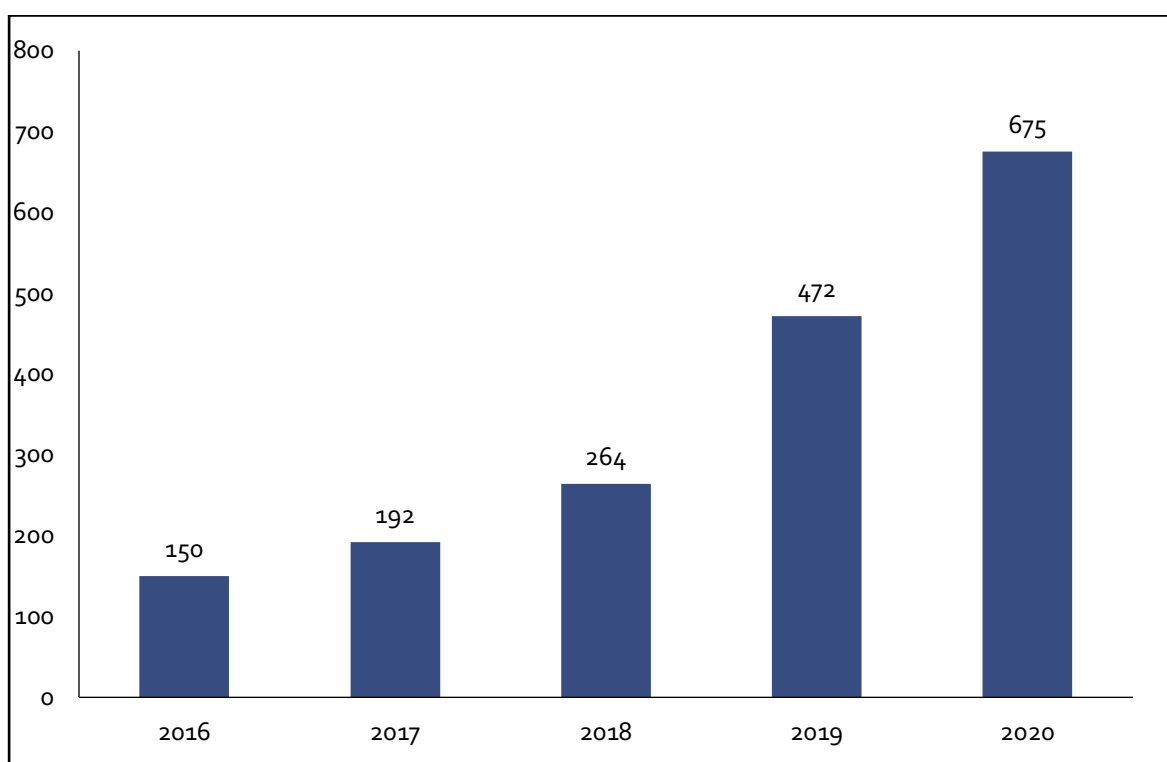
⁶⁴ There were 174 positive samples for cannabis in Welsh prisons in 2019/20.

3.69 A thematic review of substance misuse undertaken by HMI Prisons in 2015 identified new psychoactive substances (NPS) as “the most serious threat” to the “safety and security” of the prison system in England and Wales (HMI Prisons, 2015: 7). Inspectors revealed that NPS, specifically synthetic cannabis (cf. ‘Mamba’ or ‘Spice’), were responsible for a wide range of problems across the prison estate including bullying, violence, debt, medical emergencies and deaths.

3.70 The Welsh Parliament’s Health and Social Care Committee carried out its own inquiry into NPS in Wales in 2014. Amongst its many findings and recommendations, the Committee highlighted the widespread use of NPS amongst prisoners in Wales. Although the use of NPS in Welsh prisons was, at that time, “less prevalent” than in England, HMI Prisons told the committee that the problem was most certainly “on its way” to Wales (Welsh Parliament’s Health and Social Care Committee, 2015: 25).

Figure 3.6

Incidents where psychoactive substances were found in Welsh prisons, years ending March 2016 to 2020



- 3.71** The number of NPS finds in Welsh prisons (excluding HMP Berwyn) has increased by 289% since 2016 (the first year that data were made available).⁶⁵
- 3.72** Testing for NPS was rolled out across the prison estate in England and Wales in October 2016 and the range of NPS tested for was expanded in June 2017. The list of NPS that are tested in Random Mandatory Drug Tests is updated to reflect new compounds prevalent in prisons. The latest addition was of two new compounds in November 2019, reported in data for December 2019 onwards.⁶⁶
- 3.73** There were 74 positive mandatory drug tests for NPS in Welsh prisons in 2020. The highest number of positive tests were recorded at HMP Parc (35) followed by HMP Berwyn (17), HMP Swansea (15) and HMP Cardiff (7).⁶⁷

Figure 3.7

Incidents where new psychoactive substances were found in Welsh prisons, years ending March 2016 to 2020

Prison	2016	2017	2018	2019	2020
Berwyn	0	0	13	52	91
Cardiff	35	43	74	150	192
Parc	108	128	137	236	310
Prescoed	0	2	0	2	1
Swansea	6	18	40	31	81
Usk	1	1	0	1	0
Total	150	192	264	472	675

⁶⁵ HMPPS Annual Digest: April 2019 to March 2020: Chapter 9 Tables – Finds in Prison:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904129/Ch-8-Protesting-behaviour.xlsx

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904137/Ch-9-Finds.xlsx

From 150 in the year ending March 2016 to 584 in the year ending March 2020.

⁶⁶ HMPPS Annual Digest: April 2019 to March 2020: Chapter 7 Tables – Random mandatory drug testing.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904136/Ch-7-RMDTL.xlsx

⁶⁷ HMPPS Annual Digest: April 2019 to March 2020: Chapter 7 Tables – Random mandatory drug testing.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904136/Ch-7-RMDTL.xlsx

- 3.74** In the year ending March 2020, HMP Cardiff (27) had the highest number of NPS finds in Wales per 100 prisoners. HMP Berwyn (20 per 100) recorded the second highest rate followed by HMP Parc (19 per 100), and HMP Swansea (19 per 100).⁶⁸
- 3.75** As well as problems with drugs, the most recent round of prison inspections in Wales identified that a large number of prisoners were suffering from alcohol dependency prior to arriving at prisons in Wales. At HMP Swansea, almost a third (32%) of prisoners said that they had problems with alcohol on arrival (HMI Prisons, 2018a). At HMP Cardiff, inspectors found that 350 prisoners had required alcohol detoxification in the six months prior to their inspection (HMI Prisons, 2019b).
- 3.76** The number of alcohol finds in Welsh prisons (excluding HMP Berwyn) increased by 57% in the year ending March 2020.⁶⁹
- 3.77** Alcohol finds at HMP Berwyn rose by 225% at a time when its population increased by 31%.⁷⁰
- 3.78** HMP Berwyn (26 per 100 prisoners) recorded the highest rate of alcohol finds in Wales in the year ending March 2020. The second highest rate was at HMP Parc (16 per 100) followed by HMP Swansea (5 per 100), HMP Cardiff (4) and HMP Usk/Prescoed (2).⁷¹

⁶⁸ All rates are calculated using average prison populations year ending March 2020. HMP Berwyn: 1,582; HMP Cardiff: 720; HMP Parc: 1,652; HMP Swansea: 426; HMP Usk/Prescoed: 520.

⁶⁹ HMPPS Annual Digest: April 2019 to March 2020: Chapter 9 Tables – Finds in Prison: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904129/Ch-8-Protesting-behaviour.xlsx
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904137/Ch-9-Finds.xlsx

From 204 finds in 2019 to 320 in the year ending March 2020.

⁷⁰ HMP Berwyn's population increased from an average of 1,210 prisoners in the year ending March 2019 to 1,582 in the year ending March 2020.

From 127 finds in 2019 to 413 in the year ending March 2020.

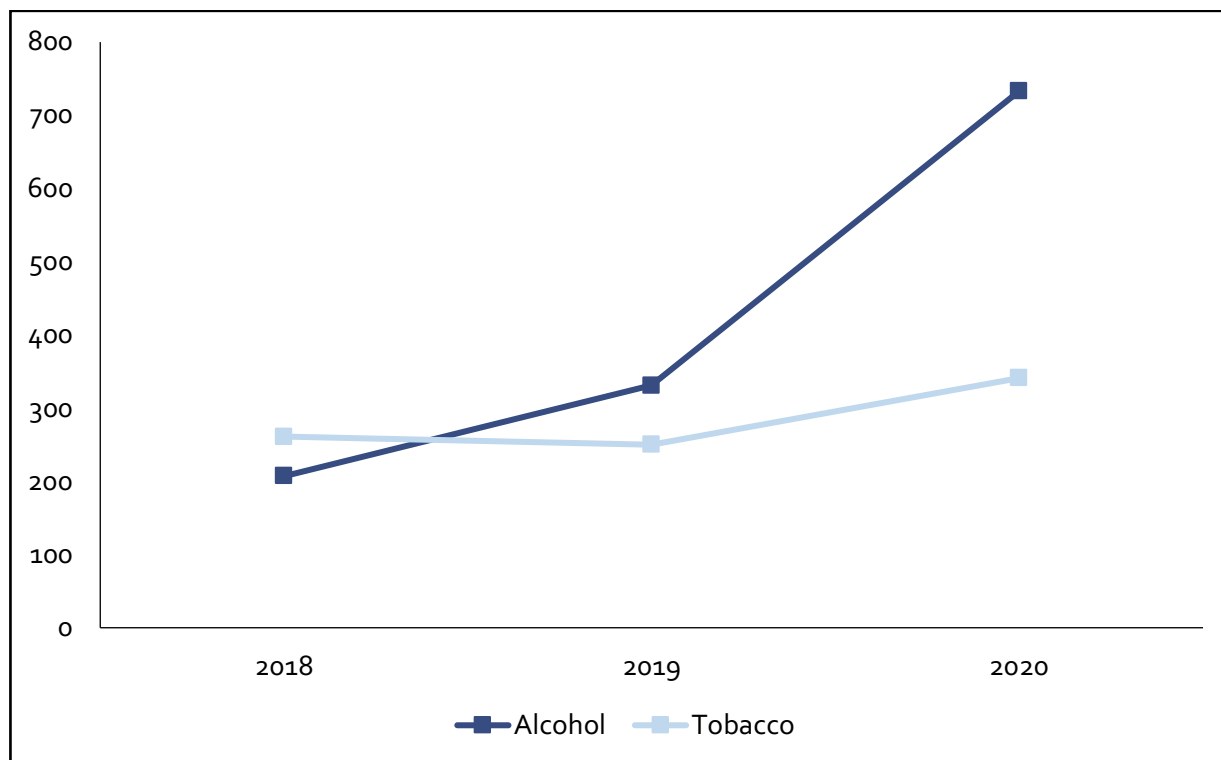
The population increase at Berwyn differs when the period being measured is adjusted (e.g. year ending December 2019 or March 2020)

⁷¹ All rates are calculated using average prison populations year ending March 2020.

HMP Berwyn: 1,582; HMP Cardiff: 720; HMP Parc: 1,652; HMP Swansea: 426; HMP Usk/Prescoed: 520.

Figure 3.8

Incidents where alcohol and tobacco were found in Welsh prisons, years ending March 2018 to 2020



3.79 In 2015, the UK Government announced that all closed prisons in England and Wales would become smoke free. This process was finally completed in July 2018.

3.80 All Welsh prisons have been smoke free since 2016. The Welsh Government's *Tobacco Control Delivery Plan* in 2017 reiterated its commitment to help Welsh prisoners remain smoke free upon their release from prison into the community (Welsh Government, 2017).

3.81 The number of tobacco finds in Welsh prisons (excluding HMP Berwyn) increased by 18% in the year ending March 2020.⁷²

⁷² HMPPS Annual Digest: April 2019 to March 2020: Chapter 9 Tables – Finds in Prison: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904137/Ch-9-Finds.xlsx
From 198 in the year ending March 2019 to 234 in the year ending March 2020.

- 3.82** At HMP Berwyn, the number of tobacco finds more than doubled from 52 to 107 in the year ending March 2020.
- 3.83** HMP Swansea (20 per 100 prisoners) recorded the highest rate of tobacco finds in Wales in the year ending March 2019. The second highest rate was at HMP Cardiff (16 per 100) followed by HMP Berwyn (7 per 100), HMP Parc (2 per 100) and the combined rate for HMP Usk/Prescoed.⁷³
- 3.84** In addition to illicit substances, the Ministry of Justice and HMPPS have pledged to reduce the number of weapons entering prisons in England and Wales. As well as enhanced searches and the introduction of scanning equipment, the Serious Crime Act 2015 included provisions to make it an offence to have a knife or weapon in prison (House of Commons Justice Committee, 2016).

Figure 3.9

Incidents where weapons were found in Welsh prisons, years ending March 2018 to 2020

Prison	2018	2019	2020
Berwyn	25	116	280
Cardiff	7	31	45
Parc	110	171	212
Prescoed	3	1	7
Swansea	20	12	26
Usk	4	4	2
Total	169	335	572

- 3.85** The number of weapons discovered in Welsh prisons further increased in 2019/20. In the year ending March 2020, there was a 33% rise in the number of weapons found across the Welsh prison estate (excluding HMP Berwyn).⁷⁴

⁷³ All rates are calculated using average prison populations year ending March 2020. HMP Berwyn: 1,582; HMP Cardiff: 720; HMP Parc: 1,652; HMP Swansea: 426; HMP Usk/Prescoed: 520.

⁷⁴ HMPPS Annual Digest: April 2019 to March 2020: Chapter 9 Tables – Finds in Prison: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904137/Ch-9-Finds.xlsx

- 3.86** Weapon finds increased by 141% at HMP Berwyn in the year ending March 2020. On average, there were five weapon discoveries a week at HMP Berwyn last year.⁷⁵
- 3.87** HMP Berwyn (18) had the highest number of weapon finds in Wales per 100 prisoners in the year ending March 2020. HMP Parc (12 per 100) recorded the second highest rate followed by HMP Cardiff (6 per 100), HMP Swansea (6 per 100) and the combined rate for HMP Usk/Prescoed (2 per 100).⁷⁶
- 3.88** Despite a rise in the number of weapons found at prisons in Wales since 2017/18, the most recent round of inspections carried out by HMI Prisons in Wales made no mention of the scale of the problem in the Welsh prison estate.

From 219 in 2019 to 292 in 2020.

⁷⁵ From 171 in 2019 to 212 in 2020.

⁷⁶ All rates are calculated using average prison populations year ending March 2020.

HMP Berwyn: 1,582; HMP Cardiff: 720; HMP Parc: 1,652; HMP Swansea: 426; HMP Usk/Prescoed: 520.

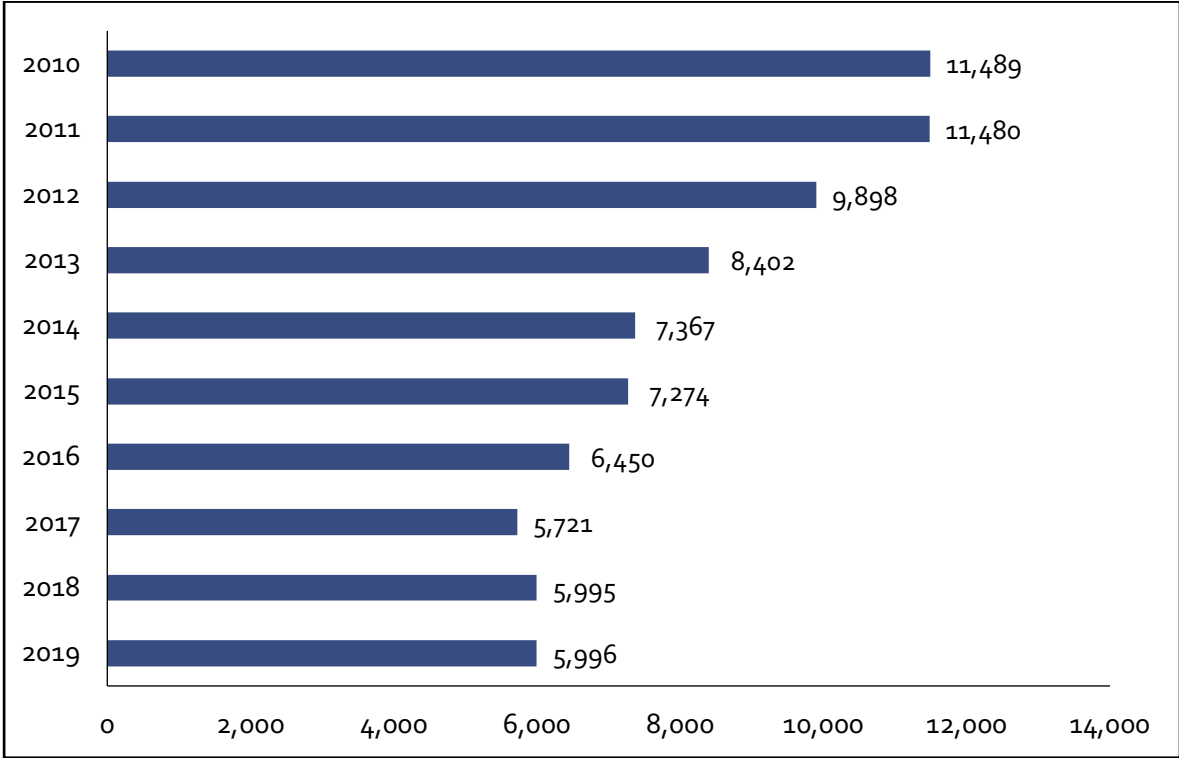
4. PROBATION

- 4.1** 2019 saw major changes to the way in which offenders under probation supervision are managed in Wales. In response to widespread criticism and growing concerns about the performance of Community Rehabilitation Companies (HMI Probation, 2019; National Audit Office, 2019), the Ministry of Justice announced plans in 2018 to reform the structure of probation services in England and Wales with a specific set of proposals to reflect the Welsh Government's responsibilities and the "fundamentally different delivery landscape" in Wales (Ministry of Justice, 2018a: 36).
- 4.2** In December 2019, the responsibility for managing low and medium risk offenders was transferred back to National Probation Service Wales from a private firm. A company named Wales Probation Service, which is part of the Kent, Surrey and Sussex Community Rehabilitation Company operated by Seetec, retains responsibility for accredited programmes and unpaid work. In June 2020, however, the Ministry of Justice (2020g) outlined plans to transfer all responsibility for unpaid work and rehabilitation back to HMPPS.
- 4.3** The changes made to the structure of probation services in 2015 have been proffered as one possible explanation for the high rate of imprisonment in Wales (see Figure 2.6) (Welsh Parliament Debate, 22 January 2019). More specifically, it has been claimed that the introduction of CRCs has led to a decline in the use of community sentences. According to HM Inspectorate of Probation (2019: 5), the declining use of community sentences reflects the "lack of judicial confidence" that magistrates and judges have in the probation service since the Offender Rehabilitation Act 2014 was introduced.
- 4.4** Since 2014, the year before the introduction of CRCs took full effect in Wales and England, the use of community sentences has fallen by 19% in Wales.⁷⁷
- 4.5** While community sentences comprised 8.1% of all sentences handed out at courts in Wales in 2014, this figure had fallen to 7% in 2019.

⁷⁷ From 7,367 in 2014 to 5,996 in 2019

Figure 4.1

The use of community sentences in Wales, 2010 to 2019



4.6 For some, the decline in the number of community sentences across Wales and England is “strongly linked” to the fall in the number of cases where a pre-sentence report is used (Centre for Justice Innovation, 2018: 1). The Centre for Justice Innovation (2018) has reported that cases with a pre-sentence report are ten times more likely to receive a community sentence.

4.7 In Wales, the total number of pre-sentence reports prepared has fallen by 25% since 2014.⁷⁸ At a time when increasing emphasis is being placed on the ‘fast delivery’ of reports (Robinson, 2017), standard pre-sentence reports fell by two-thirds (66%) between 2014 and 2019.⁷⁹

⁷⁸ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000. From 9,828 in 2014 to 7,357 in 2019.

⁷⁹ From 1,287 in 2014 to 438 in 2019. For further information on the changes made to the practice of pre-sentence reports in Wales and England see Robinson (2017).

- 4.8** The sentencing recommendations contained within pre-sentence reports can also help us to understand sentencing outcomes across England and Wales. Disaggregated data for Wales and England show that a slightly higher number of community sentences were proposed in England (90%) than in Wales (88%) in 2019.⁸⁰
- 4.9** The concordance between pre-sentence reports and sentencing outcomes are also significant. 9% of all pre-sentence reports prepared in Wales in 2019 recommended that a custodial sentence be given. This compared to 6% of reports in England.
- 4.10** In 93% of cases where custody was recommended in Wales a custodial sentence was handed out. In England, there was an 88% concordance rate for custody in 2019.
- 4.11** Although the overall concordance rate between sentences proposed and given was equal in Wales (60%) and England (60%) in 2019, only 57% of pre-sentence report recommendations for a community sentence in Wales led to one being given, this compared to 59% in England.⁸¹
- 4.12** There were no proposals for suspended sentences included within pre-sentence reports prepared in Wales in 2019.⁸²

PROBATION RATES

- 4.13** The declining use of community sentences in Wales does not fully explain why Wales has a higher imprisonment rate than England. Since 2014, for example, the number of community sentences handed out at courts in England has fallen more quickly (22%) than it has in Wales (19%).⁸³
- 4.14** Since 2013, there have been proportionately fewer English people than Welsh people in prison *and* fewer people in England under probation supervision than Wales.

⁸⁰ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁸¹ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁸² 107 suspended sentences were proposed in England in 2019.

⁸³ England: From 105,264 in 2014 to 81,727 in 2019.

Wales: From 7,367 in 2015 to 5,996 in 2019.

Figure 4.2

Probation rates per 100,000 in Wales and England, 2014 to 2019

2019						
	All court orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	102,717	183	139,283	248	236,806	421
Wales	7,001	222	8,948	284	15,541	493
2018						
	All court orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	107,535	192	141,705	253	243,677	435
Wales	6,987	223	9,262	295	15,853	505
2017						
	All court orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	114,507	206	140,076	252	248,546	447
Wales	7,548	242	9,424	302	16,481	527
2016						
	All court orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	112,300	203	136,671	247	243,152	440
Wales	8,162	262	9,017	290	16,711	537
2015						
	All court Orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	102,869	188	116,467	213	216,684	396
Wales	7,666	247	7,379	238	14,805	478
2014						
	All court orders	Rate	All pre- and post-release supervision	Rate	All Probation Service supervision	Rate
England	102,549	189	103,640	191	204,839	377
Wales	7,615	246	6,257	202	13,764	445

- 4.15** On average, 7,001 people were subject to a court order in Wales in 2019. There were 222 people serving a court order per 100,000 of the population in 2019. The rate in England was 183 per 100,000 inhabitants.⁸⁴
- 4.16** 1 in 450 people in Wales were subject to a court order in 2019. This compares to 1 in 548 in England.⁸⁵
- 4.17** When the imprisonment rate and the court order rates are combined, the correctional population was once again larger in Wales (371 per 100,000) than in England (319 per 100,000) in 2019.
- 4.18** 8,948 people were subject to pre- or post-release supervision by the probation service in Wales in 2019.
- 4.19** There were 284 people per 100,000 population under pre- or post-release supervision in Wales in 2019. This compares to a rate of 248 per 100,000 in England.
- 4.20** 1 in 339 were under pre- or post-release supervision in Wales at the end of December 2018. In England, 1 in 395 people were subject to pre- or post-release supervision by the probation service.⁸⁶
- 4.21** On average, 15,541 people were under probation supervision in 2019. This equates to 1 in every 203 people in Wales being subject to some form of probation supervision. In England, 1 in 238 people were under probation supervision in 2019.⁸⁷

⁸⁴ Those serving Youth Rehabilitation Orders, Community Orders and Suspended Sentence Orders. Supervision numbers have been calculated using average probation caseload information from March, June, September and December 2019. All data on probation caseloads were taken from the Offender Management Statistics quarterly. <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>
Population data for England and Wales were obtained from Office for National Statistics. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

⁸⁵ 102,717 people were subject to a court order in England in 2019.
England: 56,287,000
Wales: 3,152,900

⁸⁶ 139,283 people were subject to pre or post-release supervision in England in 2019.

⁸⁷ 236,806 people were subject to some form of probation supervision in England in 2019.

4.22 In total, 493 people per 100,000 of the population in Wales were under probation supervision in 2019. This compares to a rate of 421 per 100,000 inhabitants in England.

4.23 Individuals convicted of summary non-motoring offences (21%), violence against the person (17%) and theft offences (12%) comprised half of all those under probation supervision in Wales at the end of December 2019.⁸⁸

4.24 The most frequently used combination of requirements for those sentenced to a court order in Wales in 2019 was unpaid work (23%) followed by rehabilitation, and rehabilitation (21% combined with unpaid work (21%)) (see Figure 4.3).

Figure 4.3

Most frequently used combinations of requirements for Community Orders in Wales in 2019

Community Orders	
Unpaid Work	1,110
Rehabilitation	1,027
Rehabilitation & Unpaid Work	1,011
Curfew	253
Rehabilitation & Curfew	210
Rehabilitation & Drug treatment	147
Accredited Programmes, Rehabilitation & Unpaid Work	139
Rehabilitation & Alcohol treatment	111
Accredited Programmes & Rehabilitation	109
Accredited Programmes & Unpaid work	51
All other combinations of requirements	640
Total	4,808

⁸⁸ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

Figure 4.4

Most frequently used combinations of requirements for Suspended Sentence Orders in Wales in 2019

Suspended Sentence Orders	
Rehabilitation	552
Rehabilitation & Unpaid Work	517
Unpaid Work	461
Accredited Programmes & Rehabilitation	115
Curfew	115
Rehabilitation & Curfew	110
Rehabilitation & Drug treatment	106
Accredited Programmes, Rehabilitation & Unpaid Work	73
Rehabilitation & Alcohol treatment	67
Unpaid Work & Curfew	34
All other combinations of requirements	395
Total	2,545

4.25 The most frequently used combination of requirements for those sentenced to a suspended sentence order in Wales in 2019 was rehabilitation (22%) while one in five (20%) orders involved rehabilitation and unpaid work (see Figure 4.4)

4.26 A third (34%) of all court orders in Wales were terminated early in 2019. One in ten (11%) were ended because of a further conviction, 9% for failing to comply with requirements, 7% were terminated early because of good progress and 7% for other reasons.⁸⁹

4.27 75% of suspended sentence orders were successfully completed in Wales in 2019. 16% were terminated early because of a further conviction, 8% for failing to comply with requirements and 1% for other reasons.⁹⁰

4.28 In 2019, 12% of the total probation caseload in Wales were female.⁹¹

⁸⁹ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁹⁰ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

⁹¹ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

- 4.29** Almost two-fifths (18%) of all those under court order supervision in Wales in 2019 were women. 91% of those under post-release supervision in Wales in 2019 were men.
- 4.30** Neither *Imprisonment in Wales: A Factfile* (2018) nor *Sentencing and Imprisonment in Wales: A Factfile* (2019) included information on the number of people who have died while under probation supervision in Wales. Although the Ministry of Justice began to publish data on the number of deaths under probation supervision in 2016, deaths amongst those under probation supervision continue to receive “significantly less attention” than those in custodial settings (Phillips, 2019: 439).
- 4.31** Research has shown that offenders under probation supervision have a significantly higher death rate than the general population. Pritchard et al (1997) found that males had twice the death rate and nine times the self-inflicted death rate of the general population. According to Sattar (2001), a large number of deaths amongst those under probation supervision involve drugs and/or alcohol. Approximately two-thirds of all accidental deaths and a third of self-inflicted deaths in the community between 1996 to 1997 could be traced to drugs/alcohol. Other studies have argued that those under probation supervision are a highly vulnerable and ‘at risk’ population who are more likely to suffer from physical and mental health problems than members of the general population (Brooker and Sirdifield, 2013; Canton, 2008; Denney et al, 2014; Mills, 2004; Solomon and Silvestri, 2008)
- 4.32** Satter (2001) identified that drugs and alcohol played a much bigger part in deaths of offenders in the community than in prison. Although the number of drug and alcohol finds in prison have increased in recent years (see Figures 3.5 and 3.8), this trend can largely be explained by the easier access to drugs and alcohol in community settings.
- 4.33** In 2015, a thematic review by HMI Prisons (2015: 14) into patterns of substance misuse concluded that the Welsh Government’s decision not to introduce an Integrated Drug Treatment System (IDTS) had led to “poorer outcomes” for prisoners held in Wales compared with England (HMI Prisons, 2015: 14). In a written response to the Welsh Parliament’s Health and Social Care Committee’s inquiry into alcohol and substance

misuse in 2015, HMI Prisons (2015b:6) also told members that the absence of an integrated drug service in local prisons meant that both HMP Cardiff and HMP Swansea were “lagging behind” their counterparts in England. Of particular concern to inspectors was that those remanded or held in Welsh local prisons were subject to a rapid detoxification (regardless of their own wishes or determination to desist from substance misuse) only to then be released into the community. For opiate-dependant prisoners who have been detoxified in custody, the policy increased the risk of “accidental overdose” for those reusing opiates upon release (HMI Prison, 2015a:14). A “key driver” behind the introduction of IDTS in England was to reduce the number of drug overdoses on release, HMI Prisons (2015a: 24) recommended that the Welsh prisons roll out IDTS across Wales.

4.34 The Prison and Probation Ombudsman (2018) told a House of Commons Welsh Affairs Committee inquiry in 2018 that some of its fatal incident investigations had raised concerns over the drug detoxification programme in Welsh prisons. The Committee’s (2019: 10) *Prison Provision in Wales* report later recommended that an evaluation be undertaken to help understand the “treatment differences” between prisons in Wales and England.

4.35 In 2018/19, 62 people under probation supervision (those serving a court order, suspended sentence order or under post-release supervision after completing a custodial sentence) died in Wales. 50 (81%) were male and 12 (19%) were female.⁹²

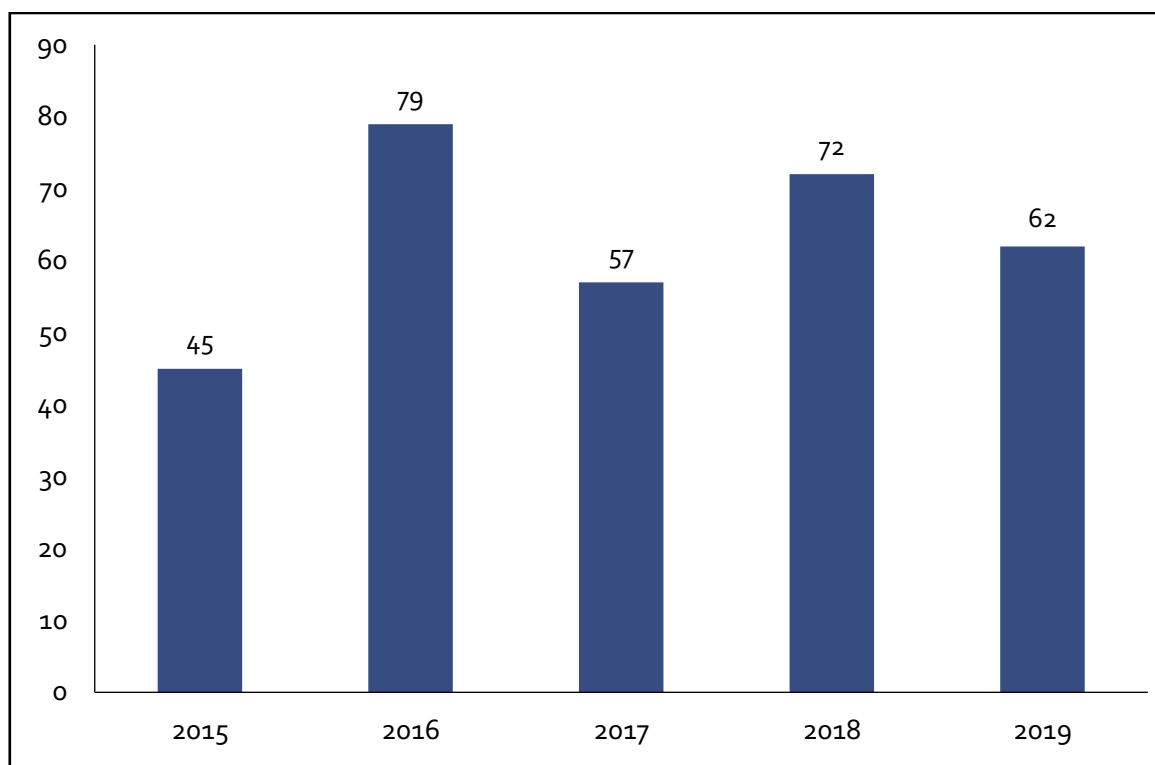
4.36 On average, one person under probation supervision died every five days in Wales in 2018/19.

4.37 There have been 315 deaths of offenders under probation supervision in Wales since 2014/15. Two-thirds (68%) of those who have died since 2014/15 were being managed by the Wales Community Rehabilitation Company. The Wales CRC accounted for around 58% of the probation caseload in Wales during this period.

⁹² Deaths of Offenders in the Community, annual update to March 2019 – https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843141/deaths-of-offenders-in-community-2018-19_tables.xlsx

Figure 4.5

Deaths of offenders under probation supervision in Wales, 2014/15 to 2018/19⁹³



4.38 There were more deaths recorded amongst those under probation supervision in Wales (79) in 2015/16 than the combined total in the Welsh prison estate between 2014 and 2019 (73).

4.39. Two-fifths (42%) of all deaths of offenders under probation supervision in Wales have been classified as 'self-inflicted' since 2014/15.

4.40 There were 27 self-inflicted deaths amongst those under probation supervision in Wales in 2018/19. Of this total, 22 were male and five were female.

4.41 On average, someone under probation supervision in Wales took their own life every two weeks between 2014/15 and 2018/19.

⁹³ Deaths of Offenders in the Community, annual update to March 2019 – https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843141/deaths-of-offenders-in-community-2018-19_tables.xlsx

4.42 Over a quarter (28%) of all deaths were attributed to 'natural causes' between 2014/15 and 2018/19.

Figure 4.6

Total number of deaths of offenders under probation supervision in Wales, by cause of death, sex and provider, 2014/15 to 2018/19⁹⁴

Cause of death	CRC	NPS	Total
Male			
Self-inflicted	80	31	111
Natural Causes	51	32	83
Homicide	3	3	6
Accident	17	8	25
Other	0	0	0
Unclassified	26	21	47
Total	177	95	272
Female			
Self-inflicted	21	2	23
Natural Causes	4	2	6
Homicide	0	1	1
Accident	1	0	1
Other	0	0	0
Unclassified	10	2	12
Total	36	7	43

4.43 'Self-inflicted' was established as the cause of death in a higher number of cases amongst females (53%) who died under probation supervision than males (41%) between 2014/15 and 2018/19.

⁹⁴ Deaths of Offenders in the Community, annual update to March 2019 – https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843141/deaths-of-offenders-in-community-2018-19_tables.xlsx

4.44 In March 2020, HMI Probation (2020) launched a consultation on its future inspection framework and programmes in England and Wales. As part of its commitment to “reviewing” and “developing” the evidence base that informs probation services, HMI Probation (2020: 9) revealed that it is considering carrying out primary research as part of a future thematic review into self-inflicted deaths by those under probation supervision in England and Wales.

5. SENTENCING AND IMMEDIATE CUSTODY

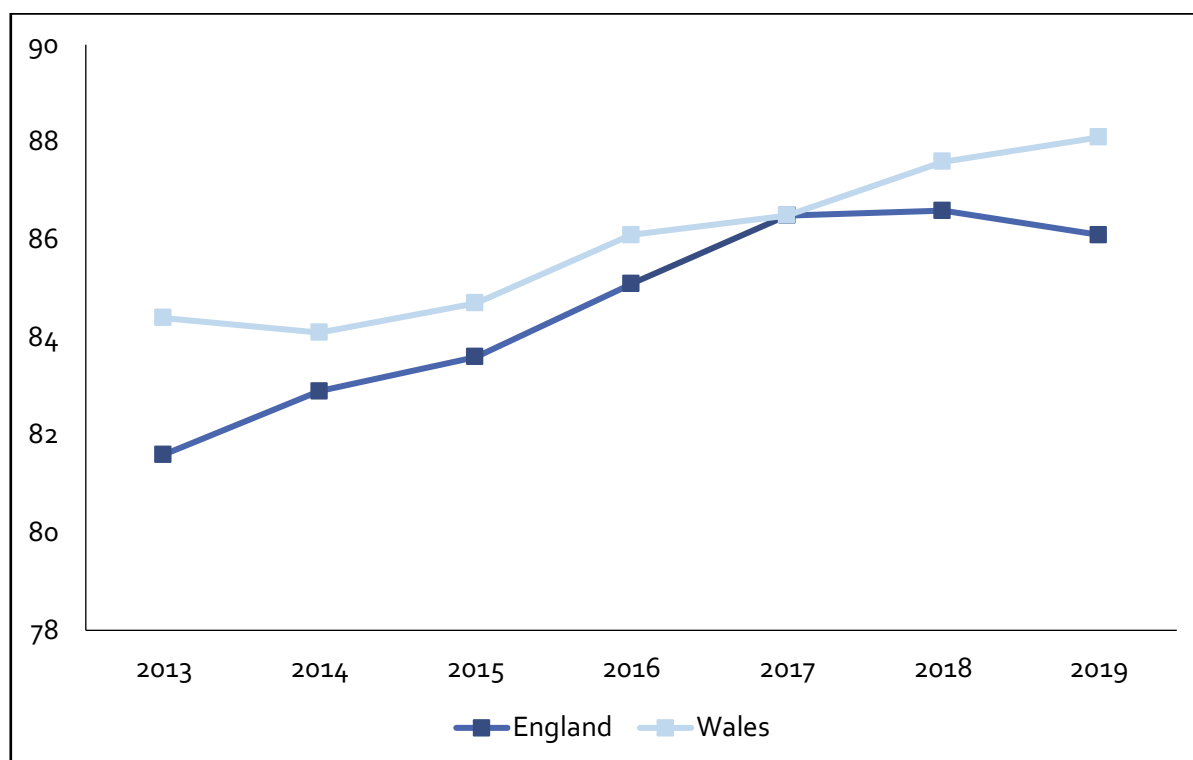
5.1 Prosecutions in England and Wales have fallen by 9% since 2013.⁹⁵

5.2 While a similar reduction was recorded at courts in England (9%), the total number of prosecutions has fallen as a slower rate (7%) in Wales since 2013.⁹⁶

5.3 The number of convictions in England and Wales has also fallen. In total, there were 44,199 fewer convictions in 2019 compared to the level recorded in 2013.⁹⁷

Figure 5.1

Conviction rates in Wales and England, 2013 to 2019



⁹⁵ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888344/HO-code-tool-principal-offence-2019.xlsx

From 1,441,308 in 2013 to 1,316,282 in 2019.

⁹⁶ England: From 1,336,728 in 2013 to 1,218,824 in 2019.

Wales: From 104,580 in 2013 to 97,458 in 2019.

⁹⁷ From 1,179,357 in 2013 to 1,135,158 in 2019.

- 5.4** The number of convictions in England fell by 4% between 2013 and 2019. In Wales, the number of convictions fell by 3% during this period.⁹⁸
- 5.5** In total, there were 2,407 fewer convictions in Wales in 2019 than the number recorded in 2013.⁹⁹
- 5.6** The proportion of cases resulting in a conviction has been higher in Wales than in England in six of the last seven years.¹⁰⁰
- 5.7** In 2019, the conviction rate in Wales was 88% compared to 86% in England.

IMMEDIATE CUSTODY

- 5.8** The total number of immediate custodial sentences handed out in England and Wales has fallen by 25% over the last decade.¹⁰¹
- 5.9** While the number of immediate custodial sentences in England has dropped by more a quarter (26%) since 2010, the number has fallen at a much slower rate in Wales (8%).¹⁰²
- 5.10** 321 fewer immediate custodial sentences were handed out at courts in Wales in 2019 than in the previous year.¹⁰³
- 5.11** Having already fallen in 2018, the use of immediate custody at the Magistrates' Court in Wales fell by a further 16% in 2019.¹⁰⁴

⁹⁸ England: From 1,091,103 in 2013 to 1,049,311 in 2019.

Wales: From 88,254 in 2013 to 85,847 in 2019.

⁹⁹ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888344/HO-code-tool-principal-offence-2019.xlsx

¹⁰⁰ The conviction rate in Wales and England was 86.5% in 2017.

¹⁰¹ From 101,508 in 2010 to 75,928 in 2019.

¹⁰² England: From 95,244 in 2010 to 70,151 in 2019.

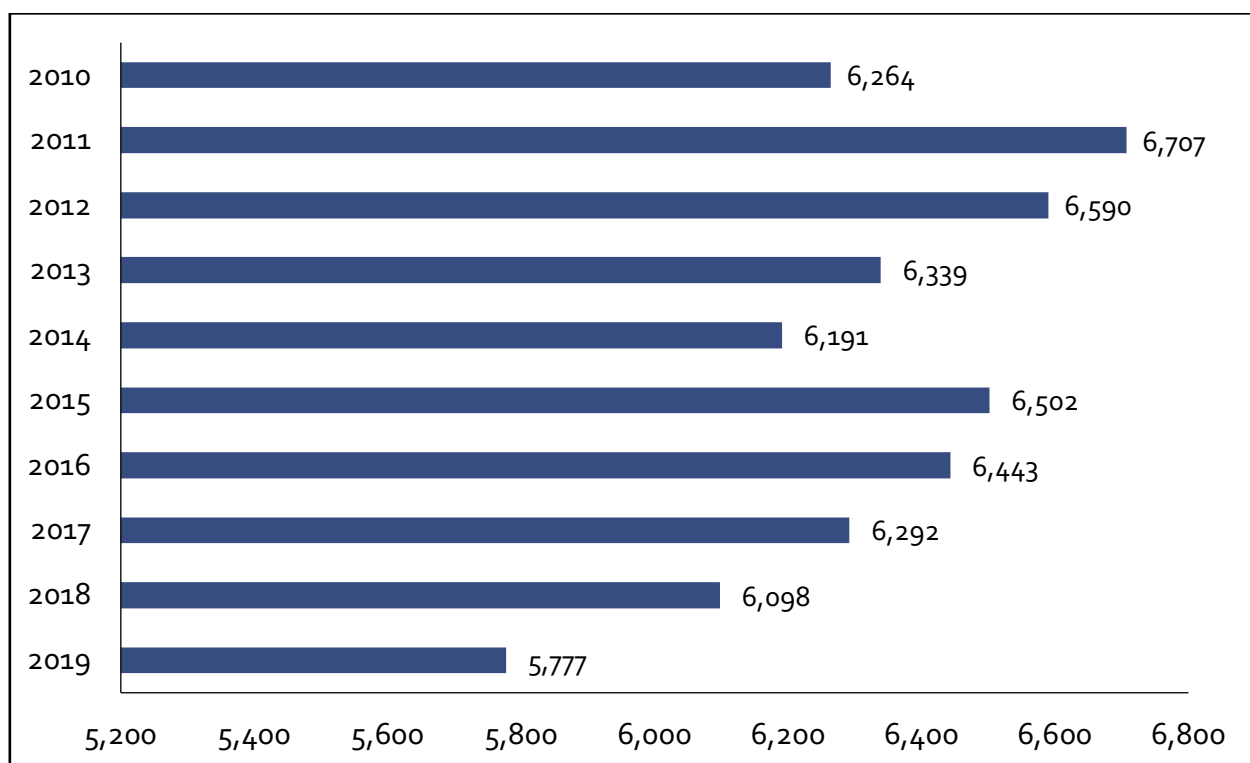
Wales: From 6,264 in 2010 to 5,777 in 2019.

¹⁰³ From 6,098 in 2018 to 5,777 in 2019.

¹⁰⁴ From 3,208 in 2018 to 2,709 in 2019.

5.12 The custody rate at the Magistrates' Court in Wales also fell from 3.77% in 2018 to 3.35% in 2019.

Figure 5.2
Immediate custodial sentences in Wales, 2013 to 2019



5.13 In England, the number of offenders sentenced to immediate custody at the Magistrates' Court was 11% lower in 2019 than the previous year.¹⁰⁵

5.14 Over the course of the last decade the average custody rate has been higher at the Magistrates Court in Wales (3.93%) than in England (3.79%)

5.15 In 2019, 3.35% of all those convicted at Magistrates Courts in Wales were handed an immediate custodial sentence compared with 3.14% in England.

¹⁰⁵ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx
From 34,524 in 2018 to 30,731 in 2019.

- 5.16** The number of immediate custodial sentences handed out at the Crown Court in Wales increased by 6% in 2019. In total, 178 more custodial sentences were given out at Crown Courts in Wales last year.¹⁰⁶
- 5.17** Immediate custodial sentences also increased at the Crown Court in England in 2019. Having fallen in 2018, the number rose by 3% across England in 2019.¹⁰⁷
- 5.18** Six out of ten (61%) people convicted at the Crown Court in Wales in 2019 were handed an immediate custodial sentence.
- 5.19** The average custody rate at the Crown Court has been higher in Wales (59%) than England (56%) over the last decade.
- 5.20** In 2019, the custody rate at the Crown Court was 61% in Wales and 59% in England.

WOMEN

- 5.21** In its *Female Offender Strategy*, published in June 2018, the Ministry of Justice outlined the need for “an entirely different approach” to the treatment of women in the criminal justice system (Ministry of Justice, 2018b: 5). Drawing upon the findings from Baroness Corston’s review in 2007, the Ministry of Justice identified the use of custodial sentences, especially short-term, as a major problem for women.
- 5.22** Due to the fact that there are no women’s prisons in Wales, all Welsh female prisoners are held in prisons in England. This has led to a recognition of the “distinct set of issues” facing female prisoners from Wales including distances from home, family contact and links with community-based services (Rees et al, 2017; House of Commons Welsh Affairs Committee, 2007:19).

¹⁰⁶ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

From 2,890 in 2018 to 3,068 in 2019.

¹⁰⁷ From 38,214 in 2017 to 39,420 in 2019.

- 5.23** In May 2019, the Welsh Government and Ministry of Justice (2019a) published a blueprint to improve services for female offenders in Wales. The joint strategy outlines a commitment to deliver services that are “distinct to Wales” which includes helping reduce the number of Welsh women in prison (Welsh Government and Ministry of Justice, 2019a: 1). In May 2020, the UK Justice Minister, Lucy Frazer QC, announced that the very first women’s residential centre for female offenders would be sited in Wales. The centre is expected to operate as an alternative to imprisonment for women convicted of low-level offences (Ministry of Justice, 2020h).
- 5.24** In *Sentencing and Imprisonment in Wales: 2018 Factfile* it was reported that the average number of Welsh women in prison had climbed to its highest ever level (261) in 2018 (Jones, 2019). The Welsh female prison population reached the same level (261) in 2019.
- 5.25** In September 2019, there were 279 Welsh women in prison. This is the highest quarterly reading since the Wales Governance Centre began collecting disaggregated data in 2013.
- 5.26** 510 immediate custodial sentences were handed to female offenders in Wales in 2019. This represents a 16% decline on the number recorded in 2018.¹⁰⁸
- 5.27** The use of immediate custody for women in England declined by 9% in 2019.¹⁰⁹
- 5.28** The number of immediate custodial sentences handed to women in Wales in 2019 (510) was almost identical the number handed out in 2010 (511). In England, however, the use of immediate custody has fallen by 31% over the course of the last decade.¹¹⁰

¹⁰⁸ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

From 604 in 2018 to 510 in 2019.

¹⁰⁹ From 5,913 in 2018 to 5,412 in 2019.

¹¹⁰ From 7,865 in 2010 to 5,412 in 2019.

- 5.29** In 2019, the custody rate for women sentenced at the Magistrates' Court was higher in England (1.47%) than in Wales (1.3%). The opposite trend was recorded in 2018.
- 5.30** At the Crown Court, however, women were more likely to be sentenced to immediate custody in Wales (37%) than in England (35%) in 2019.
- 5.31** The average custody rate for women convicted at the Crown Court has been higher in Wales (40%) than in England (33%) over the last decade.

CHILDREN

- 5.32** Charlie Taylor's review of the youth justice system in 2016 promised to transform the youth secure estate in England and Wales. At the heart of Taylor's (2016) recommendations were plans to create secure schools as a new form of custodial establishment for children. In 2019, it was announced by the Ministry of Justice (2019a) that Oasis Charitable Trust will run the first secure school in England on the site of the former Medway Secure Training Centre. The establishment is expected to open in late 2020.¹¹¹
- 5.33** Taylor (2016) recommended that secure schools be established using schools legislation. The Welsh Government's responsibilities for schools meant that Taylor's recommendations did not apply as they did in England. While the UK Government (2016) immediately committed itself to the development of two 'secure schools across England, the Welsh Government's Cabinet Secretary for Communities and Children swiftly rejected Taylor's proposals and declared that the Welsh Government would seek to find "Welsh solutions" to the problems facing young people in the secure estate across Wales (Welsh Parliament Debate, 14 December 2016).
- 5.34** In May 2019, the Welsh Government and Ministry of Justice (2019b) published a second blueprint strategy to help reduce the number of children entering the youth justice system in Wales. The strategy includes a commitment to "maximising opportunities" to

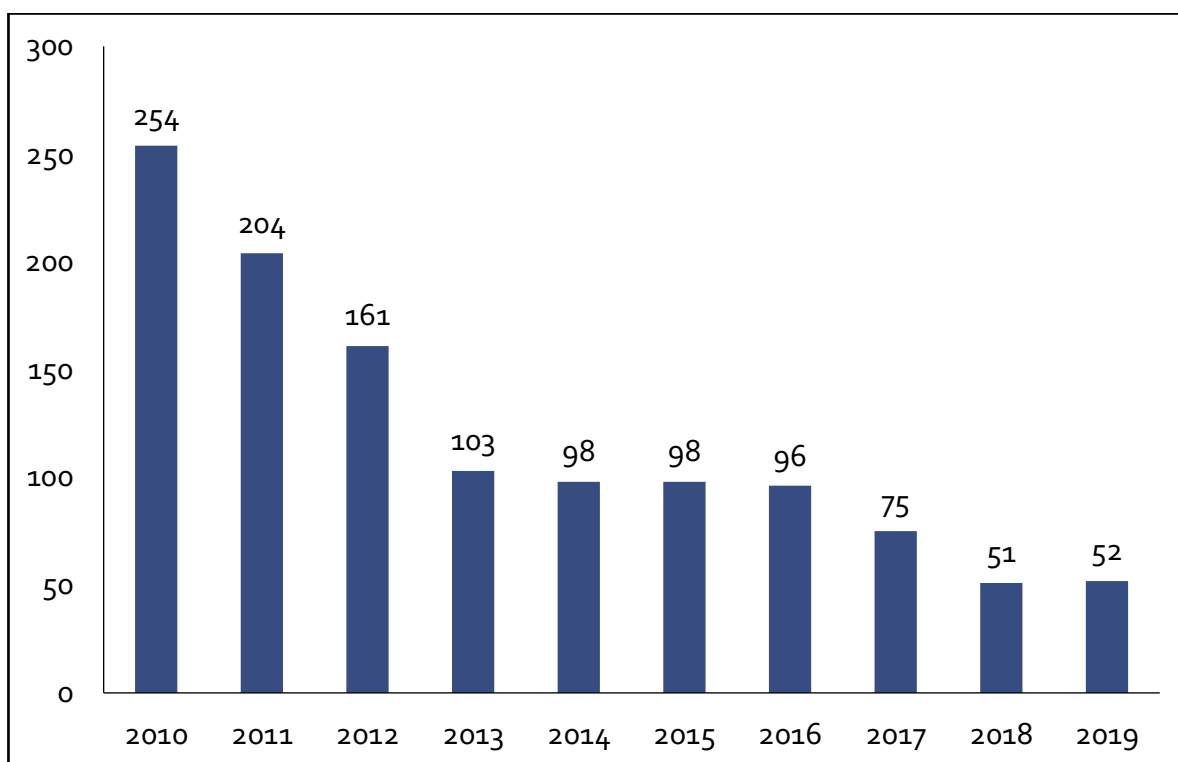
¹¹¹ Medway closed in March 2020 but was re-opened in April 2020 to house prisoners as part of the UK Government's strategy to create additional prison capacity to deal with the outbreak of Covid-19.

divert children away from the youth justice system and to exploring the options to help limit the distances facing Welsh children who do end up in the youth secure estate (Welsh Government and Ministry of Justice, 2019b: 1).

5.35 Children charged with criminal offences are tried in either the Youth Court or Crown Court in England and Wales. The Sentencing Council for England and Wales state that, subject to a number of exceptions, cases that involve children should be heard in the Youth Court.

Figure 5.3

Children sentenced to immediate custody in Wales, 2013 to 2019



5.36 52 immediate custodial sentences were handed to children in Wales in 2019.¹¹²

¹¹² Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

- 5.37** The number of immediate custodial sentences handed to children in Wales has fallen by 80% over the last decade.¹¹³
- 5.38** On average, there were 25 Welsh children in prison in 2019. This compared to an average of 116 in 2010.¹¹⁴
- 5.39** The majority (56%) of Welsh children in prison were being held at HMYOI Parc in 2019. On average, 14 children from Wales were being held at HMYOI Parc in 2019.¹¹⁵
- 5.40** Just over two-fifths (44%) of all Welsh children in prison were held in establishments in England in 2019. Although the exact number has not been confirmed by the Ministry of Justice,¹¹⁶ these establishments include HMYOI Feltham, HMYOI Werrington and the Keppel Unit at HMYOI Wetherby.
- 5.41** As it was in 2018, the custody rate at the Youth Court was higher in England (4.75%) than in Wales (3.61%) in 2019.
- 5.42** The custody rate for children sentenced at the Crown Court in Wales increased between 2018 (53%) and 2019 (56%). The rate in England fell during this period.¹¹⁷
- 5.43** At the Crown Court, a higher proportion of children received a custodial sentence in Wales (56%) than in England (50%) in 2019.
- 5.44** The number of children first entering the criminal justice system in Wales fell by 85% between the years ending September 2010 and 2019.¹¹⁸

¹¹³ From 254 in 2010 to 52 in 2019.

¹¹⁴ Children are defined here as those aged under 18.

¹¹⁵ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

¹¹⁶ Figures of 5 or fewer are marked by the Ministry of Justice with an asterisk to help prevent identification of children.

¹¹⁷ From 51.1% in 2018 to 50.1% in 2019.

¹¹⁸ Offending History Data Tool: Previous offence statistics. September 2019.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/802046/ftc_pivot-tables-dec-2018.xls

From 3,282 in 2010 to 505 in 2019.

5.45 Despite this reduction, the rate fell unevenly across different ethnic groups in Wales. While the number of White children first entering the criminal justice system in Wales fell by 87%, the number of Asian children declined by 69% and those from Black backgrounds fell by 59%.¹¹⁹

ETHNICITY

5.46 The Ministry of Justice's (2019: 2) latest *Race in the Criminal Justice System* report identified that non-White ethnic groups are "over-represented" within most stages of the criminal justice system in England and Wales. The findings showed that Black and Asian offenders receive longer custodial sentences and that a larger proportion of Black, Asian and Mixed defendants are remanded in custody for indictable offences when compared to White defendants at the Crown Court (Ministry of Justice, 2019b).

5.47 The Lammy Review in 2017 concluded that people from minority ethnic backgrounds in England and Wales are drawn disproportionately into the criminal justice system. The review found that despite comprising just 12% of the population of England and Wales, Black and Minority Ethnic (BAME) men and women make up 25% of its prison population (Lammy, 2017).

5.48 The Wales Governance Centre's *Sentencing and Imprisonment in Wales* (Jones, 2019a) and *Sentencing and Immediate Custody in Wales* (Jones, 2019b) found that individuals from non-White backgrounds in Wales were overrepresented in prison in 2017 and 2018. The latest data show that this trend has continued in 2019.

5.49 When analysed alongside Welsh population data drawn from the 2011 Census, Black people in Wales were almost 6 times over-represented in prison in 2019. Asian prisoners were 1.9 times over-represented and individuals from Mixed ethnic group were 2.7 times overrepresented in the prison estate.¹²⁰

¹¹⁹ White: From 3,104 in 2010 to 405 in 2019; Asian: From 36 in 2010 to 11 in 2019; Black: From 54 in 2010 to 22 in 2010.

¹²⁰ Data obtained from the Ministry of Justice via the Freedom of Information Act 2000.

5.50 Welsh individuals from a White ethnic background were the only group to be underrepresented in prison in 2019.

Figure 5.4

The percentage of English and Welsh people in the general population and in prison by ethnic group in 2019¹²¹

Ethnic Group	Prisoners	% of Prison population	% of General population	Rate
England				
White	54,830	71.6	85.4	0.8
Black	10,200	13.2	3.5	3.8
Asian ¹²²	6,258	8.2	7.1	1.2
Mixed	3,696	4.8	2.3	2.1
Wales				
White	4,195	89.2	95.6	0.9
Black	166	3.5	0.6	5.8
Asian ¹²²	158	3.4	1.8	1.9
Mixed	128	2.7	1	2.7

5.51 English prisoners from a Black, Asian and Mixed ethnic group were over-represented in prison in 2019. The level of over-representation for each of these groups, however, was higher in Wales in 2019 (see Figure 5.4).

5.52 The rate of imprisonment per 10,000 people for Black, Asian and Mixed prisoners from Wales increased in 2019.

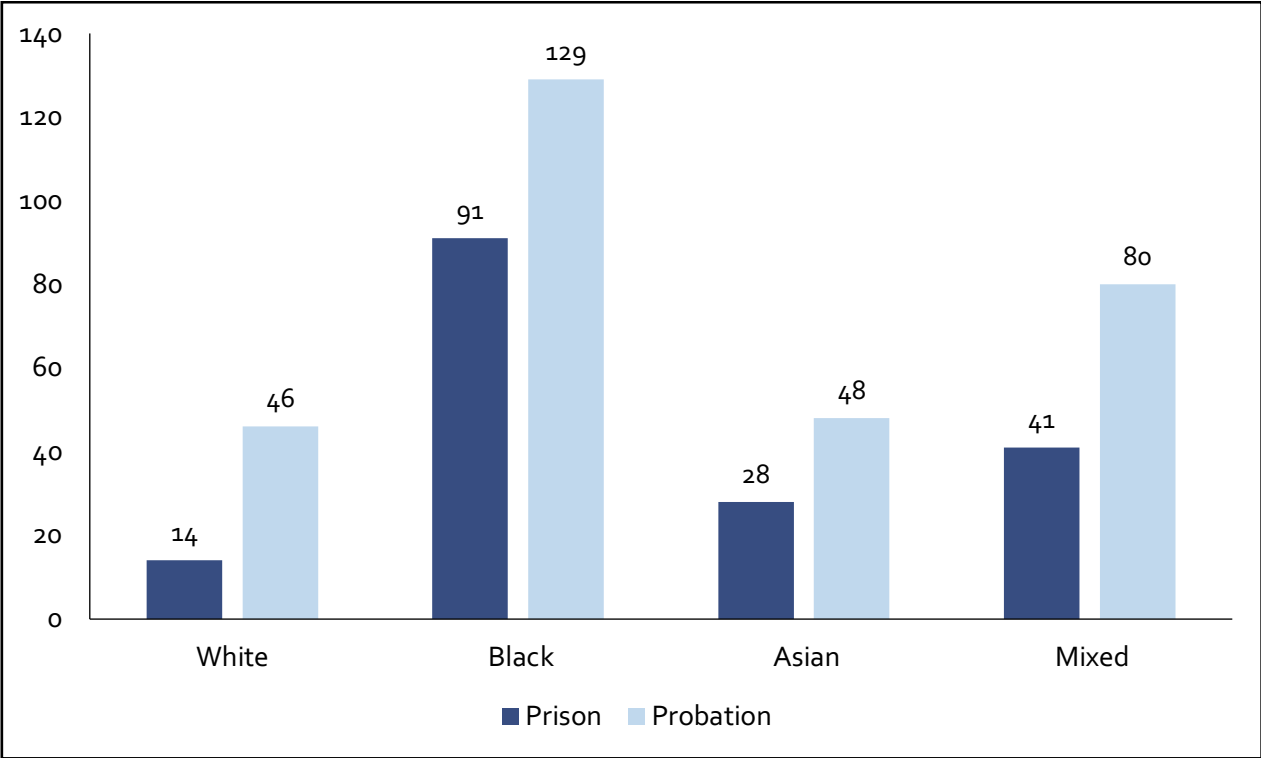
¹²¹ Ethnicity data are taken from the 2011 Census. This is the most up-to-date information on ethnicity in England and Wales available. Due to an inconsistency in the recording of 'Chinese and other' by the Ministry of Justice and the 2011 Census, the 'Asian' category included here does not include those identified as 'Chinese' in the 2011 census. Population by ethnicity (2011 census): White (2,928,253); Black (18,276); Asian (56,490); Mixed (31,521).

¹²² Due to an inconsistency in the recording of 'Chinese and other' between the Ministry of Justice and the 2011 Census, the 'Asian' category included here does not include those identified as 'Chinese' in the 2011 census.

5.53 In 2019, there were 91 Black people from Wales in prison for every 10,000 of the population. This rate compared to just 14 White people per 10,000 of the population. There were 28 Asian people in prison per 10,000 and 41 people from a Mixed background per 10,000 in prison.¹²³

5.54 Data obtained from the Ministry of Justice via the Freedom of Information Act also show that people from Black and Mixed ethnic groups were over-represented amongst the probation population in Wales. While White and Asian individuals were under-represented, people from a Black background were 2.5 times over-represented and individuals from Mixed ethnic group were 1.6 times overrepresented in 2019.

Figure 5.5
Rates of imprisonment and probation supervision per 10,000 people by ethnic group in Wales in 2019



¹²³ Ethnicity data are taken from the 2011 Census. This is the most up-to-date information on ethnicity in England and Wales available. Due to an inconsistency in the recording of 'Chinese and other' by the Ministry of Justice and the 2011 Census, the 'Asian' category included here does not include those identified as 'Chinese' in the 2011 census. Population by ethnicity (2011 census): White (2,928,253); Black (18,276); Asian (56,490); Mixed (31,521).

- 5.55** For every 10,000 Black people living in Wales 127 were under probation supervision in 2019. This compared to a rate of 48 per 10,000 for individuals from an Asian background, 46 for White and 80 for those from a Mixed ethnic group.
- 5.56** Individuals from a Black (76%), Asian (75%) and Mixed (70%) ethnic group recorded a higher custody rate at the Crown Court in Wales than White (64%) defendants in 2019.¹²⁴

OFFENCE TYPE

- 5.57** Research studies show that offence type is key to determining sentencing outcome. Analysis by Hopkins (2015: 7) showed that, amongst other variables, the type of offence provides a “strong predictor of imprisonment” with offenders convicted of violence against the person, sexual offences and robbery most likely to receive an immediate custodial sentence in England and Wales.
- 5.58** The breakdown of sentencing outcomes by offence type can also help to detect sentencing inconsistency. This approach is upheld by the view that offence type offers researchers a ‘like for like’ comparison when examining the custody rates and average custodial sentence lengths for offenders.
- 5.59** Outcomes by offence type have been compared in research on sentencing and ethnicity (Hood, 1992; Hopkins, 2015) as well as investigations into geographical variation in sentencing outcomes and immediate custody (Hedderman and Moxon, 1992; Mason et al, 2007).
- 5.60** Two-fifths of the Welsh prison population had either been convicted of violence against the person (24%) or sexual offences (19%) in 2019 (see Figure 5.6).¹²⁵

¹²⁴ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

¹²⁵ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

Figure 5.6

Welsh people in prison by offence type in 2019

Offence group	Prisoners
Violence against the person	1,111
Sexual offences	889
Robbery	323
Theft Offences	586
Criminal damage and arson	102
Drug offences	872
Possession of weapons	146
Public order offences	83
Miscellaneous crimes against society	204
Fraud Offences	53
Summary Non-Motoring	289
Summary motoring	34
Offence not recorded	10
Total	4,702

5.61 Almost a fifth (19%) of Welsh prisoners in 2019 had been convicted of drug offences.

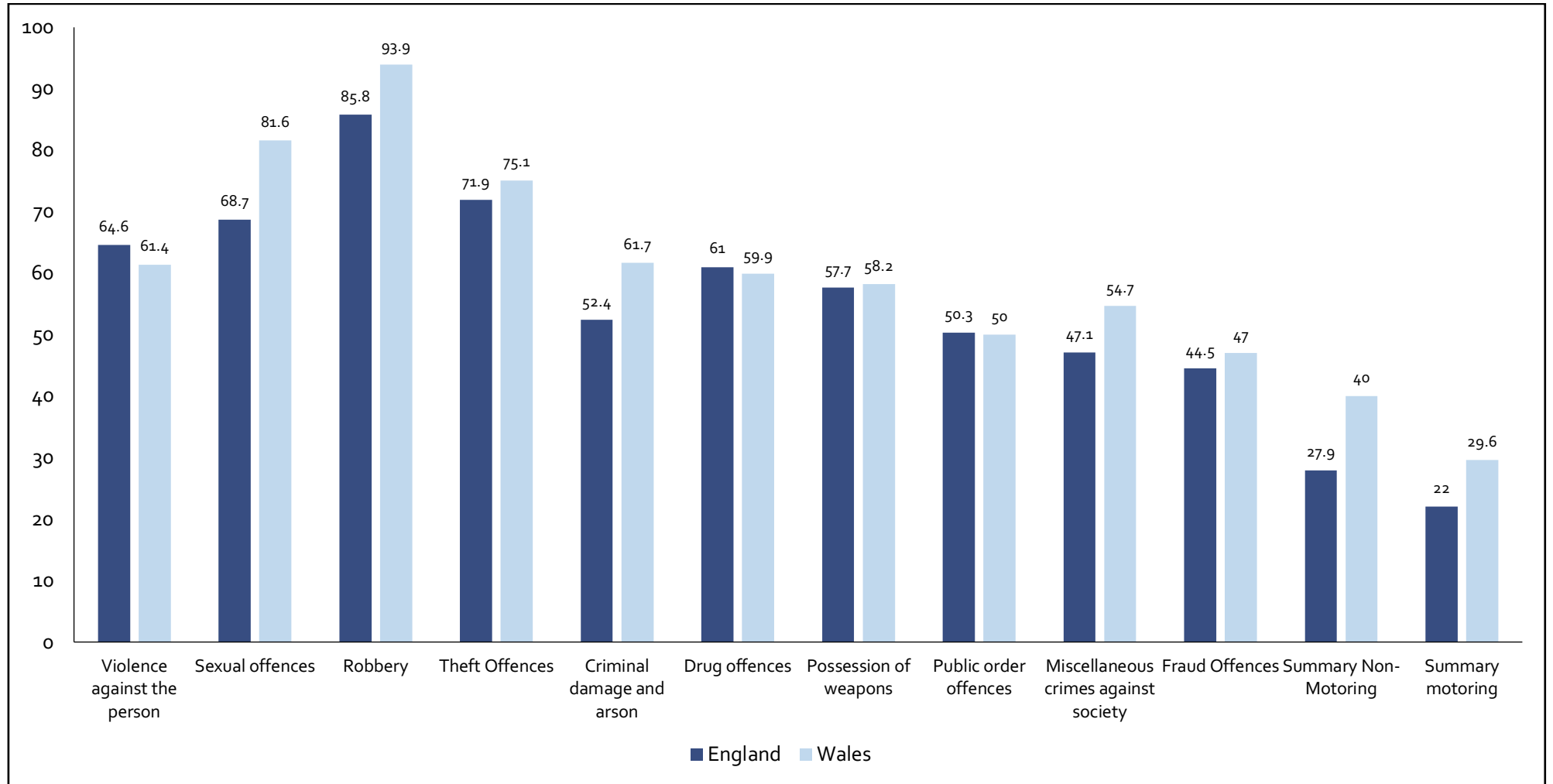
5.62 The average custody rate was higher in Wales for nine out of twelve offence groups at the Crown Court in 2019 (see Figure 5.7).¹²⁶

5.63 The average custody rate for those convicted of violence against the person, drug offences and public order offences was higher in English Crown Courts in 2019.

¹²⁶ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

Figure 5.7

The average custody rate at Crown Courts in England and Wales by offence group in 2019



- 5.64** The average custody rate for criminal damage and arson was the only offence group with higher rate at the Magistrates' Court in England in 2019.
- 5.65** The average custody rate was higher at Magistrates' Courts in Wales in eleven out of 12 offence groups in 2019.¹²⁷

SENTENCE LENGTH

- 5.66** An increase in the use of long-term sentences has been a major contributing factor in the rise of prisoner numbers in England and Wales. In 1993, 54% of the sentenced prison population were serving sentences of less than 4 years. By 2016, this rate had fallen to 34% of sentenced prisoners in England and Wales (Ministry of Justice, 2016).
- 5.67** The introduction of legislative and policy changes has been responsible for a rise in the number of long-term sentences in England and Wales. These changes include the introduction of indeterminate sentences for public protection and their replacement with extended determinate sentences in 2012. Further developments include changes in the minimum terms for offences such as murder as well as increases in the sentencing severity for offences such as the possession of weapons, sex offences, and motoring offences (Sentencing Council, 2018). The Ministry of Justice (2020i) announced further plans to extend sentence lengths for those convicted of serious violent and sexual offences at the beginning of 2020.
- 5.68** One in ten (10.6%) of all offenders sentenced to immediate custody in Wales were handed sentences of 4 years or more in 2019. This figure has increased from 4.9% in 2010.¹²⁸

¹²⁷ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

¹²⁸ This does not include those sentenced to life imprisonment or those serving Imprisonment for Public Protection (IPP) sentences.

5.69 In June 2019, the Welsh Parliament’s Equality, Local Government and Communities Committee (2019) recommended that prisoners sentenced to less than 4 years in custody should be given the right to participate in Welsh elections. Two-fifths (40%) of all Welsh prisoners were serving sentences of 4 years or more in 2019.¹²⁹

5.70 The proportion of Welsh prisoners serving sentences of less than 12 months has decreased in recent years. In 2019, 8.3% of Welsh prisoners were serving sentences of less than 12 months, this compared to 11.4% in 2017.

Figure 5.8

Welsh people in prison by sentence type in 2019

Sentence type	Prisoners
Remand	455
Less than 12 months	391
12 months to less than 4 years	1,115
4 years or more	1,863
Imprisonment for Public Protection	98
Life	287
Recall	458
Non Criminal	7
Unknown	28
Total	4,702

5.71 One in ten (9.7%) Welsh people in prison were there having been recalled to custody in 2019. An almost identical number of Welsh prisoners were being held on remand.¹³⁰

5.72 A higher proportion of short-term sentences (less than 12 months) were given out in Wales (62%) than in England (60%) in 2019.

¹²⁹ This figure was 34% in 2017.

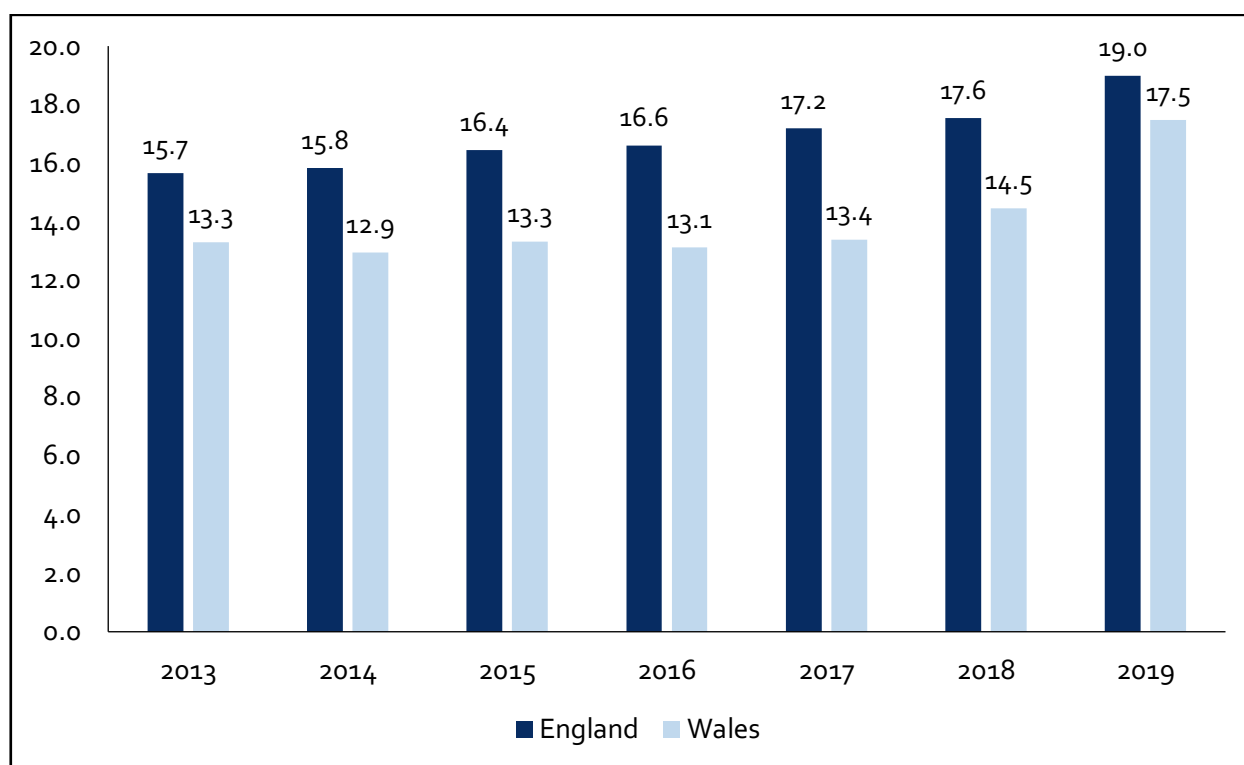
¹³⁰ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

5.73 The proportion of longer-term sentences (4 years or more) increased in Wales and England in 2019. A higher percentage were handed out at courts in England (11.5%) than Wales (10.6%) in 2019.¹³¹

5.74 The average custodial sentence length for all offences in England was 19 months in 2019. This compared to an average custodial sentence length of 17.5 months in Wales.

Figure 5.9

Average custodial sentence length (in months) in Wales and England, 2013 to 2019



5.75 The average custodial sentence length in Wales has increased from 13.3 months in 2013 to 17.5 months in 2019.¹³²

5.76 14 people were sentenced to life imprisonment at courts in Wales in 2019.

¹³¹ England (10.4%); Wales (8.2%)

¹³² Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx

5.77 One in five (19%) women sentenced to immediate custody in Wales in 2019 were handed sentences of one month or less. In total, 99 immediate custodial sentences of one month or less were handed to women in Wales in 2019.

5.78 622 immediate custodial sentences of one month or less were handed to males convicted at courts in Wales in 2019.

5.79 Two-thirds (66%) of women handed immediate custodial sentences in Wales were sentenced to less than 6 months in custody in 2019. This compared to just under half (48%) of all men sentenced at courts in Wales.¹³³

5.80 The average custodial sentence length (ACSL) in Wales was higher for Mixed (35 months), Asian (33.8 months) and Black (30.4 months) defendants sentenced in Wales in 2019 than those from White (19.5 months) ethnic groups.

Figure 5.10

Average custodial sentence length by ethnic group (in months) in Wales, 2013 to 2019

	2013	2014	2015	2016	2017	2018	2019	Average
White	15.9	15.2	15.4	15.4	16.0	17.0	19.5	16.4
Black	21.0	21.2	25.4	27.4	25.7	32.2	30.4	26.2
Asian	19.3	24.0	31.4	21.5	24.0	25.1	33.8	25.6
Mixed	11.8	9.7	17.4	14.3	20.3	21.8	35.0	18.6

5.81 The average ACSL between 2013 and 2019 was almost 10 months higher for Black (26.2 months) defendants than defendants from a White (16.4 months) ethnic group.

¹³³ Criminal Justice System statistics quarterly: December 2019. Principal offence proceedings and outcomes by Home Office offence code data tool. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804510/HO-code-tool-principal-offence-2018.xlsx
338 women and 2,521 men were sentenced to less than six months in custody at courts in Wales in 2019.

- 5.82** The Ministry of Justice's most recent *Statistics on Race in the Criminal Justice System* report found that Black prisoners are more likely to serve a higher proportion of their determinate sentences in prison than any other ethnic group. In 2018, Black prisoners in England and Wales (70%) served a greater proportion of their sentences in prison when compared with Mixed (64%), White (63%), Asian (61%) prisoners (Ministry of Justice, 2019b).
- 5.83** Disaggregated data obtained from the Ministry of Justice show that between 2015 and 2018, Mixed prisoners from Wales (63%) served a higher proportion of their determinate sentences in prison followed by Black (61%), White (57%) and Asian (57%) prisoners.¹³⁴

¹³⁴ Data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

CONCLUSION

The findings presented in this factfile add further to our understanding of imprisonment, probation and sentencing in Wales. In a number of areas the data included in this report indicate some modest improvements across the Welsh prison estate. These include reductions in assault levels, a decline in self-harm incidents in three prisons, a fall in the use of immediate custodial sentences matched by a slight decrease in the average Welsh prison population. But these improvements are accompanied by a persistent set problems. Wales continues to boast a higher imprisonment rate than England when using either 'home address' or 'in country' calculations. Average custodial sentence lengths continue to rise, and the number of drug, alcohol, tobacco and weapon finds have climbed further. After the decision was taken to remove prisoners from the list of those given automatic priority need status for temporary accommodation, separate sources of official data show that many prisoners are being released in Wales without settled accommodation to return to. The disproportionate number of confirmed Covid-19 cases in the Welsh prison estate adds yet another dimension to concerns about the relative performance of Welsh prisons.

Another significant set of problems raised here relate to the experiences of individuals from Black and Minority Ethnic groups in Wales. At a time when international attention is being directed towards racial injustice and discrimination within the criminal justice system (e.g. Hassett-Walker, 2020; Nossiter and Méheut, 2020), this report once again lays bare the extent of racial disproportionality within the system in Wales. This is evidenced within a range of different areas including custody rates, first entrants into the criminal justice system, probation caseloads, average custodial sentence lengths, the proportion of time served and, perhaps most strikingly of all, the composition of the Welsh prison population. It is hoped that these findings can help to kick-start a more critically informed debate on racial discrimination, injustice and disproportionality in the criminal justice system in Wales. Such a discussion is long overdue.

Many of the conclusions we can draw from this report mirror those made within our first factfile in 2018. Regrettably, it remains the case that many sources of 'Welsh- only' criminal justice data can only be accessed by Freedom of Information requests, a route that, while useful, limits the accessibility of such data to public debate at the broader level. It also remains the case that the many problems discussed in this report raise important questions about political accountability

for criminal justice in post-devolution Wales. While responsibility for tackling many of the issues outlined here undoubtedly lies with UK Government ministers in Whitehall, the influence that Welsh ministers have over equality, tackling homelessness, offender healthcare, substance misuse, safeguarding children and prison education mean that remedies can - and should - start in Wales. At the very least, these issues need to be debated and discussed in full view of the available evidence presented here.

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Wales Governance Centre
Cardiff University
Law Building
Museum Avenue
Cardiff CF10 3AX
wgc@cardiff.ac.uk
www.cardiff.ac.uk/wales-governance



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