

# IDENTIFYING DISPROPORTIONALITY

IN THE AVON AND SOMERSET CRIMINAL JUSTICE SYSTEM

# 2022

AVON AND SOMERSET  
CRIMINAL JUSTICE BOARD  
Working Together for Justice



## IN TRIBUTE TO AMJID ALI

On the 17th September 2021 we learned of the sad passing of Amjid Ali, Chair of the Strategic Independent Advisory Group at Avon and Somerset Constabulary and the Priority Theme Lead for the Stop & Search focus groups for this Review. An irreplaceable force for change, who created new opportunities and reduced barriers for BAME people across Avon and Somerset and beyond. Gentle, courteous and meaningful.

**His legacy will not be forgotten.**

Desmond Brown, Chair of the Avon and Somerset Lammy Sub-Group 2021

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**The report by David Lammy MP, commissioned by two Prime Ministers, published in 2017 was a comprehensive and independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System.**



Chief Constable Andy Marsh QPM -  
Chief Executive Officer at the College of Policing

It set out, through data and analysis of disproportionality within the criminal justice system and provided a rallying call for a sense of urgency to address this. David Lammy proposed a new principle to inform the work of every criminal justice agency: 'explain or reform'. His report illustrated the need for transparent information about racial disparities with a responsibility for every agency within the criminal justice system to review, and reconsider its practices where such disparities exist.

The Avon and Somerset Criminal Justice Board responded to this rallying call by establishing a 'Lammy Sub Group' in 2018 and this was followed in May 2019 by the appointment of Desmond Brown as the Independent Chair of the group. What quickly became apparent was that there was a vast amount of work to be done. The data picture was often incomplete but where figures are available, worrying trends were apparent. Significant disproportionality

exists within the criminal justice system in Avon and Somerset which cannot yet be explained and so those within the system must turn their attention towards objective review, reflection and evidence led reform.

Policing recognises the need for change and I was pleased to read that this report reflects some of the changes that have already been made through greater transparency on the use of police powers - including stop and search. However, nationally policing recognises the need for much more to be done and has established the Inclusion and Race Working Group that I am part of in my new role as Chief Executive of The College of Policing. We in policing know that, notwithstanding progress which has been made since the racially motivated murder of Stephen Lawrence, much more remains to be done. Our black communities need to feel appropriately protected, respected, involved and represented within policing as well as

the broader Criminal Justice System and we know that this needs to be addressed if we are to see an improvement in the significant trust deficit that exists between black communities and the police forces who serve them.

I would like to pay tribute to members of the community, including Desmond Brown, who bring lived experience and credibility to that scrutiny and for being an agent of change which goes significantly beyond being a commentator upon a system that fails, in particular, so many young Black, Asian, and minoritised communities. The agencies must take responsibility for the findings of this report but improvements will be quicker and more meaningful if they are made in partnership with the black communities. Transparency and openness in itself can be an antidote to mistrust but insufficient unless it is also backed up with meaningful change and reform. My hope is that this report will inform and accelerate that change.

The major city in Avon and Somerset LCJB area is Bristol and the people of Bristol have throughout the decades of modern history been a catalyst for social change, fairness and justice. It was my intention in being part of the group that commissioned this report that it would help the Avon and Somerset Criminal Justice system lead the change that is needed. I am grateful for the work of the Review Group and the Independent Chair. The work undertaken to inform this review is, by my understanding unique to this area and must now be an important touchstone and rallying call for further and faster change and improvement within the Criminal Justice System locally.

## THE LAMMY REVIEW 2017

Four years have passed since the publication of The Lammy Review 2017<sup>1</sup> an independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic (BAME) individuals in the Criminal Justice System (CJS). Commissioned by two prime ministers, David Cameron and Theresa May and led by David Lammy MP, the review revealed significant racial bias in the UK Criminal Justice System and resulted in 35 Recommendations. In December 2017, the Government issued a response document<sup>2</sup> to the Lammy Review, setting out how they hoped to respond to each of the 35 recommendations, with two

further publications in October 2018<sup>3</sup> and February 2020<sup>4</sup>, providing updates on activity tackling racial disparity. In June 2020, at the House of Commons Debate, David Lammy questioned the progress of the Government's implementation of the Lammy Review 2017 recommendations, noting he was 'disappointed' in the Government's claims that 16 of the 35 Recommendations had been 'implemented', when in fact the majority of them had not.<sup>5</sup> A significant gulf exists between implementing and completing the actions the Government have committed to as Lammy quantifies:

**“When I completed the review, 41% of children in prison came from a BAME background. Now the figure is 51%. The proportion of all stop and searches on black people has increased by 69% over 5 years. The average custodial sentence for a black person is almost 10 years longer than a white person.”<sup>5</sup>**



## AVON AND SOMERSET LAMMY SUB GROUP



Desmond Brown - Independent Chair of the Review into Disproportionality in Avon and Somerset Criminal Justice System

In response to the Government's Lammy Review 2017, the Avon and Somerset Local Criminal Justice Board (A&SCJB) set up the Avon and Somerset Lammy Review Sub-group in February 2018. The focus was to bring together local Criminal Justice System (CJS) Partners to look at the overall systemic effect of producing differential outcomes for the various ethnic groups within the A&S Criminal Justice System. The recommendations of the Lammy Review were used as a starting point to proactively address local disparity issues in Avon and Somerset, employing the Lammy 'explain or reform' principles.

**Appendix 1** details the Terms of Reference for the A&S Lammy Sub-Group.

In May 2019, Desmond Brown was appointed independent Chair of the A&S Lammy Sub-group with the key strategic challenge of working collaboratively with local CJS partners, to proactively build upon the findings of the Lammy Review (2017)<sup>6</sup> and the Cabinet Office Race Disparity Audit (2017) and achieve the vision of producing a data picture of the journey of BAME people through the Criminal Justice System.

<sup>1</sup> David Lammy MP, The Lammy Review : The Lammy Review (publishing.service.gov.uk)

<sup>2</sup> Ministry of Justice, December 2017, Government response to the Lammy Review: Government Response to the Lammy Review on the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System (publishing.service.gov.uk)

<sup>3</sup> Ministry of Justice, October 2018, Tackling Racial Disparity Update October 2018: Tackling Racial Disparity in the Criminal Justice System: 2018 Update (publishing.service.gov.uk)

<sup>4</sup> Ministry of Justice, February 2020, Tackling Racial Disparity Update February 2020: Tackling Racial Disparity in the Criminal Justice System: 2020 Update (publishing.service.gov.uk) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/881318/tackling-racial-disparity-cjs-2020-print.pdf

<sup>5</sup> UK Parliament, Hansard Lammy Review Volume 678L debated 30 June 2020: Lammy Review - Tuesday 30 June 2020 - Hansard - UK Parliament

<sup>6</sup> Cabinet Office, Race Disparity Audit, 2017: Revised RDA report March 2018

## SCOPE OF THIS REVIEW: ADDRESSING LOCAL DISPARITY

In December 2019 the A&S Lammy Sub-Group produced an Interim Scoping Report (**Appendix 2**) based on available CJS data, which identified key areas within the CJS showing disproportionate outcomes for BAME people in Avon and Somerset. Five priority themes were identified for further investigation and review: Stop and Search; Youth Justice; Out Of Court Disposals; Prisons; the Judiciary.

The thematic areas of Youth Justice and Stop and Search were not directly addressed in the Lammy Review 2017, however, the report identified that disparity in the Youth Justice System was Lammy's 'biggest concern.' Research strongly indicates that unequal treatment early in the CJS accumulates into larger disparities downstream.<sup>7</sup> Evidence further suggests that youth diversion is beneficial for the children who go through it and has been shown to reduce re-offending, however, inequality in access and engagement for BAME children is still likely to have material impact on disparities later on in the CJS. Recommendation 33 of the Lammy Review identifies "The Youth Justice Board (YJB) should commission and publish a full evaluation of what has been learned from the trial of its 'disproportionality toolkit', and identify potential actions or interventions to be taken".<sup>8</sup> **Consequently the focus of the Youth Justice theme has concentrated upon school exclusions and the link to entry into the criminal justice system for BAME young people and the impact of the 'disproportionality toolkit' to quantify and address**

### any disproportionality within local YOTS in Avon and Somerset.

Stop and Search has had a controversial history over the 35 years since its introduction. While the practice is highly valued by the police, it has attracted significant criticism and provoked some community resentment, in particular because of its disproportionate impact on BAME communities. The A&S Lammy review interim report in December 2019, identified disturbing levels of disproportionality in Stop and Search for BAME people within the Avon and Somerset force area. Avon and Somerset Constabulary work closely with both the internal and external scrutiny of police powers panels to scrutinise areas where potential disproportionality is identified, however, police data,<sup>9</sup> continues to show significant disparity. **The focus of the A&S Lammy Review Stop and Search theme explores Avon and Somerset Constabulary data to attain greater understanding of the disproportionality, explore how to work with communities to address disproportionality.**

Out of Court Disposals (OOC) was identified as a key area of focus in accordance with the initial findings of the Bristol Insight, Performance and Intelligence Service in 2019 commissioned to review young people supported by Bristol YOT through the OOC process. Initial findings highlighted some immediate areas of disproportionality with young people within the Black, Asian and minority ethnic groups going through the court system at a much higher rate than

White young people. **Consequently, the OOC process was identified as a key area of focus to explore the current data available and to understand current scrutiny for the OOC process for adults and young people within Avon and Somerset Constabulary.**

In the Lammy Review the chapter on prisons identified key recommendation areas around opening up decision-making to outside scrutiny, including the management of complaints about discrimination and the treatment and outcomes for BAME prisoners. In particular the need for all data collected to include a full breakdown by ethnicity (18 plus 1). In the A&S Lammy Sub-Group Report 2019 initial findings indicated an increase in Use of Force (UOF) for the BAME prisoners, with 35% of prisoners in HMP Bristol defined as BAME, yet 79% of all prisoners who had force used against them were BAME. Scrutiny of Incentives and Privileges provides an indication of potential disproportionality through the levels prisoners are assigned (i.e. Basic, Standard and Enhanced etc.) in accordance with the corresponding progression and regression across those levels. Complaints provide an insight into the experiences of prisoners and through each prison's response to complaints, demonstrates the effectiveness of the prison system. **The focus of this Review has been to explore disproportionality data within Use of Force, Complaints, and, Privileges and Incentives across all 3 prisons within Avon and Somerset (HMP Bristol, HMP Eastwood Park and HMP Leyhill)**



Sentencing was identified as a key area of concern with the Lammy Review, drawing upon the MOJ analysis published in 2016<sup>10</sup> which examined the associations between ethnic background and being sentenced to prison in the Crown Court in England and Wales in 2015. **Based on the initial findings of the A&S Lammy Sub-Group Initial Report 2019 the Judiciary Task and Finish Group worked with the MOJ, Cabinet Office Race Disparity Unit, to explore the possibility and logistics of producing a new sentencing survey that would collect data on sentencing outcomes to include ethnicity.**

Within each of the priority themes was a distinct HR element relating to each CJS partner and during the initial scoping activity between July and September 2020 it was identified that a holistic approach to reviewing the HR activity across the CJS would be required. **Consequently, an additional HR priority theme was**

**introduced to focus upon Recruitment, Retention and Development with each CJS partner, namely: Avon and Somerset Constabulary; YOTS (Bristol, BANES, North Somerset, Somerset and South Gloucestershire); HMPPS; CPS and the Judiciary.**

The Lammy Review 2017, called for the CJS to have more scrutiny in their collection of data on ethnicity in order to move towards fairer treatment. Lammy highlighted gaps in information recording and concluded that fair treatment was more likely when institutions bring decision-making out into the open and expose it to scrutiny.<sup>11</sup> It identified that all stages of the CJS should collect data on religion and ethnicity more consistently, so that differences in treatment and outcomes can be examined in more detail. **The objective of this Review has been to baseline available data across the CJS within Avon and Somerset to understand gaps**

**in information recording, measure any disparity and capture activity or measures to address disproportionality.**

Recommendation 2<sup>12</sup> of the Lammy Review 2017, recommended that the UK adopt a Relative Rate Index (RRI) similar to the US system to gain insight into why there are disproportionalities in ethnicity at each stage of the CJS, tracing the impact of decision making at each stage. **The principle of this Review has been to implement the RRI, where possible, across all data captured within the review to enable a consistent approach to measuring disproportionality.**

Recommendation 4<sup>13</sup> of the Lammy Review identified the need for CJS agencies to 'explain or reform' when disparity is identified, **this Review has endeavoured to apply this principle to address disparities between ethnic groups where an evidence based explanation cannot be provided.**

<sup>7</sup> "Diversion? Racial Disproportionality in Youth Diversion" 25 March 202 produced by The Centre for Justice Innovation: [https://justiceinnovation.org/sites/default/files/media/document/2021/CJI\\_Exploring-disproportionality.pdf](https://justiceinnovation.org/sites/default/files/media/document/2021/CJI_Exploring-disproportionality.pdf)

<sup>8</sup> David Lammy MP, The Lammy Review, Page 61 : The Lammy Review (publishing.service.gov.uk)

<sup>9</sup> October - December 2020

<sup>10</sup> Ministry of Justice, Associations between ethnic background and being sentenced to prison in the Crown Court in England and Wales in 2015. (2016): <https://www.gov.uk/government/statistics/associations-between-ethnic-background-and-being-sentenced-to-prison-in-the-crown-court-in-england-and-wales-in-2015>

<sup>11</sup> Ministry of Justice, February 2020, Tackling Racial Disparity Update February 2020: Tackling Racial Disparity in the Criminal Justice System: 2020 Update (publishing.service.gov.uk) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881318/tackling-racial-disparity-cjs-2020-print.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881318/tackling-racial-disparity-cjs-2020-print.pdf)

<sup>12</sup> David Lammy MP, The Lammy Review, Page 13 : The Lammy Review (publishing.service.gov.uk)

<sup>13</sup> David Lammy MP, The Lammy Review, Page 14 : The Lammy Review (publishing.service.gov.uk)

## CONTEXT OF THE REVIEW

### Covid - 19

The outbreak of Covid-19 at the end of 2019 and the world wide pandemic that followed, has had a significant impact on communities and families globally. Covid-19 has further unearthed the footings of structural and systematic racism in the UK.

In June 2020 Public Health England published a report, 'Beyond the data: Understanding the impact of COVID-19 on BAME groups'<sup>14</sup> with the promise to examine why people from ethnic minorities were more likely to contract and die from Covid-19 and to make recommendations for "further action" that should be taken to reduce disparities in risk and outcomes from Covid-19 on the population.

In October 2020 Doreen Lawrence gave a snapshot of the impact of Covid-19 and the structural inequalities faced by Black, Asian and minority ethnic (BAME) people in her report An Avoidable Crisis.<sup>15</sup> Asserting that the Government had not done enough to protect BAME people and called for immediate action not just to protect BAME people but also to fix the broken system that has left ethnic minority people so exposed.

**'The impact of Covid is not random, but foreseeable and inevitable - the consequence of decades of structural injustice, inequality and discrimination that blights our society.'**

Doreen Lawrence, An Avoidable Crisis, October 2020



### Black Lives Matter

The death of George Floyd a 46-year-old black man in May 2020 whilst being detained by Minneapolis police officers in the USA, sent shock waves around the world, with people taking to the streets to express the need for police reform and racial equality. Protesters at a Black Lives Matter march in Bristol toppled a statue of a 17th century slave trader Edward Colston and threw it into Bristol Harbour sparking a new wave of resistance towards colonialism, its history and legacy worldwide.

In the wake of Black Lives Matter protests in summer 2020 in the UK, the UK Prime Minister Boris Johnson, announced a cross-governmental Inquiry 'The Commission on Race and Ethnic Disparities', chaired by Tony Sewell, an education consultant, and overseen by Number 10 adviser Munira Mirza, to look into discrimination against BAME people in education, health and criminal justice.

In March 2021 the Commission published its independent but much maligned report<sup>16</sup> despite concerns that both Munira Mirza, and Tony Sewell, had both previously questioned whether structural racism existed.

**"The composition of the government's commission on race disparities sends a strong signal about its intentions. Many are partisans of a culture war keen on downplaying race disparities."<sup>17</sup>**

A spokesman for the Muslim Council of Britain



## DATA

**'Inadequacies in the data currently collected make accurate analysis of disproportionality impossible.'<sup>18</sup>**

The first recommendation of the Lammy Review stated "A cross-CJS approach should be agreed to record data on ethnicity",<sup>19</sup> enabling more scrutiny of the data and reducing inefficiencies around the collection of data.

In accordance with Section 14, page 6 of the Tackling Racial Disparity in the Criminal Justice System: 2018 Update,<sup>20</sup> the MOJ identified

that since 2017 CJS partners were integrating their systems to move to the 18 plus 1 standard of self-defined ethnicity categories. Consequently, the A&S Lammy Sub-Group defined the 18 plus 1 ethnicity categories<sup>21</sup> be the standard level for Avon and Somerset CJS data to be baselined.

The experience of this review, in regard to the recording, meaningful analysis and sharing of local ethnicity data, across all priority themes ranges from excellent to very poor. It is therefore imperative,

A&S CJ partners agree a standard approach to recording, collection and sharing of data on ethnicity.

Within this review we have sought to draw on the lived experience of those who work within A&S CJS as well as the voices of those who are directly affected by inequality and discrimination. For too long this qualitative data has been ignored and not valued, instead the focus has been on finding the 'silver bullet' within the quantitative data.

## QLIK APP

A high level proposal was developed as part of this Review for an Avon and Somerset Disproportionality App in Qlik, accessible to partners across the CJS to track and report disproportionality across the criminal justice system.

Development of this proposal was dependent upon the availability of

partner data and further understanding as to how that data links together. Based on the current data available and the extensive work progressed by Avon and Somerset Constabulary in support of this objective, it is apparent there is the need for robust Collaboration and Data Sharing agreements to be in place with

CJS partners before any external App can be developed. Consequently, the development of this App was limited to Avon and Somerset Constabulary with Stop and Search and OOC data only.

## TERMINOLOGY ON RACE AND ETHNICITY

No single term can encompass all lived experiences of all people. The term Black, Asian and Minority Ethnic (BAME) is widely used within the Criminal Justice System to describe people who represent

diverse racial and ethnic backgrounds. For the purposes of this Review, we intend the most inclusive meaning in terms of the range of people of different races and ethnicities signified by 'BAME',

and recognise that there is huge diversity within this term, the 'ethnic minority' category, and in preferences on language.

<sup>14</sup> Public Health England, Beyond the Data, June 2020: Beyond the Data: Understanding the Impact of COVID-19 on BAME Communities (publishing.service.gov.uk)

<sup>15</sup> Baroness Doreen Lawrence, An Avoidable Crisis: An Avoidable Crisis (lawrencereview.co.uk)

<sup>16</sup> The Commission on Race and Ethnic Disparity, 31 March 2021: The report of the Commission on Race and Ethnic Disparities - GOV.UK (www.gov.uk)

<sup>17</sup> BBC News: 16 July 2020. <https://www.bbc.co.uk/news/uk-politics-53428248>

<sup>18</sup> Corston Independent Funders Coalition - Written submission to Call for Evidence June 2016, The Lammy Review, Page 11 : The Lammy Review (publishing.service.gov.uk)

<sup>19</sup> Recommendation 1, The Lammy Review, Page 7: The Lammy Review (publishing.service.gov.uk)

<sup>20</sup> Ministry of Justice, October 2018: Tackling Racial Disparity in the Criminal Justice System: Tackling Racial Disparity in the Criminal Justice System: 2018 Update (publishing.service.gov.uk)

<sup>21</sup> Criminal Justice System Exchange Data Standards Catalogue: self-defined-ethnicity-18plus1.pdf (publishing.service.gov.uk)

## STOP AND SEARCH

### RECOMMENDATION 1

**Avon and Somerset Constabulary** to analyse the grounds for all stop and searches to understand what is ‘officer led’ and ‘intelligence led’ to enable further scrutiny of the policing approach to stop and search. Police must evaluate and quantify decision-making to ensure powers are being consistently used fairly, responsibly, respectfully and without unlawful discrimination.<sup>22</sup> A clear strategy needs to be developed and effectively communicated, to respond to any breach of power around stop and search to address disproportionality.

### RECOMMENDATION 2

**Avon and Somerset Constabulary’s** scrutiny of the ‘smell of cannabis’ as the sole grounds for a stop and search, to continue to be a focus theme of the Avon and Somerset Office of the Police and Crime Commissioner (OPCC) Scrutiny of Police Powers Panel (SoPP) and Internal Scrutiny Panel to ensure any contravention is identified. A strategy needs to be developed to ensure comprehensive training and communications are provided to police officers, as appropriate, to ensure understanding of the policy and improved policing approach to stop and search.

### RECOMMENDATION 3

**Avon and Somerset Constabulary** must review their policy for drug-related stop searches, and develop a new approach that tackles disproportionality and improves performance.

### RECOMMENDATION 4

**Avon and Somerset Constabulary** must focus scrutiny of disproportionality into stop searches for drugs offences, to research the relationship between the grounds for stop and search, the disproportionality in stop and searches for suspected drugs offences within the Asian, Black, Mixed and Other Ethnicity Groups and corresponding find rates. Within find rates, the specific focus needs to be upon investigating the disparity in finding an object ‘other than that searched for’ in the Asian, Black, Mixed and Other Groups in comparison to the White Group.

### RECOMMENDATION 5

Stop and searches for suspected drug offences indicate disproportionality across Arrest, Voluntary attendance, Charge and Out of Court Disposal rates. **Avon and Somerset Constabulary** must scrutinise outcomes to explain disparities and develop strategy to address any disproportionality.

### RECOMMENDATION 6

**Avon and Somerset OPCC External Scrutiny of Police Powers Panel** and the **Stop and Search/Use of Force Internal Scrutiny Panel** must ensure scrutiny of disproportionality within stop and search includes all ethnicity groups.

### RECOMMENDATION 7

**Avon and Somerset Constabulary’s** scrutiny of stop and search data needs to include year on year comparison data to enable the identification of trends over a period of time. This will support collaborative working with CJS partners to create a data picture of an individual’s journey through the CJS.

### RECOMMENDATION 8

**Avon and Somerset Constabulary** needs to include the Relative Rate Index (RRI) calculation of all Ethnicity Groups against the White Group to provide a consistent approach to measuring disproportionality.

### RECOMMENDATION 9

**Avon and Somerset OPCC External SoPP** must review the scrutiny of stop and search complaints working with the Independent Residents Panel (IRP) to ensure all stop and search complaints are consistently scrutinised and lessons learnt. SoPP and the Stop and Search Internal Scrutiny Panel need to increase the rigour around the scrutiny of complaints by ensuring any areas of disproportionality are proactively addressed. Further analysis of the complaints ‘process’ may be required to assess disparities.

## STOP AND SEARCH

### RECOMMENDATION 10

In accordance with the HMICFRS 2018/19 Inspection Recommendation<sup>23</sup>, **Avon and Somerset Constabulary** must develop evidence-based explanations around the causes of disproportionality in stop and search. Development of a strategy is necessary to create a comprehensive and transparent methodology that addresses disparities for all Ethnicity Groups. Any actions to tackle disproportionality need to be measured and monitored to ascertain impact and whether there is improvement.

### RECOMMENDATION 11

**Avon and Somerset Constabulary:** In accordance with Recommendation 10 ‘develop evidence-based explanations around the causes of disproportionality in stop and search’<sup>24</sup>, scrutiny of the impact of County Lines needs to be included within the analysis of the ‘root-cause’ of disproportionality to quantify and report findings.

### RECOMMENDATION 12

**Avon and Somerset Constabulary** must develop a framework for stop and search training that regularly evaluates the operational needs of all officers to ensure they are equipped with the confidence and skills to use their powers for stop and search consistently, fairly and reasonably. Training needs to have more emphasis upon community engagement, understanding of cultural differences, and understanding the impact of policing upon communities. All training must be regularly monitored and evaluated by performance to ensure strategic aims and outcomes are achieved.

### RECOMMENDATION 13

**Avon and Somerset Constabulary** must build confidence with its communities around police powers by developing an Inclusion and Engagement Framework that is co-produced with communities. This will develop engagement with communities, improve public access to information about stop and search and increase the transparency of the scrutiny process. As part of this Framework the ‘lived experience’ of communities affected by stop and search must be captured and analysed alongside the quantitative data in the scrutiny of stop and search.

### RECOMMENDATION 14

**Avon and Somerset Constabulary** to develop a youth-focused external scrutiny group to support the work of the Scrutiny of Police Powers Panel.

## YOUTH JUSTICE

### RECOMMENDATION 15

All Avon and Somerset, **Youth Offending Teams** and **Youth Justice Partners** to de-aggregate ethnicity data groups to 18 plus 1 for consistent scrutiny of disproportionality. This will ensure that all minority ethnic groups such as Gypsy/Romany/Traveller are scrutinised equally.

### RECOMMENDATION 16

**Local Authorities in Avon and Somerset** need to urgently address the current issues with the collection, quality and scrutiny of up to date detailed local school exclusion data to include managed moves, internal exclusions, ‘off-rolling’ and informal exclusions.

### RECOMMENDATION 17

Each **Local Authority in Avon and Somerset** need to develop a strategy and action plan to ensure accurate detailed local school data is collected, analysed and published annually to quantify and tackle any disproportionality for any minority ethnic groups.

<sup>22</sup> Pace Code A 2015: PACE Code A (publishing.service.gov.uk)

<sup>23/24</sup> Disproportionate use of police powers, HMICFRS, February 2021. Disproportionate use of police powers: A spotlight on stop and search and the use of force (justiceinspectorates.gov.uk)

## YOUTH JUSTICE

### RECOMMENDATION 18

In accordance with Section 85 of the Equalities Act 2010<sup>25</sup>, **Local Authorities and YOTs in Avon and Somerset** urgently need to collate and analyse accurate linked school exclusion and offending data. To develop understanding as to whether BAME children and young people are more likely to be excluded from school, and whether that exclusion increases the likelihood of them entering the criminal justice system.

### RECOMMENDATION 19

**Avon and Somerset Constabulary, Local Youth Justice Board, Local Authorities (Bristol, BANES, North Somerset, Somerset and South Gloucestershire), YOTs, and Education partners** need to collaborate and create a Youth Justice Working Group to scrutinise the links between school exclusion and young people's entry into the criminal justice system to proactively tackle any disproportionality for BAME children and young people.

### RECOMMENDATION 20

**YOTs and Avon and Somerset Constabulary** to analyse offence outcomes for 10 to 17 year olds by offence type (e.g. Drugs, Robbery etc.) with individual ethnicity groups defined (18 plus 1) to quantify any disproportionality.

### RECOMMENDATION 21

**YOTS in Avon and Somerset** need to create a robust action plan to deliver the objectives set out within the YJB Business Plan. Each YOT need to quantify activity to tackle disproportionality and ensure comprehensive evaluation of outcomes.

### RECOMMENDATION 22

**YOTs and YJB:** The Youth Justice Board 'Case Level toolkit' must be used by all YOTs in Avon and Somerset to ensure local level ethnicity data collection, analysis, reporting to ensure proactive tackling of disproportionality.

### RECOMMENDATION 23

**YJB and YOTs** to develop a consistent/best practice approach to reporting disproportionality. Modifications to toolkit are required as follows: (1) Linked Offence and outcome data to enable more detailed analysis (2) Amending RRI analysis for outcomes to be based on offending population and not census population (3) New toolkit to include GRT - requiring disproportionality across all the ethnic groups to be re-baselined.

### RECOMMENDATION 24

**Avon and Somerset Constabulary, Local Youth Justice Board, Local Authorities (Bristol, BANES, North Somerset, Somerset and South Gloucestershire), YOTs, and Education partners** need to collaborate with the new Youth Justice Working Group to scrutinise the experiences of children and young people through each stage of the criminal justice system to identify and proactively tackle any disproportionality.

### RECOMMENDATION 25

Collaboration is required between **Avon and Somerset Constabulary, YOTS and the CPS** to analyse the diversion process in terms of needs assessment and evaluation of outcomes for young people to ascertain if there is any disproportionality for BAME young people in accessing diversion schemes.

### RECOMMENDATION 26

**Avon and Somerset Constabulary and Local A&S YOTs** to review and quantify youth out of court processes.

### RECOMMENDATION 27

**Avon and Somerset Constabulary and Local A&S YOTs** to review and quantify any disproportionality in youth out of court processes.

### RECOMMENDATION 28

**Avon and Somerset Constabulary** to develop scrutiny of the OOC decision making and eligibility process through the Out of Court Disposal App:

- (1) Development of the OOC App is required: (a) to capture data, (b) integrate the full Gravity Matrix within the App to support an efficient and audited decision making process.
- (2) Use of the OOC App needs to be mandated to (a) improve data quality, (b) ensure consistent decision making (c) support analysis and scrutiny of the OOC process.

## OUT OF COURT DISPOSALS

### RECOMMENDATION 29

The **A&S PCC Out of Court Scrutiny Panel** should follow the joint MOJ/NPCC National Scrutiny Guidance which sets out best practice around local scrutiny of decision-making on OOCs which contains the scope, panel membership, frequency of meetings, case selection and outcome and reporting, and adopt a methodology that allows them to examine, at least annually, disproportionality in respect of OOCs which includes the conditions that are applied.

### RECOMMENDATION 30

**A&S OPCC** to set up a scrutiny framework that scrutinises cases that have been charged, but may have been eligible for an OOC, rather than reviewing only cases that have resulted in an OOC.

### RECOMMENDATION 31

**Avon and Somerset Constabulary ASCEND Team** need to extend their assurance reviews of Community Resolutions and Conditional Cautions, to capture the ethnicity of the offender. The results of the reviews (approx. 30 per month) should be collated and analysed annually to allow for sufficient volumes to allow for meaningful analysis into disproportionality that supports the scrutiny of the OPCC OOC Scrutiny Panel.

### RECOMMENDATION 32

**CPS and Avon and Somerset Constabulary** to capture data on decision changes by the CPS resulting in referral back to the Police, and that this data is collected for analysis and scrutiny of potential disproportionality.

### RECOMMENDATION 33

**A&S Constabulary** need to develop the OOC Information Sheet with input from the Independent Advisory Groups (IAG), local communities, and Legal profession representatives, to improve offender engagement and understanding of the OOC process and build trust. Consideration is required of format (Leaflet, Audio, Webpage, App etc.), language, special educational needs, disabilities, etc. to ensure that the information is accessible.

### RECOMMENDATION 34

An Information Framework needs to be co-produced between **Police, PCC, CJS partners and the communities of A&S** to increase engagement with local communities and develop public knowledge and understanding of plea decisions and the out of court disposal process.

### RECOMMENDATION 35

**Avon and Somerset Constabulary** need to investigate the potential parallels between disproportionality rates shown in arrests and those in Stop and Search to understand root cause and actively address any disparity.

### RECOMMENDATION 36

**A&S Constabulary** should adopt the Relative Rate Index as a method of measuring disproportionality in the offending/arrest rates and the outcome rates for each ethnic group. These should be measured separately to ensure any disproportionality in offending/arrest rates doesn't influence the results for the outcome rates. It is recommended that this functionality is included in the 'Qlik App' currently in development.

### RECOMMENDATION 37

**A&S Constabulary** need to scrutinise the comparative high rates of disproportionality by analysing the outcomes for the GRT group in order to understand the factors contributing to the high charge rates and low NFA and OOC rates.

<sup>25</sup> Equalities Act 2010, <https://www.legislation.gov.uk/ukpga/2010/15/part/6/chapter/1>

## OUT OF COURT DISPOSALS

### RECOMMENDATION 38

**A&S Constabulary** need to conduct a further review into the small amounts of disproportionality shown in the charge rates for the Black, Mixed and Other groups. Focus should be on creating 'best match' groups based on offence gravity scores, previous offending and admission of guilt to establish if these factors have an impact on charge rates.

### RECOMMENDATION 39

**Avon and Somerset Constabulary** need to actively monitor the outcome of the MOJ Chance to Change pilots and develop local policy around a diversion prosecution model for Avon and Somerset to include: pilot design and eligibility, quality assurance, data collection and intended outcomes.

## PRISONS

### RECOMMENDATION 40

**HMP Bristol** to conduct further analysis to quantify disproportionality within Use of Force over a longer time period, with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

### RECOMMENDATION 41

**HMP Bristol** to analyse disproportionality for all Ethnicity Groups using the 18 plus 1 ethnicity categories.

### RECOMMENDATION 42

**HMP Bristol** need to urgently improve their use of Body Worn Video usage during Use of Force Incidents with between 61-71% of incidents not being recorded, according to the data provided. Further scrutiny is required around the potential disparity in the lower proportion of instances recorded for BAME prisoners.

### RECOMMENDATION 43

**HMP Bristol** need to ensure outside scrutiny for Use of Force is restarted and outcomes shared with CJS partners.

### RECOMMENDATION 44

**HMP Bristol** need to conduct further analysis into Incentives and Privileges progression and regression over a longer time period, with prisoner population data and the IP status correlated to each ethnicity group using the RRI to quantify and proactively address any disproportionality.

### RECOMMENDATION 45

**HMP Bristol** to capture and analyse complaints outcome data (decisions: upheld or rejected and subsequent actions) to quantify and address any disproportionality.

### RECOMMENDATION 46

**HMP Bristol** to quantify any disproportionality within the Discrimination Incident Reports (DIRFs) and proactively address any disproportionality.

### RECOMMENDATION 47

**HMP Leyhill** to conduct further analysis into the disparity identified within Use of Force over a longer time period, with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

### RECOMMENDATION 48

**HMP Leyhill** to analyse disproportionality for all ethnicity Groups using the 18 plus 1 ethnicity categories.

### RECOMMENDATION 49

**HMP Leyhill** need to conduct further analysis into Incentives and Privileges across all the IP status levels and into progression and regression over a longer time period. Prisoner population and IP status data need to be correlated to each ethnicity group using the RRI to quantify and proactively address any disproportionality.

## PRISONS

### RECOMMENDATION 50

**HMP Leyhill** to analyse complaints outcome data (decisions: upheld or rejected and subsequent actions) to quantify and address any disproportionality.

### RECOMMENDATION 51

**HMP Leyhill** need to conduct further analysis into the root cause of Complaints over a longer period of time by each ethnicity group using the RRI to quantify and proactively address any disproportionality.

### RECOMMENDATION 52

**HMP Leyhill** to create an Independent Scrutiny Panel to review disproportionality in Complaints to provide an independent scrutiny to develop understanding of root cause, identify any learning and development, and action areas of development.

### RECOMMENDATION 53

**HMP Leyhill** need to conduct further analysis into the disparity around higher DIRF numbers submitted by BAME residents over a longer period of time (minimum 2 years) by each ethnicity group using the RRI to quantify disproportionality. The nature of DIRFs needs further scrutiny to explore the root cause of discrimination complaints to proactively address any disproportionality.

### RECOMMENDATION 54

**HMP Eastwood Park** need to conduct further analysis into the disparity identified within Use of Force over a longer time period (a minimum of 2 years), with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

### RECOMMENDATION 55

**HMP Eastwood Park** need to analyse disproportionality for all ethnicity Groups using the 18 plus 1 ethnicity categories.

### RECOMMENDATION 56

**HMP Eastwood Park** need to implement independent scrutiny for Use of Force.

### RECOMMENDATION 57

**HMP Eastwood Park** need to conduct further analysis into the incentives scheme over a longer time period (a minimum of 2 years), with prisoner population data and volumes identified for each status to clearly quantify and proactively address any potential disproportionality.

### RECOMMENDATION 58

**HMP Eastwood Park** to conduct further analysis of Complaints over a longer time period (minimum 2 years), with prisoner population data and the number of complaints correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

### RECOMMENDATION 59

**HMP Eastwood Park** to create an Independent Scrutiny Panel to review disproportionality in Complaints to provide independent scrutiny of disproportionality to develop understanding of root cause, identify any learning and development, and action areas of development.

### RECOMMENDATION 60

**HMP Eastwood Park** need to conduct further analysis into the high DIRF numbers submitted by BAME residents over a longer period of time (minimum 2 years) by each ethnicity group (18 plus 1) using the RRI to quantify disproportionality. Outcomes of DIRFs require scrutiny to explore the root cause of discrimination complaints to proactively address any disproportionality.



## PRISONS

### RECOMMENDATION 61

**HMPPS:** Local prison data to be centrally captured to ensure consistency, data sharing and accuracy to enable analysis and knowledge sharing between prisons to enable scrutiny and ensure transparency.

### RECOMMENDATION 62

**HMP Bristol, Leyhill and Eastwood Park** need to work more collaboratively to progress analysis and understanding of disproportionality using RRI and develop a clear strategy in responding to it.

### RECOMMENDATION 63

**HMPPS and A&S Criminal Justice Board** to develop a framework for External Scrutiny of prisons that enables data sharing between CJS partners to baseline, monitor and proactively tackle disproportionality across the criminal justice system.

## HR

### RECOMMENDATION 64

**ASC** need to analyse candidate progression through their recruitment process to identify the drop off points of BAME candidates and proactively improve the process to increase diversity within the Constabulary.

### RECOMMENDATION 65

**ASC** need to quantify the latest Graduate data across the ethnicity groups to baseline BAME Graduates to ascertain progress within Avon and Somerset CJS with regards to diversity in employees.

### RECOMMENDATION 66

**ASC** need to develop a more diverse workforce, representative of its communities as current census data (2011) indicates ASC is currently under-represented by people who identify within the BAME Groups.

### RECOMMENDATION 67

**ASC** need to understand and address the reasons as to why staff in post do not specify their ethnicity category and implement actions to reduce the number of Prefer not to say/Not specified. Improving data and understanding of diversity of 'staff in post' at the Constabulary will enable ASC to proactively address areas of potential inequality.

### RECOMMENDATION 68

**ASC** need to conduct more focused engagement and understanding of communities' perceptions and lived experiences of the police to understand and actively tackle the barriers preventing BAME people applying for a role at Avon and Somerset Constabulary.

### RECOMMENDATION 69

**ASC** need to develop training for all staff to have more emphasis upon community engagement, understanding of cultural differences, and understanding of the impact of policing upon communities. Communities and Police should be co-producing regular learning packages that break down the barriers between the police and the communities they serve.

### RECOMMENDATION 70

**ASC** need to investigate the reasons for the decline in BAME promotions in 2019/20 to proactively address any barriers that may result in disproportionate outcomes for BAME applicants in the promotion process.

### RECOMMENDATION 71

**ASC** to quantify the impact of their BAME leadership programme and other schemes to support officers from diverse backgrounds to develop and progress within the Constabulary in accordance with the latest data (2020/21 onwards) to ensure these initiatives are effective.

### RECOMMENDATION 72

**ASC** to review potential barriers to promotions from Constable to Sergeant for BAME police officers. The BAME leadership programme should be developed further to include a Constable to Sergeant progression route.

## HR

### RECOMMENDATION 73

**ASC** need to further investigate the reasons for the higher leaver rates for Police Staff in the Mixed Group and Police Officers in the Black Group to proactively address any potential issues that may be resulting in disproportionate leaver rates for 'staff in post'.

### RECOMMENDATION 74

**HMPPS: HMP Bristol, Eastwood Park and Leyhill** need to develop a more diverse workforce representative of its communities as current census data (2011) indicates all 3 prisons are currently under-represented by people who identify within the BAME Groups.

### RECOMMENDATION 75

**HMPPS: HMP Bristol** need to create leadership development opportunities for people within the BAME Group to proactively address any potential barriers that may prevent BAME employees progressing into senior roles within the HMPPS.

### RECOMMENDATION 76

**HMPPS** to quantify the latest new joiner, Promotion and Leaver data across the ethnicity groups for prisons in Avon and Somerset: Bristol; Leyhill and Eastwood Park to baseline the HR life-cycle across levels across ethnicity groups (18 plus one) to quantify if there is any disproportionality at local level for BAME employees.

### RECOMMENDATION 77

**CPS** to quantify the latest New Joiner, Apprenticeship, Staff in Post, Promotion and Leaver data across the ethnicity groups for at local level for Avon and Somerset to baseline the HR life-cycle across levels across ethnicity groups (18 plus one) to quantify if there is any disproportionality at local level for BAME employees in the CPS within Avon and Somerset CJS.

### RECOMMENDATION 78

**CPS** to provide an overview of their 2021 HR strategy identifying key objectives and activity related to equality, diversity and inclusion within Avon and Somerset.

### RECOMMENDATION 79

**YOTs in Avon and Somerset: Bristol, BANES, North Somerset, Somerset and South Gloucestershire** need to quantify the latest Recruitment, New joiner, Graduate/apprenticeship, Promotion, Retention, development and Leaver data across the ethnicity groups at local level for Avon and Somerset to baseline the HR life-cycle across ethnicity groups (18 plus one) and quantify if there is any disproportionality at local level for BAME applicants and employees in the YOTs within Avon and Somerset CJS.

### RECOMMENDATION 80

**Youth Justice Board** to share findings and evaluation outcomes of the Elevate Programme with the A&S CJB to understand if this programme improves career progression for under-represented groups in the Youth Justice workforce.

### RECOMMENDATION 81

**YJB** to quantify the impact of the apprenticeship programme scheduled to start in 2021 focused upon recruiting BAME employees.

## JUDICIARY

### RECOMMENDATION 82

**A&S Criminal Justice Board** will need to appoint a Judiciary representative and dedicated resources in order to analyse and assess disproportionality within the Judiciary in Avon and Somerset.

### RECOMMENDATION 83

**A&S CJB** to maintain a watching brief of the progress of the Judiciary Data First Sentencing project and ensure that the outcomes of this research is shared with CJS partners.

## BACKGROUND

**“The disproportionate use of Stop and Search on BAME communities continues to drain trust in the CJS as a whole.”<sup>26</sup>**

Stop and Search does not feature as an area of scrutiny within the Lammy Review, however, it stresses the legacy of policing for the rest of the CJS as the first point of contact, affecting how people view ‘the system’ as a whole. Conflict around policing tactics, particularly the disproportionate use of stop and search, diminishes trust in the CJS in BAME communities.<sup>27</sup> As Wendy Williams states, “Some view stop and search as a valuable tool in the fight against crime, while others argue that its use has little effect on crime rates and can in fact increase disorder.

For some, particularly Black, Asian and Minority Ethnic people, it can reinforce the perception that there is a culture of discrimination within the police.”<sup>28</sup>

Nationally there were 563,837 stop and searches in England and Wales (excluding vehicle searches) from April 2019 to March 2020 at a rate of 10 per 1,000 people, and in Avon and Somerset there were 8,327 stop and searches at a rate of 5 per 1,000.<sup>29</sup> Chart 1 compares the National rates of stop and search per 1,000, broken down into Asian, Black, Mixed, White and Other ethnicity groups

to Avon and Somerset Constabulary data. Chart 2 applies the Relative Rate Index (RRI) to measure any disparity across the ethnicity groups in relation to the White group. Disproportionality is evident for the Asian, Black, Mixed and Other ethnicity groups. Proportionately, Avon and Somerset Constabulary (ASC) has a higher RRI rate for the Mixed and Other groups than the National RRI rates. Both nationally and in Avon and Somerset the highest disproportionality is in the Black Group. A Black person is 9 times more likely to be stop and searched than a person in the White Group.

In Avon and Somerset the issues around disproportionality in the use of stop and search on specific ethnic groups, particularly Black, Asian and Minority Ethnic people, continues to reduce trust and impact public confidence in the police and ultimately the Criminal Justice System.

“Legitimacy in the eyes of the public is inextricably linked to the way the police use their powers – whether the police are fair and reasonable in the use of their powers, respectful during encounters and open in their decision-making. A lack of trust leads to reduced legitimacy, which can lead to lower levels of co-operation and compliance. Unfair use of powers can be counter-productive if it leads people to feel they have no obligation to comply with the law. It may make people unwilling to report crimes of which they are the victims, or to come forward as witnesses.”<sup>30</sup>

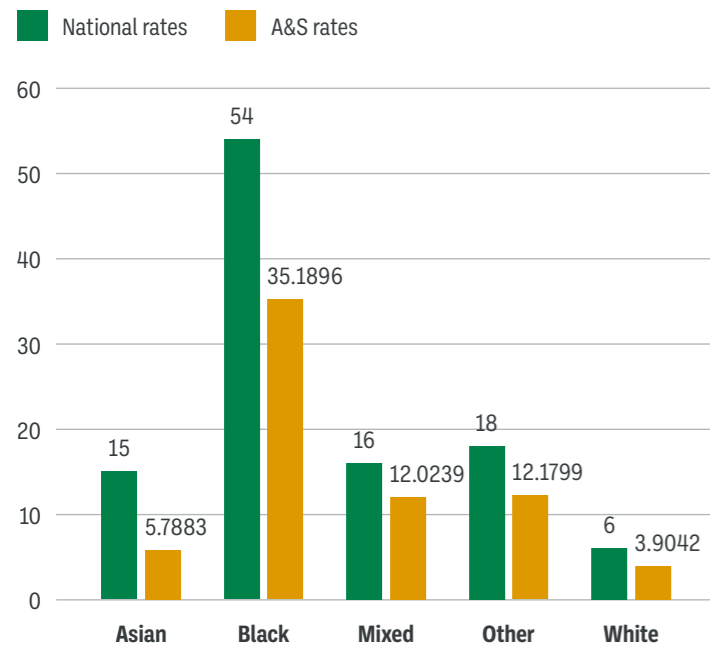


In February 2017, police stopped 63 year old grandfather, Judah Adunbi, outside his home in Bristol. Mr Adunbi, a former Lead of the A&S Constabulary Independent Advisory Group (IAG), was mistakenly identified by Police as a ‘wanted’ individual. Mr Adunbi stated he was not the man identified and exercised his legal right not to give his name. A physical confrontation ensued resulting in Police tasing him, and charging him with a public order offence and the assault of a police officer.

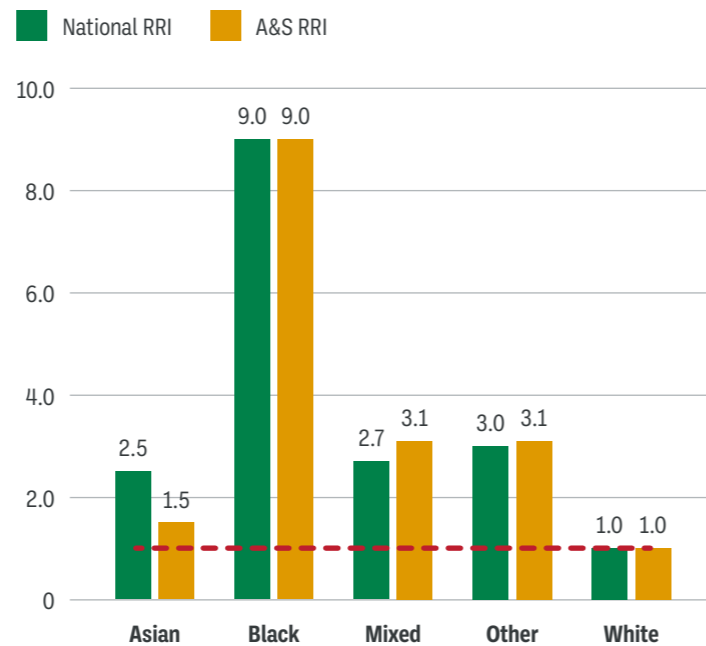
Police subsequently dropped charges and the two officers were placed under investigation. A court case followed and the police officer involved was found ‘not guilty’ of assaulting Mr Adunbi in both a criminal court and misconduct hearing.

Incidents such as this, significantly increase tensions and distrust between the community and the police.

**CHART 1: Stop and search rates per 1,000 people (2019/20)**



**CHART 2: Stop and Search RRI Rates (2019/20)**



## METHODOLOGY:

In July 2020 Amjid Ali, Chair of the Strategic Independent Advisory Group (SIAG) for ASC and member of the Stop & Search Internal Scrutiny Panel, was appointed Lead of the Stop & Search theme. Building on the initial themes identified within the A&S Lammy Sub-Group Report 2019,<sup>31</sup> key aims for the theme were identified:

(1) Explore and understand disproportionality data in Avon and Somerset (A&S) with consideration of any

gaps in ethnicity data recording;

(2) Explore engagement and inclusion with A&S communities to address disproportionality in stop and search.

A Stop and Search Focus Group was created consisting of representatives such as Police, community groups/ members, Education partners, Local Authority partners, community partnerships, to form a range of different perspectives of stop and search to be explored through workshops. The first workshop was held in December

2020, focusing upon understanding the impact of stop and search practices on Black, Asian and Minority Ethnic communities through the exploration of data and lived experiences. The second workshop was held in January 2021 and explored: different perspectives of stop and search; the factors enabling and constraining the implementation of stop and search; the impact of information currently in circulation to increase public understanding and confidence, and, the development of an inclusion and engagement framework for change.

<sup>26</sup> Lammy Review (2017)

<sup>27</sup> Lammy Review (2017)

<sup>28</sup> Wendy Williams CBE, HM Inspector of Constabulary, HMICFRS (Her Majesty’s Inspectorate of Constabulary and Fire & Rescue) Disproportionate Use of Police Powers: Disproportionate use of police powers: A spotlight on stop and search and the use of force (justiceinspectorates.gov.uk) 26 February 2021.

<sup>29</sup> <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest#download-the-data>

<sup>30</sup> Wendy Williams CBE, HM Inspector of Constabulary, HMICFRS (Her Majesty’s Inspectorate of Constabulary and Fire & Rescue) Disproportionate Use of Police Powers: Disproportionate use of police powers: A spotlight on stop and search and the use of force (justiceinspectorates.gov.uk) 26 February 2021

<sup>31</sup> Lammy Review (2017)

## PART ONE: EXPLORE AND UNDERSTAND DISPROPORTIONALITY DATA IN AVON AND SOMERSET WITH CONSIDERATION OF ANY GAPS IN ETHNICITY DATA RECORDING

### Police Powers for Stop and Search:

Police have a range of legislative powers to stop and search people they suspect have certain items. Officers must use a specific legislative power for every stop and search, employing the correct power for the circumstances of each search. There are three types of stop and search powers:

1. Powers which require officers to have “reasonable grounds” to conduct the search;
2. A power which allows officers to search without reasonable grounds, sometimes known as ‘no suspicion’ or ‘section 60’ search. This power can only be used when authorised by a senior officer based on certain ‘pre-conditions’;
3. A power officers can use to search those they ‘reasonably suspect’ are terrorists.<sup>32</sup>

### “Reasonable Grounds” for stop and search:

Section 1 of the Police and Criminal Evidence Act 1984 (PACE)<sup>33</sup> and Section 23 of the Misuse of Drugs Act 1971<sup>34</sup> are the most commonly used reasonable grounds stop and search powers.

- **Section 1 of PACE** allows officers to stop and search those they have reasonable grounds to suspect have “stolen or prohibited articles” offensive weapons, fireworks and any item that has been made or adapted to be used in a burglary, theft or fraud or to cause criminal damage.

- A similar power in the **Firearms Act 1968**<sup>35</sup> allows officers to stop and search those they have “reasonable cause” to suspect have a firearm or ammunition in a public place.

- **Section 23 of the 1971 Act** allows officers to search those they have reasonable grounds to suspect have “controlled drugs”, those drugs that are illegal to produce, supply and possess under the 1971 Act.

Officers have reasonable grounds when they have a “genuine suspicion” they will find the object they are searching for. This suspicion must be based on “objective factors”. Objective factors generally fall into one of two categories: **Intelligence and information or suspicious behaviour.**

### What are not reasonable grounds?

A personal factor cannot be used as the reason for stopping and searching in combination with other (non-personal) factors. In practice this means an officer cannot stop and/or search a person due to: physical appearance; previous convictions; stereotypical images and generalised assumptions about persons belonging to a particular group.<sup>36</sup>

**“There are really good examples of stop and searches. The best example seen is when Police Officers show compassion and say ‘we have a concern’. Looking to protect rather than criminalise..... When there isn’t an understanding of the stop and search, there is a very negative impact towards the police. This negativity empowers the groomers.”**

Stop and Search Focus Group Workshop, December 2020



### PACE Code A 2015 states:

“Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination.”<sup>37</sup> Fair decision making in stop and search is critical because it affects how people perceive the police – not just the individual stop and searched, but also the wider communities of which that individual is a part of. “The presence or absence of procedural justice (i.e. fair decision making and respectful treatment) during stop and search can affect whether people perceive the police to be legitimate.”

Scrutiny of the grounds for stop and searches was not conducted as part of this review. Further analysis of what is ‘officer led’ and what is ‘intelligence led’ would provide greater context around decision making and allow further scrutiny of the policing approach to stop and search.

**RECOMMENDATION 1:** Avon and Somerset Constabulary to analyse the grounds for all stop and searches to understand what is ‘officer led’ and ‘intelligence led’ to enable further scrutiny of the policing approach to stop and search. Police must evaluate and quantify decision making to ensure powers are being consistently used fairly, responsibly, respectfully and without unlawful discrimination.<sup>38</sup> A clear strategy needs to be developed and effectively communicated, to respond to any breach of power around stop and search to address disproportionality.

### “Smell of Cannabis”

The College of Policing Authorised Professional Practice Guidance on Stop and Search states that the smell of cannabis on its own with no other contributory factors will not normally justify a search. In *Searching for Cannabis: Are grounds for search associated with outcomes? (2017)*<sup>39</sup> it concluded that the smell of cannabis was not associated with criminal justice outcomes. The HMICFRS 2017 Legitimacy Inspection identified that out of 8,574 searches assessed 7% were based solely on the smell of cannabis with a difference in find rates for Black people (29%) compared to White people (37%) concluding that weaker grounds might be used to search Black people.<sup>40</sup>

In 2018 ASC changed their policy around stop searches regulating that officers do not use the smell of cannabis as the sole grounds for any stop and search. The ‘smell of cannabis’ has been introduced as a focus theme within the A&S Police Internal Scrutiny Bulletin (January – April 2021). A review of 107 cases showed 17 searches (16%) were found not to have reasonable grounds and of those, 10 searches were positive for cannabis. However, 8% were identified as ‘not recorded’ by body worn video (BWV) and a further 30% did not have BWV ‘saved as evidential’ indicating 38% of the 107 cases reviewed could not be scrutinised. The significant rate of stop searches for drugs in the Black Ethnicity Group (detailed later in this chapter) indicates further scrutiny is required to determine if officers are consistently practice this policy.

**RECOMMENDATION 2:** Avon and Somerset Constabulary’s scrutiny of the ‘smell of cannabis’ as the sole grounds for a stop and search, to continue to be a focus theme of the Avon and Somerset Office of the Police and Crime Commissioner (OPCC) Scrutiny of Police Powers Panel (SoPP)<sup>41</sup> and Internal Scrutiny Panel to ensure any contravention is identified. A strategy needs to be developed to ensure comprehensive training and communications are provided to police officers, as appropriate, to ensure understanding of the policy and improved policing approach to stop and search.

<sup>32</sup> Brown, Jennifer: House of Commons Library Search Briefing (10 March 2021): <https://commonslibrary.parliament.uk/research-briefings/sn03878/>

<sup>33</sup> Legislation.Gov.UK: Police and Criminal Evidence Act 1984 (legislation.gov.uk)

<sup>34</sup> Legislation.Gov.UK: Misuse of Drugs Act 1971 (legislation.gov.uk)

<sup>35</sup> Legislation.Gov.UK: Firearms Act 1968 (legislation.gov.uk)

<sup>36</sup> College of Policing: Stop and Search: Fair (college.police.uk)

<sup>37</sup> 22 Pace Code A 2015

<sup>38</sup> 22 Pace Code A 2015

<sup>39</sup> College of Policing: Searching for Cannabis: [https://whatworks.college.police.uk/Research/Documents/Stop\\_and\\_search\\_cannabis\\_Final\\_report.pdf](https://whatworks.college.police.uk/Research/Documents/Stop_and_search_cannabis_Final_report.pdf)

<sup>40</sup> PEEL: Police Legitimacy 2017: peel-police-legitimacy-2017-1.pdf (justiceinspectorates.gov.uk)

<sup>41</sup> SoPP: Scrutiny of Police Powers is detailed later in this Chapter.

**Ethnicity Recording:**

Gaps in Police ethnicity data captured for stop searches were identified as an issue requiring further scrutiny in the A&S Lammy Sub-Group Interim Report, December 2019.<sup>42</sup>

The Stop and Search Scrutiny Team have addressed inconsistencies in recording ethnicity by creating Qlik App alerts to Officers to flag gaps which prompt them to update any missing ethnicity data. This has improved data as follows:

YEAR	TOTAL STOP SEARCH	NO. OF RECORDS MISSING ETHNICITY DATA	PERCENTAGE
2017/18	5,562	307	5.5%
2018/19	5,733	268	4.7%
2019/20	7,909	367	4.6%
2020/21	9,629	280	2.9%

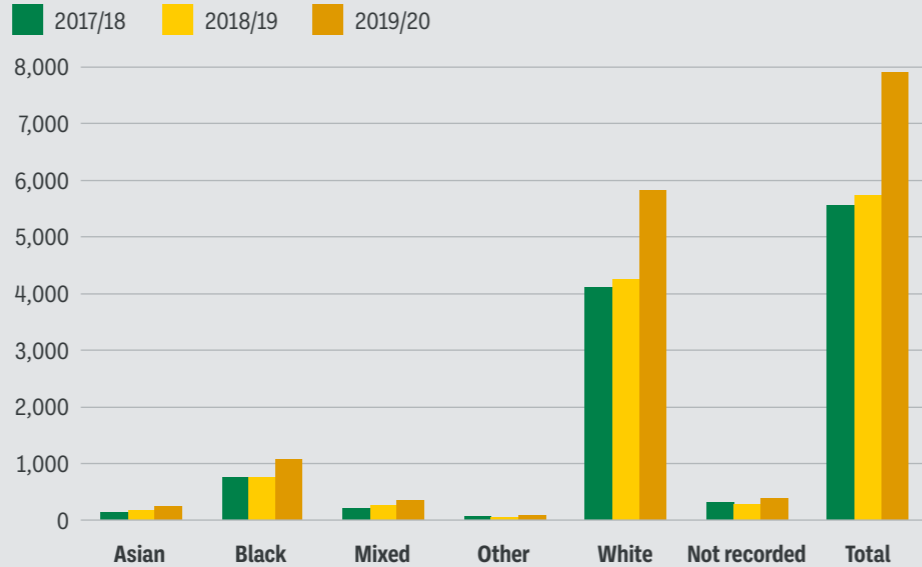
**Stop and Search Volumes:**

Since 2017 the total number of stop searches carried out in Avon and Somerset has increased year on year with an overall increase of 42% from 2017 to 2020 (as detailed in Chart 3).

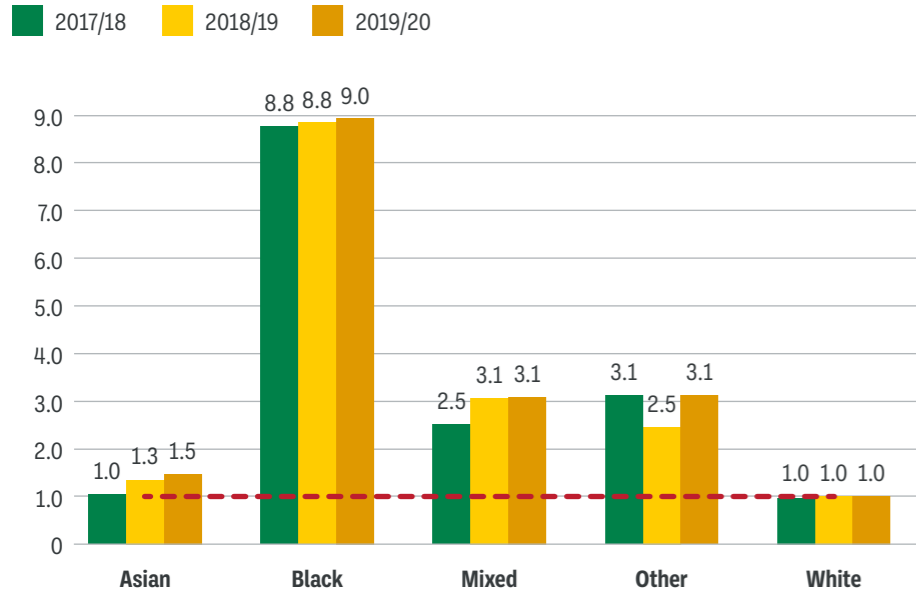
Stop and search volumes have increased across all of the ethnicity groups:

- Asian Group increased by 94%, (+118)
- Mixed Group increased by 67% (+137)
- Black Group increased by 41% (+309),
- White Group increased by 41% (+1,705)
- Other Group increased by 37% (+21)

**CHART 3: Stop and search volumes**



**CHART 4: STOP AND SEARCH RRI**



Disproportionality is evident in all four ethnicity groups compared to the White Group. Chart 4 shows the RRI for Stop and Search for each ethnicity group between 2017 and 2020.

- The Black Group showed the highest disproportionality rate between 8.8 and 9 times higher than the White Group.
- Disproportionality rates for the Mixed and Other Groups were between 2.5 and 3.1 times higher than the White Group.
- The Asian Group showed no levels of disproportionality in 2017/18 but by 2019/20 this had increased to 1.5 times higher than the White Group.

**Reasons for Stop and Search**

54% of all stop and searches carried out in 2019/20 were due to suspected drug offences, the most common reason for instigating a stop search.

**CHART 5: RRI of Stop & Search for Suspected Drug Offences (2019/20)**

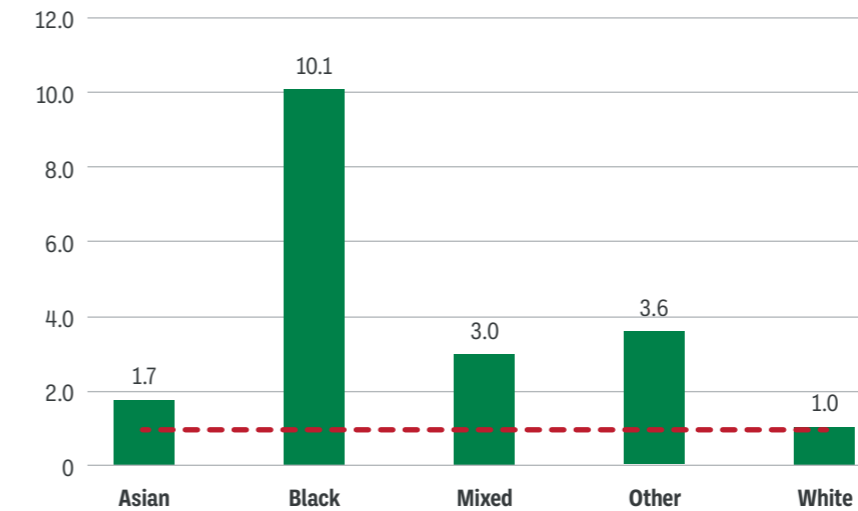


Chart 5 details the RRI of stop and searches for suspected drug offences in 2019/20.

The highest disparity was in the Black Group who were disproportionately stop and searched for suspected drug offences **10 times more than the White group.**

Disparity was also evident for:

- Other Group at a rate of 3.6
- Mixed Group at a rate of 3
- Asian Group at a rate of 1.7

**Self-reported drug use for the Black, Asian and Other Groups is half, or less than half, that of the White group.**

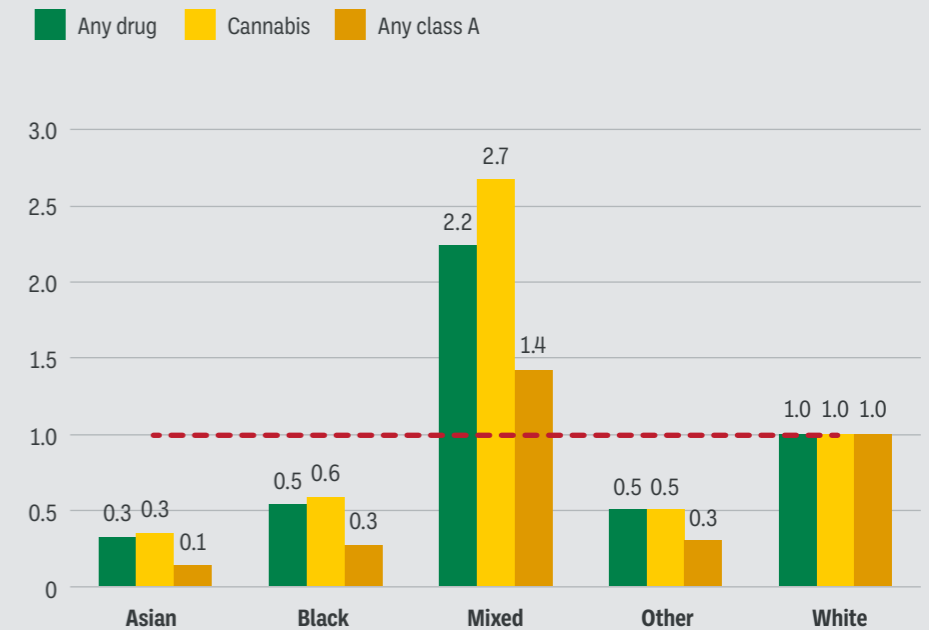
Chart 6 details the Office of National Statistics (ONS) Crime Survey for England and Wales in 2019/20 quantifying the RRI of illicit drug use for each ethnicity group.

Compared to the White Group, the Mixed Group's reported use was:

- 2.2 times more likely for 'Any drug'
- 2.7 times more likely for 'Cannabis'
- 1.4 times more likely for 'Any Class A'

The Crime Survey also recorded that the Mixed Ethnicity Groups tend to have younger age profiles than White Ethnic Groups which may influence the reported rates of drug use.<sup>43</sup>

**CHART 6: RRI of the Proportion of 16-59 Year Olds Self- Reporting Use of Illicit Drugs (2019/20)**



<sup>42</sup> A&S Lammy Sub-Group Interim Report, December 2019

<sup>43</sup> Office of National Statistics (ONS) Crime Survey for England and Wales in 2019/20 Crime in England and Wales - Office for National Statistics (ons.gov.uk)

**The HMICFRS Report 2021 identifies:**

“Drug enforcement, mainly through stop and search, contributes to ethnic disproportionality despite evidence that there is no correlation between ethnicity and rates of drug use. The likely damage to police-community relations caused by large numbers of drugs possession searches, especially those that find nothing, may outweigh the benefits derived from such searches.”<sup>44</sup> Police Forces across England and Wales have a wide range of approaches to using stop and search to police drugs representing an opportunity for ASC to lead a new national approach to drug-related stop searches that reduces disproportionality and improves performance.

**RECOMMENDATION 3:** Avon and Somerset Constabulary must review their policy for drug-related stop searches, and develop a new approach that tackles disproportionality and improves performance.

**Find Rates in Stop and Searches for Suspected Drug Offences**

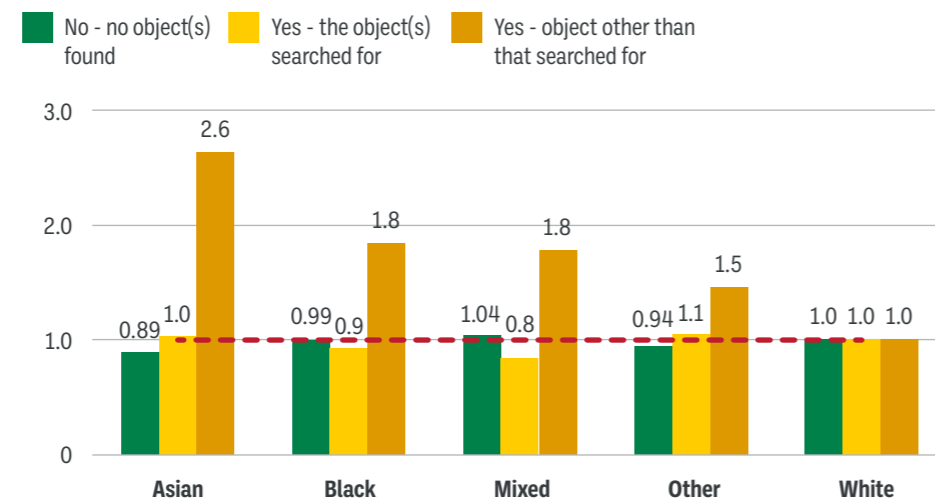
- 63% of searches resulted in no object(s) being found.
- 33% of searches found the object(s) searched for.
- 4% of searches found an object(s) other than the one searched for.

For the ‘No-no object(s) found’ and ‘Yes - the object(s) searched for’ results, the rates across the different ethnic groups appear to be largely proportional.

Disparity is indicated in the ‘Yes - object other than that searched for results’, the RRI for the Black, Asian, Mixed and Other groups are all higher than that of the White group.

Chart 7 quantifies the RRI of stop and search find rates for drugs in 2019/20 across the Ethnicity Groups when compared to the White Group:

**CHART 7: RRI of Stop & Search Find Rates For Drugs (2019/20)**



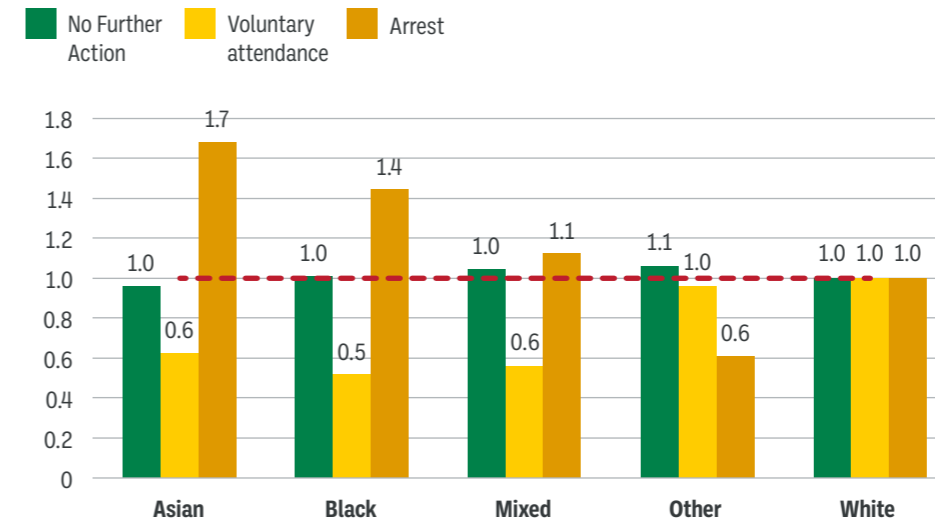
Across some forces in England and Wales, high rates of possession-only drug searches rather than supply offences, indicate that police forces are addressing the effect of the problem rather than the root cause.<sup>45</sup> Further research in Avon and Somerset is required into stop and searches for drug offences to understand more about the relationship between the grounds for stop and search, the disproportionality in stop and searches for suspected drugs offences and find rates that indicate a disparity in finding an object other than that searched for. Further analysis is required to explore these trends and understand the root cause of disproportionality to tackle it proactively.

**RECOMMENDATION 4:** Avon and Somerset Constabulary must focus scrutiny of disproportionality into stop searches for drugs offences, to research the relationship between the grounds for stop and search, the disproportionality in stop and searches for suspected drugs offences within the Asian, Black, Mixed and Other Ethnicity Groups and corresponding find rates. Within find rates, the specific focus needs to be upon investigating the disparity in finding an object ‘other than that searched for’ in the Asian, Black, Mixed and Other Groups in comparison to the White Group.

**Outcome of Stop and Searches for Suspected Drug Offences**

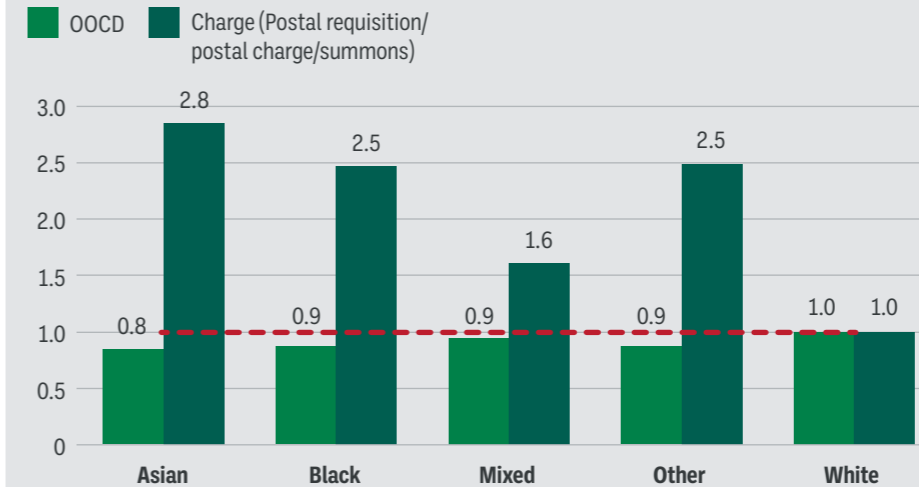
Chart 8 details the RRI of initial outcomes in 2019/20 of stop and searches across all Ethnicity Groups for suspected drug offences compared to the White Group. This has improved data as follows:

**CHART 8: RRI of Stop & Search for Suspected Drug Offences: Initial Outcomes (2019/20)**



Following an arrest or voluntary attendance, the next stage in the process results in either an Out of Court Disposal (OOC) or a Charge (Postal requisition/Charge/Summons outcomes).

**CHART 9: RRI of Stop & Search for Suspected Drug Offences Secondary Outcomes (2019/20)**



**RECOMMENDATION 5:** Stop and searches for suspected drug offences indicate disproportionality across Arrest, Voluntary attendance, Charge and Out of Court Disposal rates. Avon and Somerset Constabulary must scrutinise outcomes to explain disparities and develop strategy to address any disproportionality.

**Voluntary Attendance**<sup>46</sup> rates were around half for the Asian, Black and Mixed Ethnicity Groups compared with the White Group.

**Arrest** rates were higher in the Asian and Black Groups, and marginally higher for the Mixed Ethnicity Group. Whereas arrest rates in the Other Group were just over half in relation to the White group.

Further scrutiny is required to understand the disparity in arrest and voluntary attendance rates across the ethnicity groups.

Chart 9 details the RRI for suspected drug offences comparing OOCs and Charges across the ethnicity groups to those of the White Group.

The Asian, Black and Other Ethnicity Groups were between 2.5 and 2.8 times more likely to receive a Charge outcome.

The Mixed Ethnicity Group were 1.6 times more likely to receive a Charge outcome.

<sup>44</sup> HMICFRS, Disproportionate use of police powers, February 2021: Disproportionate use of police powers: A spotlight on stop and search and the use of force (justiceinspectorates.gov.uk)

<sup>45</sup> Disproportionate use of police powers, HMICFRS, February 2021

<sup>46</sup> Voluntary Attendance: attendance at a police station to be interviewed about an offence.

### Scrutiny of Stop and Search

**External Scrutiny:** In July 2017, the Office of the Police and Crime Commissioner created the Scrutiny of Police Powers (SoPP) Panel to provide external scrutiny from panel members from a range of diverse communities, led by an Independent Chair. The SoPP Panel focus upon the use of: Taser, stop and search, body-worn video and the Use of Force by the Police. Panel members attend quarterly meetings to review a sample of independently selected files and footage on the use of police powers and produce a report of findings submitted to the Police & Crime Commissioner for oversight and to the Constabulary for a response.

**Internal Scrutiny:** In 2018, the Stop and Search Internal Scrutiny Panel was set up and chaired by Chief Superintendent Corrigan, Force Lead for Stop & Search at ASC. Since 2020 the remit of the Scrutiny Panel has been extended to include scrutiny of Use of Force.

The Avon and Somerset Police Stop and Search Bulletin and supporting Infographic are produced on a quarterly basis for the panel to review and discuss, covering the following themes:

- Overall volumes and rates
- Ethnicity
- People searches by location (White Group compared to Black Group)
- Disproportionality (White Group compared to Black Group);
- Findings from quarterly dip sampling
- Body Worn Video
- Complaints.

The Bulletin and Infographic are also published on the PCC website for public information.<sup>47</sup>

In support of the scrutiny work of the Panel there is an Internal Scrutiny Team led by an inspector with a current cohort of 68 police officers. Each quarter the Internal Scrutiny Panel agree scrutiny themes for the following quarter. All stop searches matching the criteria are identified and allocated for the Internal Scrutiny Team to review. The Scrutiny Team review body-worn video footage and the stop search report, and subsequently complete a 'return form' providing observations on the search as a whole and results are fed into the panel via the Bulletin. Police officers disseminate feedback to their teams and identify potential improvements, with individual feedback to officers given as appropriate, recurring themes are addressed through training and communications.

**Scrutiny of Disproportionality:** ASC's internal scrutiny of disproportionality within stop and search is focused upon the Black Group, as it is has the highest rate of disproportionality. Data also consistently shows disparity for the Asian, Mixed Ethnicity and Other groups, however, at present the Internal Scrutiny Panel does not scrutinise disproportionality within these groups.

**RECOMMENDATION 6:** Avon and Somerset OPCC External Scrutiny of Police Powers Panel and the Stop and Search/Use of Force Internal Scrutiny Panel must ensure scrutiny of disproportionality within stop and search includes all ethnicity groups.

In the Avon and Somerset Police Stop & Search Bulletin (Jan – April 2021), scrutiny of data focuses on a quarter by quarter basis over a year. Scrutinising data year on year could enable the identification of wider trends across a greater period of time.

**RECOMMENDATION 7:** Avon and Somerset Constabulary's scrutiny of stop and search data needs to focus year on year to enable the identification of trends over a period of time. This will support collaborative working with CJS partners to create a data picture of an individual's journey through the CJS.

The Bulletin presents the RRI of the Black Ethnicity Group only. In order to provide further context around disproportionality for all ethnicity groups against the White Ethnicity Group, the data of all ethnicity groups needs to be presented. The RRI needs to be consistently used to calculate all disproportionality and presented in a consistent format to identify 'the effect of decision-making on disproportionality at each stage in the CJS.'<sup>48</sup>

**RECOMMENDATION 8:** Avon and Somerset Constabulary needs to include the RRI calculation of all Ethnicity Groups against the White Group to provide a consistent approach to measuring disproportionality.

### Complaints:

In 2014 the Best Use of Stop and Search Scheme (BUSSS) was launched by the Home Office and College of Policing with the aims of achieving: (1) greater transparency and community involvement in the use of stop and search and (2) increase public confidence that it is used fairly, lawfully and effectively. All police forces in England and Wales signed up to the scheme for 'local community scrutiny groups' to provide an essential role in its operation, particularly in the complaints trigger process. Complaints enable police to identify key learning areas and address any misconduct. Members of the public have the right to complain about the conduct of a police officer during a stop and search where behaviour is perceived to fall below the expected standard. The stop and search 'community complaints trigger' created by BUSSS establishes an extra level of accountability by requiring the police to explain to the community how powers are being used when the number of complaints reaches a certain level.<sup>49</sup>

In Avon and Somerset the **OPCC Independent Residents Panel (IPR)** review and scrutinise police complaints and highlight good practice. The panel produce a report of their findings and a response is provided by the Constabulary's Professional Standards Department (PSD). There is insufficient information on the scrutiny process for stop and search complaints for this Review to evaluate. However, responsibility for the scrutiny of stop and search complaints potentially overlaps between IPR and SoPP and only a proportion of stop and search complaints are scrutinised each year. Roles and responsibilities around the scrutiny of stop and search complaints need to be effectively defined and communicated.

The Bulletin identifies stop and search complaints over the last quarter detailing severity, result date, outcome 'finalised' and a summary of the complaint. However, there is insufficient detail within the Bulletin to provide transparency around the scrutiny of stop and search complaints for the public.

**RECOMMENDATION 9:** Avon and Somerset OPCC External SoPP must review the scrutiny of stop and search complaints working with the Independent Residents Panel (IRP) to ensure all stop and search complaints are consistently scrutinised. SoPP and the Stop and Search Internal Scrutiny Panel need to increase the rigour around the scrutiny of complaints by ensuring any areas of disproportionality are proactively addressed. Further analysis of the complaints 'process' may be required to assess disparities.

Recommendation 4 of the Lammy Review 2017 states, "If CJS agencies cannot provide an evidence-based explanation for apparent disparities between ethnic groups then reforms should be introduced to address those disparities."<sup>50</sup>

Disproportionality is measured and monitored by the Internal Scrutiny Panel. However, there is insufficient detail within the Bulletin to explain why there is disparity, the actions being taken to resolve it and the impact of any proactive change to address it.

**RECOMMENDATION 10:** In accordance with the HMICFRS 2018/19 Inspection Recommendation,<sup>51</sup> Avon and Somerset Constabulary must develop evidence-based explanations around the causes of disproportionality in stop and search. Development of a strategy is necessary to create a comprehensive and

transparent methodology that addresses disparities for all Ethnicity Groups. Any actions to tackle disproportionality need to be measured and monitored to ascertain improvement.

### County Lines

'County lines'<sup>52</sup> have been cited by police forces as a potential reason for the disproportionate use of the powers on different ethnic groups driven by a large number of Black, Asian and Minority Ethnic people visiting from outside the force area. Some Police forces attribute their proactive efforts to tackle gang crime or 'county lines', perceived, in main or part, to involve Black, Asian or Minority Ethnic people. However, there is no clear evidence to verify these assumptions.<sup>53</sup> In ASC's Operation Remedy the impact of county lines upon stop search was reviewed between February and October 2019. Low numbers indicated there was no evident disproportionality. Further analysis is required to understand and evidence if 'county lines' have any impact upon disproportionality within stop and search, as part of a more comprehensive strategy around tackling disproportionality.

**RECOMMENDATION 11:** In accordance with Recommendation 10 (above) 'develop evidence-based explanations around the causes of disproportionality in stop and search', scrutiny of the impact of County Lines needs to be included within the analysis of the 'root-cause' of disproportionality to quantify and report findings.

<sup>47</sup> Avon and Somerset Police Stop & Search Bulletin (Jan-Mar 2021): <https://www.avonandsomerset.police.uk/about/our-priorities/stop-and-search-statistics/>

<sup>48</sup> The Lammy Review, 2017

<sup>49</sup> Criminal Justice Alliance, Best Use of Stop Search (BUSS) 2018 : <https://www.criminaljusticealliance.org/wp-content/uploads/CJA-Stop-and-Scrutinise-2019.pdf>

<sup>50</sup> 1 The Lammy Review, 2017

<sup>51</sup> 44 Disproportionate use of police powers, HMICFRS, February 2021.

<sup>52</sup> 'County Lines' Criminal networks or gangs which use a dedicated mobile phone line (or 'deal line') to distribute drugs, typically from an urban area to a smaller town or rural setting. They often exploit vulnerable adults and children to traffic, store and deal drugs, and will use violence, weapons and coercion. HMICFRS.

<sup>53</sup> 44 Disproportionate use of police powers, HMICFRS, February 2021.

## PART TWO: EXPLORE ENGAGEMENT AND INCLUSION WITH A&S COMMUNITIES TO ADDRESS DISPROPORTIONALITY IN STOP AND SEARCH

As part of this Review, a Stop and Search Focus Group was created to consult with partners and the communities of Avon and Somerset to explore their experiences of stop and search, perceptions of the police and understanding around disproportionality. The Focus Group included representatives from ASC including Police Officers and members of the Diversity and Inclusion Outreach Team, External Scrutiny of Police Powers Panel (SoPP), Strategic Independent Advisory Group<sup>54</sup> (SIAG), Independent Advisory Groups<sup>55</sup> (IAG), Black Police Association (BPA), Golden Key, Legal Lifelines, Stand Against Racism and Inequality (SARI), Learning Partnership

West (LPW), Office of the Police and Crime Commissioner (OPCC) and individual members of the community. Two workshops were held with the Focus group in December 2020 and January 2021.

### Workshop One: Understanding Data and Exploring Lived Experiences

The focus of this workshop was upon understanding the impact of stop and search practices on BAME communities through the exploration of the scrutiny process, the data and lived experiences.

The table below details key themes and corresponding feedback captured from the discussions within the workshop:

**“With regards to the disproportionality there is something about the way we look at getting results and where we get results. Why or what is it that means our service doesn’t seem to want to stop and search white people? ..... We need to dig deeper otherwise disproportionality will not move. Are we as a service channelling this bias as opposed to giving our officer better skill sets?”**

Stop and Search Focus Group Workshop December 2020



### KEY THEMES AND FEEDBACK

#### Stop and Search Focus Group Workshop 1, December 2020

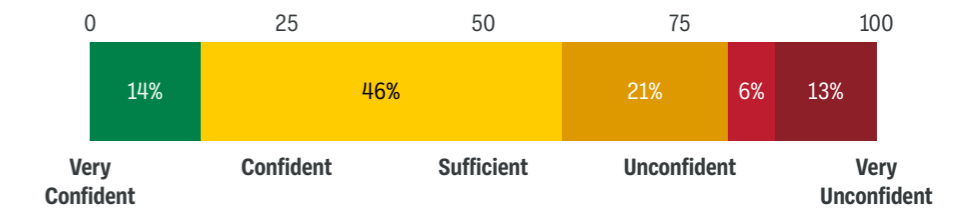
PREVENTION	Stop and search can prevent crimes.
PROTECTION	Through a compassionate approach to policing related to concern rather than criminalisation.
EXPLOITATION	of young people through negative perceptions of Police in community, vulnerable to grooming.
DISRESPECT	There can be a lack of courtesy/respect in the policing approach to stop and search.
UNCONSCIOUS BIAS	Need to understand the nature and impact of training.
GOOD PRACTICE	What does a good stop and search look like?
TRAINING	What training is there for stop and search? Is it sufficient?
FORCE	Communities experience Force rather than Service.
CRIMINALISATION	People can be criminalised unnecessarily through interaction with the police.
CONTEXT	Lack of understanding around the data for stop and search.
COMMUNITY PERCEPTIONS	Is there a clear understanding of communities’ perspectives of stop search and perceptions of police?
CHANGE	What changes are required? What is the scale and what are the steps?

### Police Perspectives:

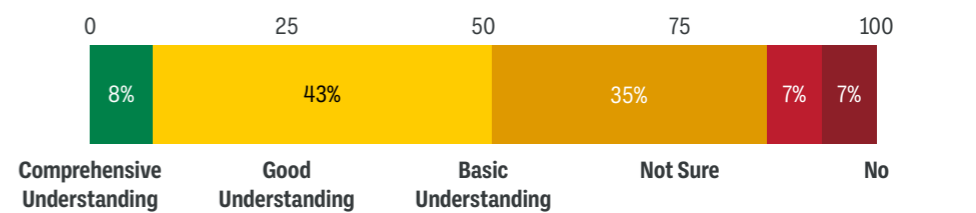
In accordance with feedback of the Focus Group from Workshop one, a survey of police officers was conducted to capture police officer perspectives around their experience of stop and search and understanding around disproportionality, training, racism, support, confidence and potential improvements required. 116 Police Officers completed the survey. 24% female, 73% male and 3% prefer not to say. 94% were within the White Ethnicity Group.<sup>56</sup>

### Police Officer Survey Findings:

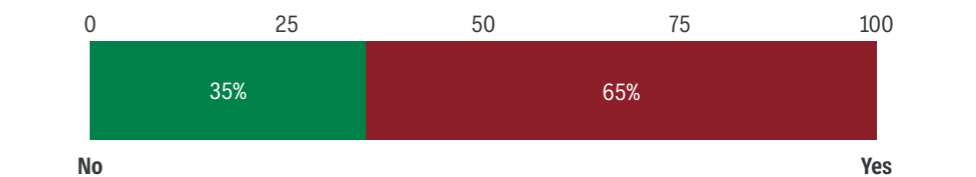
Police Officer confidence in using powers in stop and search:



Police Officer understanding of disproportionality:



Police Officers subjected to abuse whilst carrying out stop and search:



### Racism:

- 26% identified they had experienced racism carrying out stop and search or any other duties.
- 78% confirmed they had been labelled a racist by a member of the public.
- Feedback from officers expressed they felt: unfairly judged, upset, frustrated, hurt, annoyed, offended, unappreciated, embarrassed, cautious, and uncomfortable. In contrast a small number identified it was a ‘tactic of distraction’, they were ‘not affected’, ‘not bothered’.

### Support:

- 48% of Officers feel supported by the public in relation to stop and search.
- 74% feel supported by ASC in relation to stop and search.

### Training:

#### Stop and search:

- 77% of police officers surveyed would like further training in stop and search. 3% of police officers surveyed identified they had never received stop and search training.

#### Cultural Awareness training:

- 61% of Officers would like further training in Cultural Awareness.
- 20% of police officers surveyed indicated they had never received cultural awareness training.

#### Unconscious Bias training:

- 37% of Officers would like further training in Unconscious bias. 12% of police officers surveyed had never received training in unconscious bias.

### Improvement Areas:

- Increase public understanding and engagement and promote good stop and search practice
- Increase scrutiny – such as sharing BWV, public panels, better representation for scrutiny such as youth panels, and more representative of communities.
- More training to increase confidence and understanding of officers such as sharing videos of what Good looks like and senior officers mentoring less experienced officers.

<sup>54</sup> Strategic Independent Advisory Group (SIAG): a force-wide group made up of the Chair Independent Advisors from the Avon and Somerset policing area IAGs and Community / Partner Agencies, covering matters of strategic significance.

<sup>55</sup> Independent Advisory Groups (IAGs): a way for communities to work with the Police to help improve their service. IAGs advise on policing issues that may cause concern to local people and communities.

<sup>56</sup> Further breakdown of the ethnicity groups is not provided due to Data Protection in accordance with low numbers.

**Training:**

**Stop and Search:** Training was rolled out force-wide in 2019 and all frontline Patrol Officers (in excess of 800) received a training package covering the following areas:

- Relevant legislation and understanding.
- Reasonable grounds articulation and its recording.
- Legitimacy, perceptions and impact of stop and search within our communities, focusing on the encounter.
- Independent scrutiny of S&S – reflections and views of the SPPP.
- BWV and policy.
- Smell of cannabis only searches.

In April 2021 ASC launched the updated College of Policing (CoP) MLE package on stop search consisting of a learning package and a knowledge check, both of which are mandatory to complete for all frontline officers, with completion tracked through Qlik.<sup>57</sup> The overall focus of this learning concerns legal powers and procedure. Disproportionality and inequality is primarily focused on within a Brief History video. The section on unconscious bias identifies it will be explored more through the classroom training and no further focus is included within the e-learning package. There is relatively little focus upon ethnicity and disproportionality in terms of statistics and lived experiences of stop and search to provide a balanced perspective. In addition to the College of Policing module, ASC have produced a video of an interview between two colleagues from the Diversity Team

**“One of the key points around aspirations on the unconscious bias training was as a workforce there needs to be a real focus on anti-racist policing and not just understanding unconscious bias. ....We need to take this further in terms of understanding the trauma and impact of police encounters. If we know that young black boys aged 11 for example are being searched we need to know their experience and the impact on their community from a young black boy’s experiences. Trauma-informed policing. Police officers should be aware of the consequences of their actions and the trauma caused.”**

Stop and Search Focus Group Workshop, December 2020



discussing their lived experiences of stop search launched alongside the CoP stop and search training module. Further engagement with communities around the impact of stop and search and lived experiences need to be developed with the Police Outreach Team<sup>58</sup> to improve the Constabulary’s approach to stop and search.

**De-escalation training:** Delivered to front line officers taking account learning from scrutiny panel feedback, providing additional skills and methods to officers to assist in managing conflict. No details of this training and its monitoring were scrutinised as part of this review.

**Diversity and Inclusion Training:** ASC have developed a three-tier approach to embedding Diversity & Inclusion constabulary-wide through learning:

- **Tier 1:** Cultural Intelligence training delivered through an external company to all Inspectors, C/ Inspectors, Chief Officers, and Staff equivalents from June 2019. Initial training has been rolled out as a trial to Constabulary Staff, along with community leaders and partners including Bristol City Council.

- **Tier 2:** Cultural awareness training for operational Police Staff and Officers subject to stakeholder group and community member consultation to establish training required in each role.
- **Tier 3:** Cultural awareness training for new recruits developed as part of the overall curriculum in conjunction with University of the West of England (UWE).

COURSE TITLE AND DESCRIPTION	PROGRESS
<p><b>Taking the Hurt out of Hate:</b></p> <p>One day courses run between April 2017 and April 2018 for Officers in Response and Neighbourhood Policing and half day sessions for Communications and Custody staff. In total 1,052 delegates attended this training. Learning outcomes for the training focused on understanding hate crime, biases focusing on the perspective and engagement with victims.</p>	<p>No formal framework or evaluation was established for this training to determine if outcomes were achieved and if there was any impact on policing approach or performance. The Constabulary now have a review process for all training courses which has a six month review period to evaluate training impact upon staff and officers.</p>
<p><b>Cognitive Awareness:</b></p> <p>Course is currently in development based on their former Unconscious Bias course.</p>	<p>To be delivered as part of the Leadership Academy and available to all officers, staff, volunteers and specials.</p>
<p><b>Hate Crime Training:</b></p> <p>All Police Constable Degree Apprenticeship (PCDA) and Degree Holder Entry Programme (DHEP) students have specific inputs from SARI, who also input on Hate Crime Laws.</p>	<p>The Constabulary has recently completed a commissioning process to ensure all officers have training inputs on these topics and a comprehensive training programme is currently in development.</p>
<p><b>Understanding Race: It’s good to talk:</b></p> <p>New training in development, delivered as workshops run by a facilitator, a Leadership/Specialist Skills trainer and a representative from the Outreach team. Sessions are focused on a key theme to encourage discussion and explore potentially uncomfortable topics or ones where misunderstandings can arise.</p>	<p>The first workshop was held in January 2021 and over 50 delegates have taken part so far. Evaluation to date indicates delegates prefer face-to-face workshops, and it is intended to progress workshops again from June 2021.</p>

**RECOMMENDATION 12:** Avon and Somerset Constabulary must develop a framework for stop and search training that regularly evaluates the operational needs of all officers to ensure they are equipped with the confidence and skills to use their powers for stop and search consistently, fairly and reasonably. Training

needs to have more emphasis upon community engagement, understanding of cultural differences, and understanding the impact of policing upon communities. All training must be regularly monitored and evaluated by performance to ensure strategic aims and outcomes are achieved.

<sup>57</sup> Qlik: the constabulary’s application for visual management of data

<sup>58</sup> The Outreach Team are part of the Diversity and Inclusion Team at Avon and Somerset Constabulary who work to improve the perception of policing as a career within minority groups and to increase the diversity of applicants.



### Workshop 2: Identifying change to reduce disproportionality

The second Stop and Search Focus Group workshop was held in January 2021 to explore and understand:

- The different perspectives of stop and search
- The existing impact of stop and search practices on BAME communities
- The factors enabling and constraining the implementation of stop and search
- The impact of information currently in circulation to increase public understanding and confidence of stop and search

#### Change and Intended Outcomes:

- Implement stop and search in a manner that is justified, proportionate and legal
- Development of tools and resources to improve evaluation of stop and search both internally and externally
- Encourage active participation and review of stop and search by members of Black, Asian and Minority Ethnic (BAME) communities
- Improve public information materials (ensure they are fit for purpose) and communication channels
- Develop an inclusion and engagement framework for change.

#### Key Feedback:

- More insight is required to bring in different perspectives across communities within ASC
- Need to build confidence and understanding between the police and the communities about how

stop and search is implemented.

- Develop “One Voice” sharing a common understanding, between police and communities to create joint communications and training.
- Police officers need to be directly involved in communications with communities working with the Black Police Association (BPA), the Outreach Team and members of the Independent Advisory Groups to support engagement with communities.
- Need to let wider communities know that ASC is seeking to adopt new approaches to stop and search, and want to include community involvement in its development.
- Create a long term approach with incremental steps attaining community investment in process.
- Inclusivity: representation from police to have a voice and share experiences and challenges they face.
- Spread knowledge and apply practical innovation to allow better scrutiny. ‘Knowledge empowerment is a game-changer and an opportunity that must not be wasted’.
- Ensure the dialogue is mutual, respectful, safe and productive
- Need to share learning.

#### Lived Experience in Scrutiny

One of the key lessons of the Lammy Review found ‘bringing decision-making out into the open and exposing it to scrutiny is the best way of delivering fair treatment’. For stop and search in particular, scrutiny by communities

most affected by its use can play a crucial role in building trust by providing transparency and accountability.<sup>59</sup>

Qualitative data is found in ‘lived experience’ and needs to be valued as evidence of the impact of stop and search upon communities in Avon and Somerset. Feedback from the Focus Group workshops highlighted communities most affected by disproportionality, continue to have insufficient access to information around stop and search. Communities still feel disconnected from the scrutiny process as current engagement and communications are not effective. Recent consultation and dialogue around lived experiences of stop and search are not perceived as leading to any measurable outcome.

Peel’s 9 Principles of Policing identified “the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect.”<sup>60</sup> Based on this principle the public’s trust and confidence is vital for police to use their powers effectively. Collaboration between the Constabulary and the communities it serves is crucial in building a holistic understanding of stop and search that includes the lived experience of those communities most affected.

**RECOMMENDATION 13:** Avon and Somerset Constabulary must build confidence with its communities around police powers by developing an Inclusion and Engagement Framework that is co-produced with communities. This will develop engagement with communities, improve public access to information about stop and search and increase the transparency of the scrutiny process. As part of this

Framework the ‘lived experience’ of communities affected by stop and search must be captured and analysed alongside the quantitative data in the scrutiny of stop and search.

**RECOMMENDATION 14:** Avon and Somerset Constabulary to develop a youth-focused external scrutiny group to support the work of the Scrutiny of Police Powers Panel

## CONCLUSION

The purpose of this review was to identify effective strategies for dealing with disproportionality in stop and search across the Avon and Somerset Constabulary force area. Based on the analysis conveyed, it can be concluded from the data and community insight that there are multiple areas where modifications in officer behaviour and the stop and search process are necessary to improve stop and search practices and community confidence.

Avon and Somerset Constabulary is working hard to develop a genuine partnership with key stakeholders to improve the Constabulary’s understanding of the negative impact of poor stop and search techniques. Developing an understanding of the trauma of poor public engagement and interaction is particularly pertinent when issues of inequalities for people from Black, Asian, Mixed Race and Minority Ethnic (BAME) backgrounds have been brought to the fore across society due to the Covid-19 pandemic.

Avon and Somerset Constabulary is systematically addressing the challenges of Stop and Search. It is committed to implementing the recommendations of the Lammy review with the support of its key stakeholders. Systems and procedures are in place to ensure any issues related to breaches in Stop and Search practices are dealt with swiftly and appropriately.

In accordance with Recommendation 13 of this Review, proposals are in development to create an additional insight and scrutiny panel comprised of key community stakeholders with lived experience of stop and search. It is intended this new group will work alongside the existing OPCC Scrutiny of Police Powers (SoPP) and Constabulary Internal Scrutiny Panel to ensure a robust ‘check and test’ process is in place committed to ensuring equality and fairness.

Future exploration into stop and search practices could help identify different ‘good practice’ processes and techniques that enhance community confidence.

**Amjid Ali, Independent Chair of Strategic Independent Advisory Group, ASC  
STOP AND SEARCH LEAD, A&S LAMMY SUB-GROUP REVIEW**

<sup>59</sup> 46 Criminal Justice Alliance, Best Use of Stop Search

<sup>60</sup> Home Office 10 December 2012, Definition of Policing by Consent: Definition of policing by consent - GOV.UK (www.gov.uk)

## BACKGROUND

David Lammy stated that the youth justice system (YJS) was his biggest concern in his 2017 Review.

Ethnic disproportionality is seen at many stages of the YJS. The proportion of Black children arrested has been steadily increasing over the last ten years. Nationally in the year ending December 2019, 10-17 year old First Time Entrants (FTE) into the CJS from a White ethnic background had fallen by 87% since 2011, whilst the proportion of FTEs from a Black background increased from 9% to 16% and FTEs from an Asian background increased from 5% to 8% over the same period.<sup>61</sup>

The 2017 Lammy Review found that 40% of the youth custody population in England and Wales were BAME children. In May 2020 this figure had risen to 51.9% in May 2020, (29% Black, 11.7% Mixed, and 11.2% Asian and Other).

**“The main pathways and risk factors for young people into the youth justice system all record high levels of ethnic disproportionality: from school exclusions, the care system, Child and Adolescent Mental Health Service (CAMHS) and first contact with the police. There is a long history and a plethora of evidence around the black community’s poor relationships with the police and the corrosive effect of Stop and Search policies.”**

Young Review/Black Training and Enterprise Group (BTEG) – Written submission to Call for Evidence: June 2016



The disproportionality for BAME young people in the criminal justice system is not just limited to custody; 26% of children who received an out-of-court disposal in HMI (Her Majesty’s

Inspectorate) inspections were identified as BAME and this rose to 41% for post-court sentences (including custody).<sup>62</sup> The proportion of BAME children in contact with the CJS who go on to re-offend within a year has risen from 11% -18%, with the figure for black children at 45%.<sup>63</sup>

In response to the Lammy Review the Ministry of Justice (MOJ) created a dedicated youth disproportionality team in April 2018 focused upon ‘explaining or changing disproportionate outcomes for BAME children in the justice system’. Disproportionality was identified as a priority for the Youth Custody Service in 2019/20 with an Equality Delivery Plan developed ‘to investigate disproportionality and identify where reforms can be made if any disparities cannot be adequately explained’.<sup>64</sup> Figure 1 details the shared aims, objectives and themes of the MOJ, the Youth Justice Board (YJB) and the Youth Custody Service (YCS).<sup>65</sup>

In Tackling Racial Disparity in the CJS Update 2020 the MOJ identify key focus areas for interventions and activities, some of which are in progress and others requiring development. These include:

- improving Black, Asian and minority ethnic children’s engagement and experience within police custody;
- understanding and addressing disproportionate sentencing outcomes
- tackling disproportionality in the youth custodial estate;
- understanding how to better empower parents of Black, Asian and minority ethnic children to support their child’s journey in the system;
- improving the experiences of specific cohorts, such as Gypsy, Roma, Traveller and Muslim children, for which data is scarce.

Recommendation 33 of the Lammy Review identifies, “the Youth Justice Board (YJB) should commission and publish a full evaluation of what has been learned from the trial of its ‘disproportionality toolkit’, and identify potential actions or interventions to be taken”.

In Tackling Racial Disparity in the CJS Update 2020 the MOJ identified its increase in the number of monitoring systems which collect ethnicity according to the Self-Defined 18+1 standard by the Youth Justice Board – which collects data on behalf of Youth Offending Teams.



## METHODOLOGY:

In July 2020 Maya Mate-Kole, Senior Service Coordinator for Golden Key and Member of the Bristol Commission on Race Equality (C.O.R.E) was appointed lead of the Youth Justice theme. Building on the initial themes identified within the A&S Lammy Sub-Group report (2019), key aims for the theme were identified:

- (1) Explore School Exclusions and the link to entry into A&S CJS for BAME young people
- (2) Explore the YOTs approach to monitoring and tackling of disproportionality to include ‘Referral Order guidance’ and the YJB disproportionality toolkit.
- (3) Explore Deferred Youth Prosecutions

A Youth Justice Task and Finish group was created consisting of representatives of each YOT within Avon and Somerset: Bristol, Bath and North East Somerset

(BANES), South Gloucestershire (S.Glos), North Somerset and Somerset YOTS, Bristol City council (BCC) Safer Options, Education Inclusion partners, parents/community groups and youth organisations, to form a range of different perspectives of Youth Justice in Avon and Somerset to be explored through workshops. The aim was to capture linked offence and outcome data from each YOT to allow analysis and comparison of the experiences of BAME young people through pre-court/out of court and through court processes.

Workshops were held in November 2020, focusing upon understanding the impact of School Exclusions on BAME children and young people and their entry into A&S CJS, and the regional use of the disproportionality toolkit. The second workshop was held in February 2021 and focused upon DFE School Exclusions data, parent and pupil lived experiences along with YOT offending data and staff experience.



Figure 1: MOJ, YJB, YCS shared aims, objectives and themes

OVERARCHING AIMS	SHARED OBJECTIVES	SHARED THEMES
To develop a shared approach to addressing youth justice disproportionality	<ul style="list-style-type: none"> <li>• To improve our understanding of the <b>drivers of disproportionality</b></li> <li>• To explain or change the <b>over-representation of BAME children and young people</b> in the YJS, from advice at the police station to experience in custody</li> </ul>	<ul style="list-style-type: none"> <li>• Consult children with <b>lived experience</b></li> <li>• Improve <b>trustworthiness of the YJS</b></li> <li>• Understand the <b>experiences of the particular cohorts, and address specific needs identified</b></li> <li>• Tackle <b>bias</b></li> </ul>
To explain or change disproportionality within the YJS	<ul style="list-style-type: none"> <li>• To explain or change <b>disproportionate outcomes in the youth custodial estate</b></li> <li>• To collectively <b>monitor process</b> against organisational priorities to address disproportionality and <b>agree appropriate actions</b></li> <li>• To <b>identify gaps</b> in our approach to disproportionality and <b>agree steps to address them</b></li> </ul>	
To influence disproportionality outside the MoJ remit	<ul style="list-style-type: none"> <li>• To improve understanding of <b>the drivers of disproportionality pre-arrest</b>, which may lead to over-representation in the YJS</li> <li>• To coordinate <b>engagement with other government departments, other public bodies and key stakeholders</b>, as appropriate</li> </ul>	

<sup>61</sup> Youth Statistics Supplementary Tables: Chapter 2, Table 2.7: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956621/youth-justice-statistics-2019-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956621/youth-justice-statistics-2019-2020.pdf)  
<sup>62</sup> Her Majesties Inspectorate of probation Annual report: inspection of youth offending services (2019-2020) page 18: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/11/HMI-Probation-Youth-Annual-Report-2020.pdf>  
<sup>63</sup> P65 Youth Statistics 2019-2020 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956621/youth-justice-statistics-2019-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956621/youth-justice-statistics-2019-2020.pdf)  
<sup>64</sup> Children and Young People in Custody (Part 1): Entry into the youth justice system. <https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/306/30609.htm>  
<sup>65</sup> S70, P20, Tackling Racial Disparity in the CJS: 2020 Update. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881318/tackling-racial-disparity-cjs-2020-print.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881318/tackling-racial-disparity-cjs-2020-print.pdf)

**Defining The Youth Justice System In Avon And Somerset**

**Children And Young People<sup>66</sup>**

- Children: Aged between 10 and 17 years. Can be arrested and taken to court if they commit a crime. They are treated differently from adults and are: (1) dealt with by youth courts; (2) given different sentences; (3) sent to special secure centres for young people, not adult prisons.
- Young people: From the age of 18 years, are treated as an adult by the law. If sent to prison they go to a place that holds 18 to 25-year-olds, not a full adult prison.

**Demographic:**

Avon and Somerset is divided into five local authorities; Bath and Northeast Somerset (B&NES), Bristol, Somerset, North Somerset and South Gloucestershire. Ethnic diversity differs across each of the separate local authority areas. Table 1 shows the ethnic population percentages for 10 to 17 year olds in Avon and Somerset based on the 2011 Census. Detailing each local authority in order from the highest BAME population to the lowest. Bristol has the highest BAME population (24.8%) compared to lower levels in the other authority areas which are 93% - 96% White.

TABLE 1: A&S POPULATION PERCENTAGES - 2011 CENSUS (AGED 10-17)					
Area	Asian	Black	Mixed	Other	White
Avon and Somerset PCC	3.0%	2.6%	3.3%	0.4%	90.7%
Bristol	7.2%	9.8%	6.9%	0.9%	75.2%
Bath and North East Somerset	2.2%	0.6%	3.6%	0.3%	93.4%
South Gloucestershire	2.1%	0.7%	2.7%	0.3%	94.3%
North Somerset	1.4%	0.3%	2.1%	0.2%	96.0%
Somerset	1.4%	0.3%	1.7%	0.1%	96.4%

**Youth Offending Teams/Services (YOTS/YOS)**

Youth offending teams are part of a Local Authority, separate from the police and the courts. YOTs are multi-disciplinary, statutory partnerships, and their purpose is to deal with the needs of 'the whole child'. YOTs supervise 10-18-year-olds who have entered the criminal justice system following arrest by the police and either receive an Out of Court Disposal

(OCD) or have been sentenced by a court. YOTs also work with children and young people who have not committed a crime, but are at particular risk of doing so. YOTs are staffed by members from the local authority social care and education services, the National Probation Service, local health services, police and community volunteers.<sup>67</sup>

**The Youth Justice Board (YJB)**

The YJB's primary function is to monitor the operation of the youth justice system and the provision of youth justice services in England and Wales.<sup>68</sup> The Youth Justice Board for England and Wales (YJB) provides some funding to YOTs. It also monitors their performance and issues guidance to them about policy and practice.<sup>69</sup>

**FINDINGS**

**Data:** All data provided was 5 plus 1 not the recommended 18 plus 1 originally requested. Consequently, data for minority ethnic groups such as GRT were not de-aggregated.

**RECOMMENDATION 15:** All Avon and Somerset, Youth Offending Teams and Youth Justice Partners to de-aggregate ethnicity data groups to 18 plus 1 for consistent scrutiny of disproportionality. This will ensure that all minority ethnic groups such as GRT are scrutinised equally.

**(1) Explore Exclusions And The Link To Entry Into A&S CJS For Bame Young People**

Key questions identified for the Review:

- Are BAME young people more likely to be excluded?
- Are BAME young people who have been excluded more likely to enter the criminal justice system?

**School Exclusion Types:**

- **Fixed period exclusion** is where a child is temporarily removed from school
- **Permanent exclusion** means a child is expelled.

**Grounds for Exclusion<sup>70</sup>**

A pupil must only be excluded on disciplinary grounds. The decision to exclude must be: lawful; rational; reasonable; fair and proportionate.

**Alternative Options to an exclusion:**

- **Directing pupils off-site for education:** Maintained schools have the power to direct a pupil off-site for education, to improve his or her behaviour.
- **Managed Moves:** A pupil can also be transferred to another school as part of a managed move, as an alternative to an exclusion.

I have really struggled to understand my rights as a parent. It's really difficult for me to navigate the system and be able to have conversations with teachers to find out how I can best support my son at school.

I have experienced a lot of behavioural problems in terms of them sending my son to isolation all the time. I think on average he spends 1 to 2 days per week in isolation. Initially I didn't really understand what isolation meant. I thought he was going to a classroom with a teaching support or a teacher. And what was sent there for him was his work to complete from the lesson. What I quickly found out from speaking

with my son is that actually, he sits there with a text book and just copies from it.

...if he is spending so much time in isolation, I don't really see him having a future in regards to getting really good GCSE's because he's not going to have that opportunity as he sits in isolation all the time. I also think that isolation data needs to be published. I think it's good to know as a parent where we stand on this because I find it extremely difficult and I really do not think he's going to have the best experience.

Lived Experience of an excluded child's parent:  
Year 9, 14 year old Black Boy. Secondary School in Bristol



<sup>66</sup> <https://www.gov.uk/age-of-criminal-responsibility>  
<sup>67</sup> [https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2017/10/The-Work-of-Youth-Offending-Teams-to-Protect-the-Public\\_reportfinal.pdf](https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2017/10/The-Work-of-Youth-Offending-Teams-to-Protect-the-Public_reportfinal.pdf)  
<sup>68</sup> <https://www.gov.uk/government/organisations/youth-justice-board-for-england-and-wales/about>  
<sup>69</sup> [https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2017/10/The-Work-of-Youth-Offending-Teams-to-Protect-the-Public\\_reportfinal.pdf](https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2017/10/The-Work-of-Youth-Offending-Teams-to-Protect-the-Public_reportfinal.pdf)

<sup>70</sup> Child Law Advice: <https://childlawadvice.org.uk/information-pages/school-exclusion/>

**‘School to Prison Pipeline’**

Local evidence commissioned in July 2019 by the Bristol Safer Options Team,<sup>71</sup> quantified that exclusions from school have a direct impact on BAME young people entering the A&S CJS, with BAME boys on free school meals twice as likely to be excluded as their white peers. The 2019 report by Bristol Insight team found that over 90% of all children subject to fixed term exclusions were either suspect or offender for a criminal offence over the previous twelve months.

It was the aim of this review to replicate this approach and quantify any linkages between school exclusions and potential impact on BAME young people entering the criminal justice system for each of the LAs.

Detailed local school exclusion data was requested from all the Local Authorities in Avon and Somerset.<sup>72</sup>

1.	School census data: To enable comparative population data as likely to be more accurate than 2011 census for under 18s.
2.	Fixed Term School Exclusions and Permanent Exclusions: To include managed transfers including locality, gender, SEND, ethnicity and pupil premium.
3.	Alternative Provisions data
4.	Pupil Referral Units data
5.	Absenteeism data
6.	Ethnicity data for referrals and panel outcomes for Inclusion Panel (as appropriate to each LA): To highlight if there is an over-representation of BAME young people being referred/ excluded and identify any disparity.
7.	Linked exclusion and crime data including ethnicity breakdown: <ul style="list-style-type: none"> <li>• Number of children linked as suspect or offender to crime in which weapons seen or mentioned</li> <li>• Correlation between offence group and exclusion category (where offence correlates with exclusion period)</li> <li>• Exclusion categories for children linked a suspect or offender to weapon possession offences or crimes in which weapons were seen or mentioned</li> </ul>
<p><b>To demonstrate correlation between type of crime and category for their exclusion and thus whether an offence is the reason for exclusion or the offence committed once excluded evidencing the pipeline i.e.: Number of children excluded linked as suspect or offender- including offence group and whether this was while excluded.</b></p>	

**Key issues identified:**

- Concerns identified with the accuracy of school exclusion data.
- Gaps or the absence of data at local level (Avon and Somerset) or at a sufficient level of detail
- Limited access to school data across Local Authorities
- Insufficient time and resources of CJS partners to provide data

In accordance with the findings of the Timpson Report (2019)<sup>73</sup> an area of concern identified within the Youth

Justice Workshops was the potential of informal exclusions and off-rolling. An increasing number of families are being encouraged to sign up to be home educated, as this route avoids exclusion.



**Exclusion In All But Name**

There are times when a child is taken off the school roll for legitimate reasons, such as if they have moved out of the area or because their parents have independently chosen to home educate them. However, there are children who are made to leave their school and are removed from the school roll without a formal permanent exclusion or by the school encouraging the parents to remove their child from the school, which is done in the school’s interests, and at the school’s request. This practice is referred to from here onwards as ‘off-rolling’.

Timpson Review Of School Exclusion, May 2019

“Formal exclusion provides a process for review and, crucially, triggers duties that ensures a child is offered education elsewhere.”<sup>74</sup> Consequently, tackling such practice could result in a rise in formal exclusions, as they would no longer be hidden from scrutiny and due process. Therefore, by ensuring all formal exclusions have gone through the proper processes and are accurately recorded, creates transparency, enables scrutiny and builds trust.

No local school data was available across Avon and Somerset to provide a full picture of young peoples’ experience of all types of exclusion and their journey within the education system.

Key areas which require further analysis include:

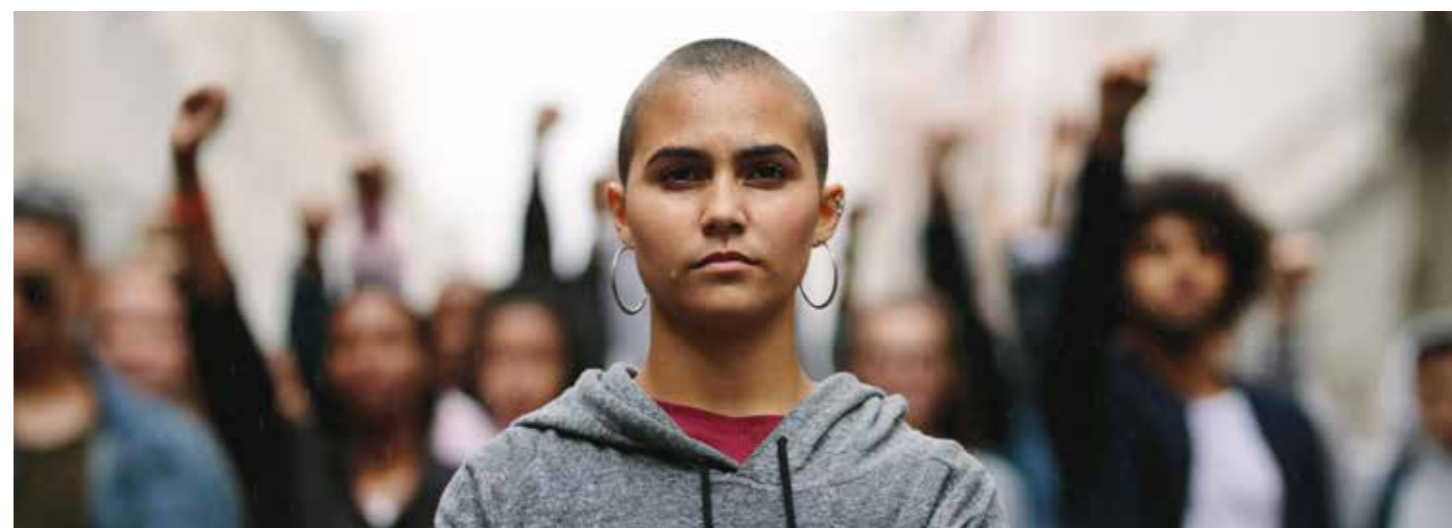
- managed moves
- internal exclusions
- ‘off-rolling’
- informal exclusions

In the absence of local school exclusion data the Youth Justice Task & Finish Group elected to use National Department for Education (DfE), school exclusion data.<sup>75</sup>

**RECOMMENDATION 16:** Local Authorities in Avon and Somerset need to urgently address the current issues with the collection, quality and scrutiny of up to date detailed local school exclusion data to include managed moves, internal exclusions, ‘off-rolling’ and informal exclusions.

**RECOMMENDATION 17:** Each LA in Avon and Somerset need to develop a strategy and action plan to ensure accurate detailed local school data is collected, analysed and published annually to quantify and tackle any disproportionality for any minority ethnic groups.

Despite the MOJ’s latest update in 2020 (Tackling Racial Disparity in the CJS) identifying the Self-Defined 18+1 is used as standard by the Youth Justice Board for this Review all data provided was 5 plus 1 not the recommended 18 plus 1 originally requested. Consequently, data for minority ethnic groups such as GRT were not de-aggregated. However, based on the Lammy Review finding that the Gypsy, Roma Traveller (GRT) group are often missing from published statistics about children and young people in the criminal justice system, where possible, this Review has extracted the GRT data, where possible, from the White group into an ethnic group of its own.



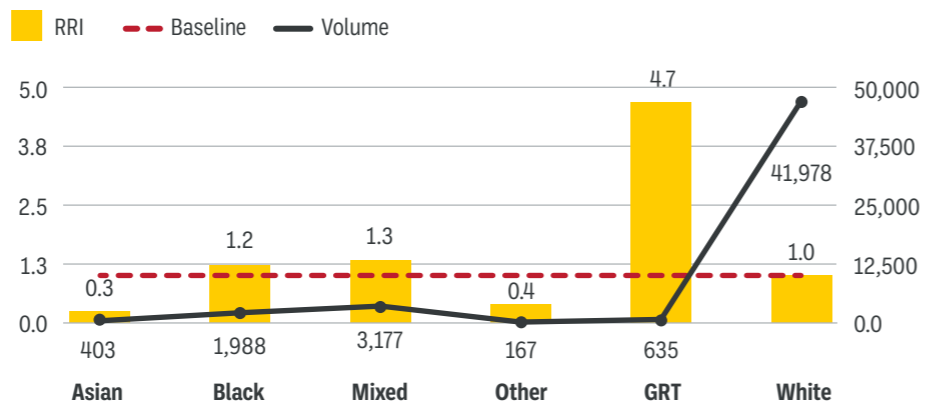
<sup>71</sup> Bristol Safer Options Report 2019:  
<sup>72</sup> Bristol, Bath and North East Somerset (BANES), South Gloucestershire, Somerset, North Somerset  
<sup>73</sup> Timpson Report, 2019 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/807862/Timpson\\_review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807862/Timpson_review.pdf)

<sup>74</sup> P11 Timpson Report, 2019  
<sup>75</sup> National School Exclusion Data 2017-2019: <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2018-to-2019>

**Fixed-Term School Exclusions**

Chart 10 shows the relative rate (RRI) of fixed-term school exclusion for 10 to 17 year olds within Avon and Somerset from 2017 to 2019. This indicates some levels of disproportionality in the Black (x1.2) and Mixed (x1.3) groups, but the highest levels of disproportionality for fixed-term exclusions is in the GRT group (x4.7).

**CHART 10: RRI for Fixed-Term School Exclusions 10-17 years Avon and Somerset (2017-2019)**



**CHART 11: RRI of Fixed Term School Exclusions 10-17 years Avon and Somerset by LA (2017-2019)**

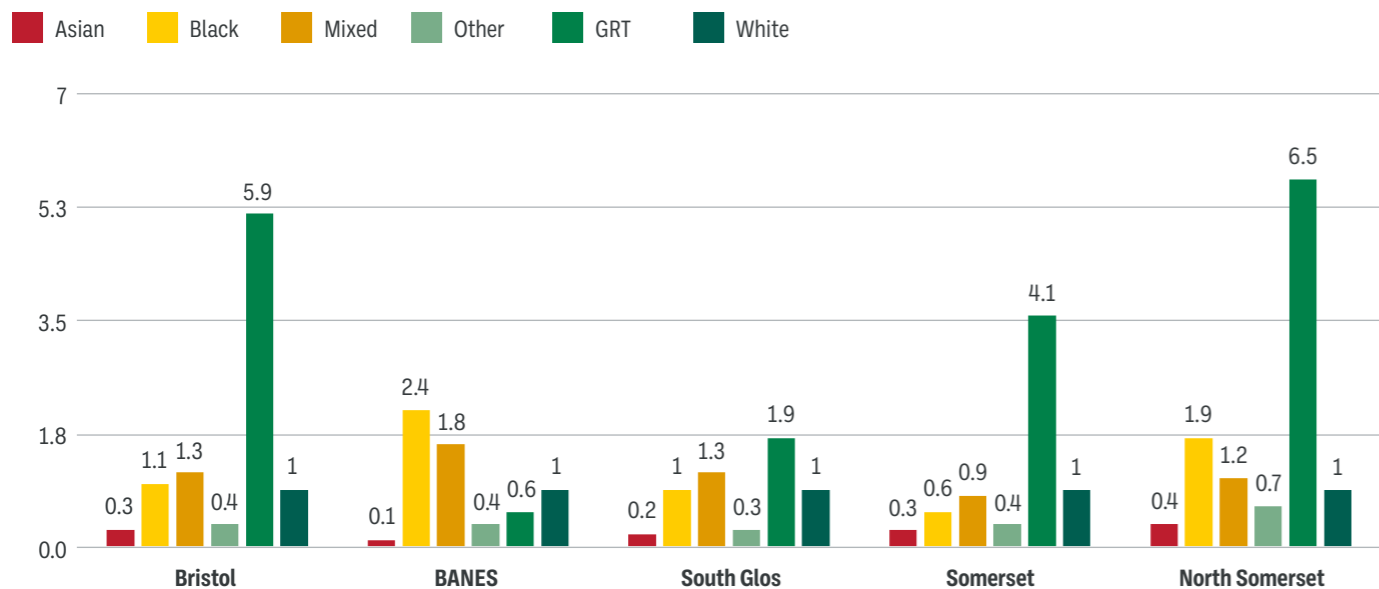


Chart 11 details the RRI of fixed-term school exclusions for 10 to 17 year olds from 2017 to 2019, broken down by each local authority:

- **Bristol:** Disproportionality is shown in the Black (x1.1) and Mixed groups (x1.3) and highest in the GRT group (x5.9).
- **BANES:** Disproportionality is shown in the Mixed group (x1.8) and highest in the Black group (x2.4).

- **South Gloucester:** Disproportionality is shown in the Mixed group (x1.3) and highest in the GRT group (x1.9).
- **Somerset:** Disproportionality is shown in the GRT group only (x4.1).
- **North Somerset:** Disproportionality is shown in the Black (x1.9) and Mixed groups (x1.3) and highest in the GRT group (x6.5).

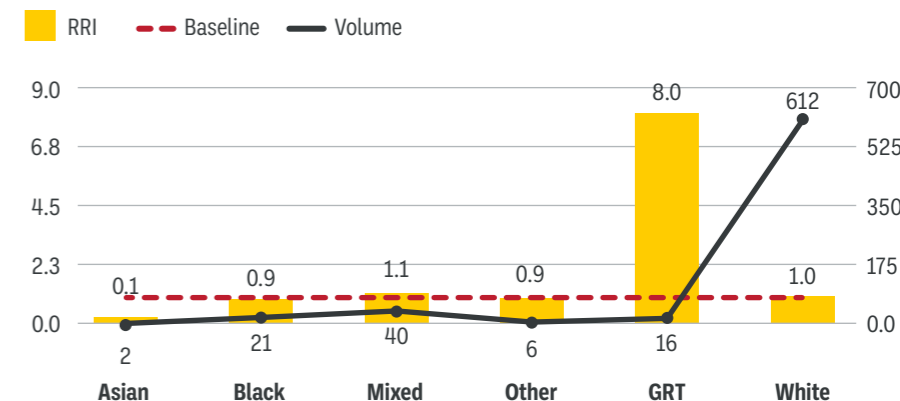
Overall disproportionality was highest for the GRT group for the majority of LAs except BANES which indicated no disproportionality for this group.

Further analysis of School Exclusion data is required with individual ethnicity groups identified using the 18 plus 1 categories to more accurately quantify and understand disproportionality effectively.

**Permanent School Exclusions**

Chart 12 compares the permanent exclusion rates (i.e. the number of permanent exclusions as a proportion of the school headcount for each group) between 2017 and 2019 for each ethnic group to the White group. The RRI comparison shows the GRT group has a significant level of disproportionality (x8), whereas the Asian, Black and Other groups show no disproportionality. The Mixed group has a low rate of disproportionality in permanent exclusions (x1.1).

**CHART 12: RRI for Permanent Exclusions in A&S (2017-2019)**



Low volumes across the groups in each local authority resulted in limited outputs from the analysis. Consequently, disproportionality has been quantified within Avon and Somerset only.

Feedback from the workshops held within this review identified key themes relevant to the experience of young people in education:

- Use of Isolation within schools & recording of this
- Misuse of behavioural Policies / Exclusion Policies
- Special Educational Needs/ Education Health Care Plans
- Risk Assessments of young people
- Managed Transfers and recording of this
- Management of Safeguarding and Pastoral support during moves
- Internal moves within Academies
- Reduced Timetabling
- Lack of Race Equality Impact Assessment re. Policies and practices

Further investigation is required to explore these themes utilising local school data and understanding lived experience.

The relationship with offending rates has not been investigated because linked data was not available for this review.



**Young Person's Experience: Young Person A<sup>76</sup> (The Call In, Golden Key)**

Young Person A is mixed Black Caribbean and White 18 years old male and joined The Call In programme after his arrest for a Possession of a Bladed Article and Possession with Intent to Supply Class B drugs. At the time of being enrolled he was not in Education, Employment or Training and living with family.

Young Person A felt that being excluded from school and marginalized within the schooling system was a significant contributing factor to him offending and described this was the case for his friends also.

When asked what needs to change or what would have improved his experience of education Young Person A felt 'Everything needs to change... everything... how can mainstream have kids in their school and can't deal with them or support them.. a school should be able to understand what someone needs.'

In Avon and Somerset; Police, Local Authorities and Education partners do not have a clear strategy or methodology around scrutiny and analysis of the links between school exclusion and young people's entry into the criminal justice system.

**RECOMMENDATION 18:** In accordance with Section 85 of the Equalities Act 2010<sup>77</sup>, Local Authorities and YOTs in Avon and Somerset urgently need to collate and analyse accurate linked school exclusion and offending data. To develop understanding as to whether BAME children and young people are more likely to be excluded from school, and whether that exclusion increases the likelihood of them entering the criminal justice system.

**RECOMMENDATION 19:** Avon and Somerset Constabulary, Local Youth Justice Board, Local Authorities (Bristol, BANES, North Somerset, Somerset and South Gloucestershire), YOTs, and Education partners need to collaborate and create a Youth Justice Working Group to scrutinise the links between school exclusion and young people's entry into the criminal justice system to proactively tackle any disproportionality for BAME children and young people.

<sup>76</sup> Name has been changed to protect this person's identity.

<sup>77</sup> Equalities Act 2010, <https://www.legislation.gov.uk/ukpga/2010/15/part/6/chapter/1>

**Offending**

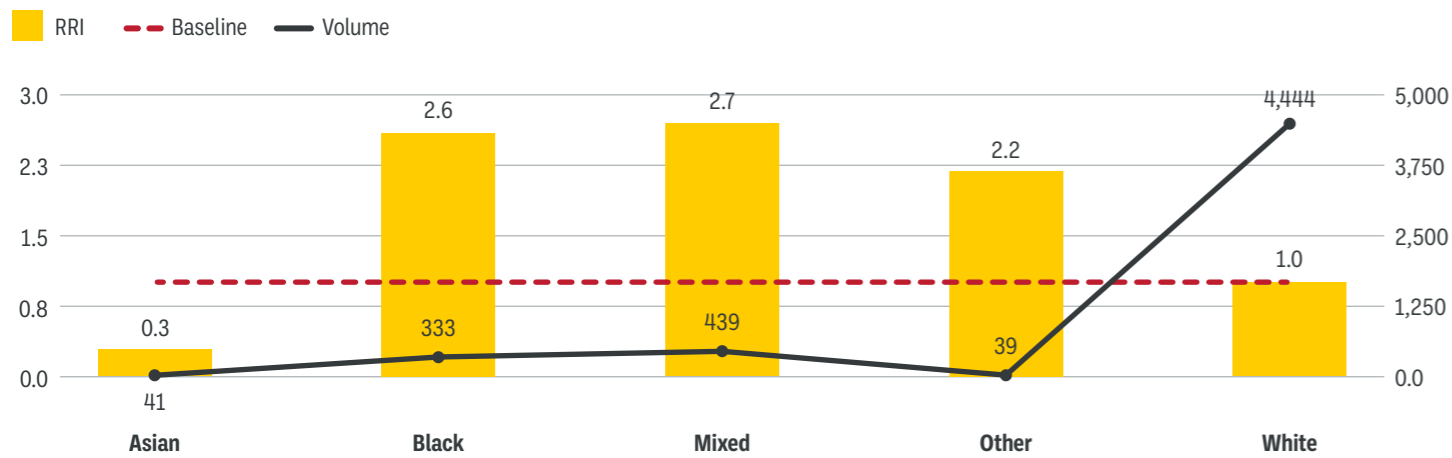
Key focus areas for this review:

- Is there any disparity relating to offence type for BAME young people and whether they are supported through court or out of court processes?
- How do BAME young people’s outcomes differ to their white counterparts for out of court and through court processes?

Due to the limitations of time and resources for this review the GRT data was not extracted for the Offending data.



**CHART 13: RRI for Total Offences in A&S (2017-2019) 10-17 year olds**



**Offending Rates:**

Chart 13 shows the relative rates of offending for each ethnic group compared to that of the White group between 2017 and 2019. This indicates that disproportionality in offending rates in Avon and Somerset exists for the Black (x2.6), Mixed (x2.7) and Other (x2.2) groups.

The rates of disproportionality across the ethnic groups within YOT teams in Avon and Somerset:

- **BANES:** disproportionality in offending is evident in the Black group (x5.8) and Mixed group (x1.7).
- **Bristol:** disproportionality in offending is evident in the Mixed group (x1.9) and Black group (x1.3).
- **North Somerset:** disproportionality in offending is evident in the Mixed group (x2.2).
- **Somerset:** disproportionality in offending is evident in the Other group (x15.3) and Mixed group (x1.4).
- **South Gloucestershire:** disproportionality in offending is evident in the Black group (x2.7) and Mixed group (x2.4).

**Outcome rates:**

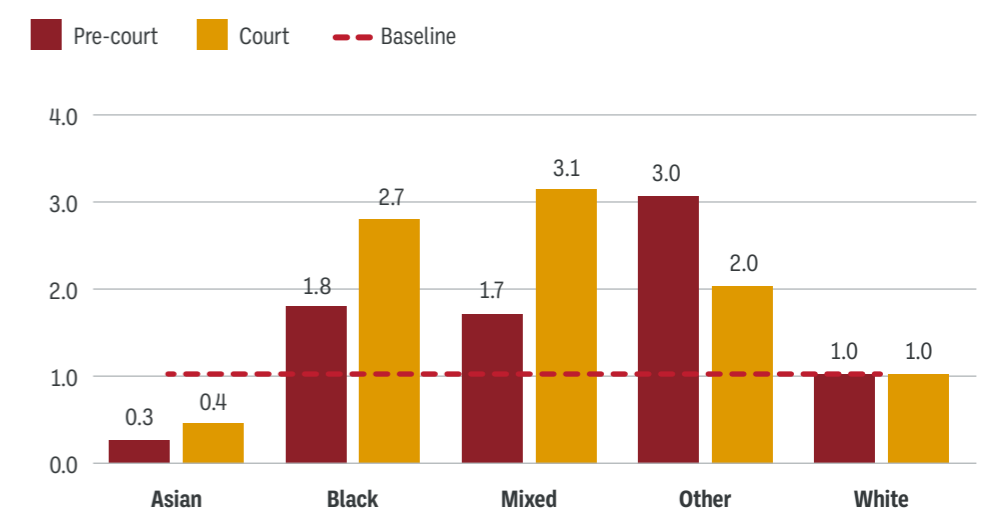
Chart 14 shows the court and Pre-court/ Out of Court Disposal (OCD) outcome rates across the Avon and Somerset YOTs calculated using the 2011 Census data for each ethnic group, which reflects the approach used within the YJB Summary Disproportionality Toolkit. However, calculating the outcome rates using this method reflects the disproportionality in offending rates. In order to understand the differences the court and pre-court outcomes for young people who entered the criminal justice system, it is necessary to calculate these rates using the offending population volumes for each group, rather than the census data for Avon and Somerset, as this removes the disparities in offending rates.

Chart 15 shows when the effect of disproportionate offending rates is removed, there remains only a small level of disproportionality in the court vs pre-court outcome rates, with Asian, Black and Mixed groups being 1.2 times more likely to have a Court outcome compared to the White group and the Other group 1.2 times more likely to have a Pre-Court outcome.

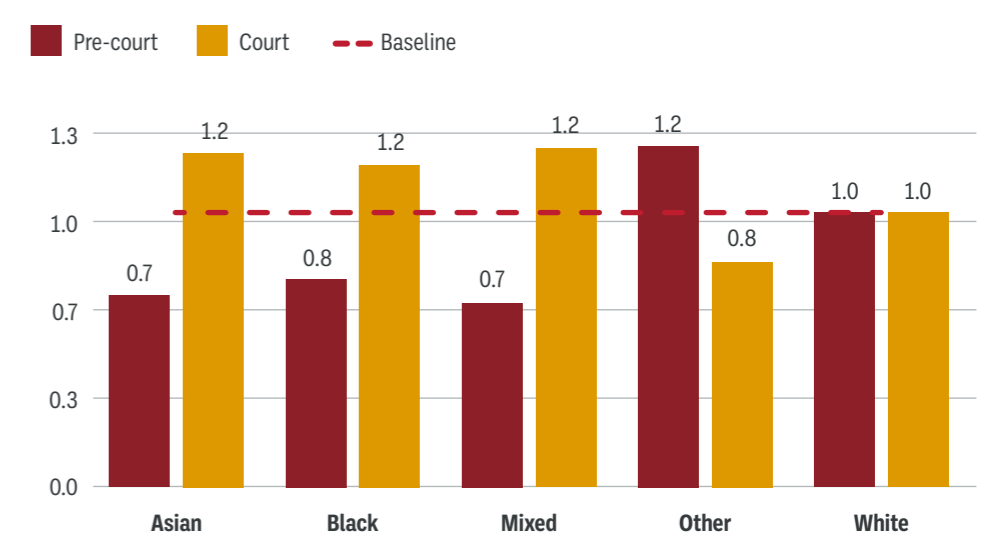
The disparity in rates of Court and Pre-Court outcomes were broadly similar (x 1.2) across the 5 YOTs in Avon and Somerset, but there were some small differences:

- Bristol: the Asian group had a higher Court Rate (x1.4) as did the Mixed group (x1.3).
- North Somerset: the Court rate for the Mixed group was higher at x1.5.
- Somerset: the Other group had a higher Pre-court rate (x1.3).

**CHART 14: RRI for Pre-Court and Court Outcomes in A&S (2017-2019) – Census Population**



**CHART 15: RRI for Pre-Court and Court Outcomes in A&S (2017-2019) Offending Population**



In South Gloucestershire the Court and Pre-Court outcomes for BAME young people were proportional to the White young people.

Further analysis is required of offence types and the specific outcomes for each offence with each individual ethnicity group defined (18 plus 1) to quantify any disproportionality.

**RECOMMENDATION 20:** YOTs and Avon and Somerset Constabulary to analyse offence outcomes for 10 to 17 year olds by offence type (e.g. Drugs, Robbery etc.) with individual ethnicity groups defined (18 plus 1) to quantify any disproportionality.

**(2) Explore the YOTS approach to monitoring and tackling of disproportionality to include ‘referral order guidance’ and the YJB disproportionality toolkit.**

**Youth Justice Board**

YJB Annual Business Plan priorities to address disproportionality:

2018/19
<ul style="list-style-type: none"> <li>• To improve trustworthiness in the youth justice system from BAME communities.</li> <li>• Develop prevention and diversion to prevent BAME children entering the criminal justice system.</li> <li>• Explore improved employment outcomes for BAME children.</li> </ul>
2019/20
<ul style="list-style-type: none"> <li>• Improve trustworthiness in the youth justice system, increase trust from the BAME community for the criminal justice system</li> <li>• Develop effective prevention and diversion</li> <li>• Improve positive outcomes for BAME children</li> </ul>

In addition, the updated Business Plan includes further details on the specific action the YJB will complete which included:<sup>78</sup>

- Identify local authorities whose youth offending teams have substantially higher levels of disproportionality, offering advice on how to use the YJB disproportionality toolkit
- Assess how the YJB can help to ensure the voice of the child is heard as stop and search is applied to under 18s

- Identify partners to develop and disseminate effective means of reducing disproportionate treatment at key decision points, operationally and strategically
- Work with the Association of Police and Crime Commissioners (APCC) using data from the YJB Summary Tool to breakdown figures on disproportionality within police areas to assist them when analysing and completing their Police and Crime Plans and to assist in monitoring and oversight of Scrutiny Panels
- Review out of court disposals with the National Police Chiefs’ Council and seek to put processes in place to monitor their use centrally and locally.

The 2018/19 and 2019/20 YJB Business Plans contain evolving strategic plans to address disproportionality, however, there were no current plans to deliver these at a local YOT level. Whilst some activity had taken place to review/address disproportionality, there is little evidence of clear and robust action plans at local level aligned to the strategic aims.

**RECOMMENDATION 21: YOTS in Avon and Somerset need to create a robust action plan to deliver the objectives set out within the YJB Business Plan. Each YOT need to quantify activity to tackle disproportionality and ensure comprehensive evaluation of outcomes.**

**Youth Offending Team/Service (YOTS/YOS)**

In order to evaluate levels of disproportionality within the Avon and Somerset YOTs, this review sought to obtain linked offence and outcome data from each YOT to allow analysis and comparison of the experiences of young people through pre-court/out of court and through court processes.

It was initially understood that this data was readily available within the YOTs administration systems and could be An alternative approach was agreed with the Youth Justice Task and Finish Group to use the Youth Justice Board (YJB) Disproportionality Toolkit, created by the YJB to ensure all YOTs to capture data and analyse disproportionality in their area. There are two versions of the Disproportionality Toolkit;

1. **A Summary Disproportionality Toolkit** which contains ethnicity data populated from the Police National Computer and provided YOTs with a "snapshot" of disproportionality,
2. **A Case Level Ethnic Disproportionality Toolkit**, which allows YOTs to undertake a more detailed level of analysis of ethnic disproportionality in their local area using local data.

YOTs in Avon and Somerset have not consistently used the **Case Level Toolkit** (explored later in this chapter), and consequently only the data available within the Summary Toolkit has been included in this Review.

Scrutiny of the Summary Toolkit data is limited because the offending and outcome rates are not currently linked and therefore have to be analysed separately. Additionally, the Summary Toolkit does not contain ethnicity data below the top level categories of Asian, Black, Mixed, Other and White and as such it was not possible to compare the offending and outcome rates for the GRT group.

**RECOMMENDATION 22: YOTs and YJB: The Youth Justice Board ‘Case Level toolkit’ must be used by all YOTs in Avon and Somerset to ensure local level ethnicity data collection, analysis, reporting to ensure proactive tackling of disproportionality.**

Each YOT provided an overview of key activity to tackle disproportionality in response to the findings and recommendations of the Lammy Review 2017:

<b>Bath and Northeast Somerset:</b>	<ul style="list-style-type: none"> <li>• Work has been progressed with the ‘Black Families in Education’ support group to provide mentoring and coaching for children and parents, to support understanding of mixed/dual heritage young people in BANES.</li> <li>• Revising how the Out of Court Disposal Panel is structured and how it makes decisions.</li> </ul> <p>No timeframes have been specified on this activity.</p>
<b>Bristol:</b>	<ul style="list-style-type: none"> <li>• Focus has been on the disproportionality of mixed-race young people who are over-represented in Bristol and seeking to increase practitioners’ awareness during the assessment process.</li> <li>• A review of pre-sentencing reports identified proposals for black young people required improvement.</li> </ul> <p>No timeframes have been specified on this activity.</p>
<b>Somerset:</b>	<ul style="list-style-type: none"> <li>• Use of the YJB Disproportionality Toolkit to review data and report quarterly to Somerset Youth Justice Board.</li> <li>• Introduction of management oversight for non-White children, including the checking of court reports.</li> <li>• Quarterly evaluations of children held in custody overnight to identify disproportionality.</li> </ul>
<b>North Somerset:</b>	<ul style="list-style-type: none"> <li>• Ethnicity continuously monitored but focused upon offence types rather than disproportionality for young people using the YOT service.</li> </ul>
<b>South Gloucestershire:</b>	<ul style="list-style-type: none"> <li>• Use of the Disproportionality Toolkit to identify disparity in quarterly reports to the management board, identifying ‘Special Causes’ (e.g. one individual causing a spike due to repeat offending). Exploration of looked-after and care-leaver children and differences in ethnicity.</li> <li>• Completion of a 2018 Pilot exploring identity and recognising differences in experiences.</li> <li>• A review of report writing, providing context around ethnic identities.</li> <li>• Training provided by Stand Against Racism and Inequality (SARI) to support GRT young people.</li> </ul>

The updates provided by each of the YOTs demonstrates inconsistencies in the understanding of and approaches taken to address disproportionality. One clear difference was in the use of the Disproportionality Toolkits.

During the workshops the YOTs usage of the Disproportionality toolkits was explored further, it was clear that whilst some were regularly using this as a method of monitoring disproportionality and reporting their findings to their local management boards, others were not doing so. In some cases, the lack of use of the Toolkits was reported as being due to the very low numbers of BAME young people in the local authority area. However, it was also under-used by the YOTs that have a comparatively high numbers of BAME young people.

Other reasons identified as to why YOTs were not using the Toolkit:

- a lack of training in how to use the toolkit
- not understanding its benefits
- very time consuming to update
- questions over the accuracy of the ethnicity data held.

The YJB have identified that usage of the Disproportionality Toolkit was not effective across the South West region and in response to this issue the YJB held a Disproportionality Toolkit session for the South West YOTs in December 2020. At this session the YJB presented an overview of the local toolkit to develop understanding and support usage. The YJB confirmed intended next steps

following this session is to provide training sessions for the information officers in each YOT.

In addition to the different approaches in the use of the Toolkits to understand the disproportionality, each YOT employed different methods of addressing disproportionality, many of which had been piloted/completed in 2018. No evaluation information was provided to this review to understand the effectiveness of the actions taken in reducing disproportionality.

<sup>78</sup> Youth Justice Board for England and Wales Business Plan 2019/2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/802705/YJB\\_business\\_plan\\_2019\\_to\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/802705/YJB_business_plan_2019_to_2020.pdf)

The 2019/20 HMIP Annual report (which is based on the aggregated findings of their inspections of Youth Offending Teams from across England and Wales) states that "There were some good examples of Management Boards taking a proactive and positive approach but, despite this, we saw little evidence of improved outcomes for children."<sup>79</sup>

**RECOMMENDATION 23:** YJB and YOTs to develop a consistent/best practice approach to reporting disproportionality. Modifications to toolkit are required as follows: (1) Linked Offence and outcome data to enable more detailed analysis (2) Amending RRI analysis for outcomes to be based on offending population and not census population (3) New toolkit to include GRT - requiring disproportionality across all the ethnic groups to be re-baselined.

The 2018/19 HMIP Annual report identified that "Youth Offending Teams need to learn from each other as well as engage effectively with local youth and criminal justice partners to tackle this problem", highlighting the importance of YOTs within Avon and Somerset needing to collaborate more to address disproportionality, amongst themselves and other partners in the CJS and education system.

**RECOMMENDATION 24:** Avon and Somerset Constabulary, Local Youth Justice Board, Local Authorities (Bristol, BANES, North Somerset, Somerset and South Gloucestershire), YOTs, and Education partners need to collaborate with the new Youth Justice Working Group to scrutinise the experiences of children and young people through each stage of the criminal justice system to identify and proactively tackle any disproportionality.

### (3) Explore deferred youth prosecutions

The evidential success of using diversionary tactics to reduce violent crime has been seen in initiatives such as High Point (2011) in America, and by police forces across the UK such as Operation Turning Point, a partnership between West Midlands Police and Cambridge University (2011-2014). Recommendation 10 of the

Lammy Review identified "The 'deferred prosecution' model pioneered in Operation Turning Point should be rolled out for both adult and youth offenders across England and Wales. The key aspect of the model is that it provides interventions before pleas are entered rather than after."<sup>1</sup>

### Youth diversion in Avon and Somerset



#### Call In:

The 'Call In' is a six month diversion programme for young people aged 16-21, arrested for drug supply and related crime types in East Bristol. A partnership between Avon and Somerset Constabulary, OPCC, Bristol City Council and Golden Key, the Call In aims to take a more holistic approach to dealing with crime by looking at the person behind the offence, aiming to meet their needs and provide them with an opportunity to change their life. The Call In Programme recognises the recommendations of the Lammy review highlighting disproportionality within the criminal justice system and need for a focus on youth justice; developing a bespoke diversion which that is accessible for Black, Asian and minoritised young people.

Candidates commit to attending and taking part in a range of activities and workshops tailored to their individual needs, focused upon making positive lifestyle changes away from offending and developing lifelong independent living skills. Candidates are supported by staff at Golden Key through trauma informed approaches and relationship based working to understand their needs, support personal development and identify pathways. Each young person

is assigned a Mentor to support their journey and to build a relationship with a trusted adult throughout the programme. Completion of the programme, without any re-offending, enables each young person to begin a new chapter of their life without a criminal record and new opportunities ahead of them.

Call In has been piloting in East Bristol since 2018 and to date 24 young people have been offered a place, 15 enrolled on programme and had 11 successfully completed the programme up to May 2021. Each young person has around 120 hours of activities and 60 hours of Golden dedicated support over the 6 month programme.

Key outcomes:

- 6 in Employment
- 3 in Education
- 1 in custody
- 1 awaiting home office decision residency in order to work, living independently.

Next steps for the pilot: Agree all partners aspirations and commitment to the programme. Undertake scoping and analysis regarding scaling up and widening reach of the diversion. Current funding ends 13 January 2022. Secure longer-term investment.

Due to the limitations of time and resource this Review has not been able to explore in detail the significant number of diversion schemes across Avon and Somerset. Initial findings indicate that there is no single framework or centrally held record of all diversion schemes in Avon and Somerset. However, work

is in progress by Avon and Somerset Constabulary with LAs to develop a central registry to simplify access to interventions for young people.

**RECOMMENDATION 25:** Collaboration is required between Avon and Somerset Constabulary, YOTS and the CPS to analyse the diversion process in terms of needs assessment and evaluation of outcomes for young people to ascertain if there is any disproportionality for BAME young people in accessing diversion schemes.

## CONCLUSION

The level of disproportionality experienced by Black and minoritised young people throughout the criminal justice system, from initial contact with police (i.e. stop and search), court outcomes, experiences of custody all the way through to re-offending is of significant concern and clearly requires a proactive and a strategic approach to address.

The Youth Justice Task and Finish group's objective was to use available data and lived expertise to map the experience of Black and minoritised young people in relation to the criminal justice system; highlighting any inequality experienced within a local context to understand racial disparity.

It is recognised that youth justice as a work stream includes a number of stages within the criminal justice system. Limited resources and capacity of those involved in this review has resulted in the Youth Justice theme having to focus on specific areas and subsequently does not present a complete picture of the holistic experience of young people or a comprehensive summary of the issues faced.

Considering the multiple disadvantages experienced by these groups including

structural inequalities, systemic failings, racism and barriers to support it has been imperative to draw attention to the 'school to prison pipeline' and the relationship between school experience such as exclusion and the link to entry to the criminal justice system. The findings of this review highlight the importance of multi-agency approaches between criminal justice, health, and education partners as best practice.

Unfortunately, throughout the review period there were significant challenges and delays in obtaining data sets. The quality and consistency of available data and ethnicity breakdown, the level of analysis and interrogation that had been planned has not been achieved. Subsequently, there is an urgent need to address ethnicity recording, monitoring, use of disproportionality toolkit and the accessibility of accurate and up to date education and youth offending data.

In line with the national picture, it is clear that racial disparity within the criminal justice system for Black and minoritised young people within the Avon and Somerset area is evident. It appears several interventions implemented to date by local authorities to address the issue are undeveloped and have not been subject to evaluation or include

clear impact measure to enable review of their effectiveness in practice. There is a pressing need for a cross area strategic plan to be developed as well as a consistently used reporting framework, accountability structure and clear impact measures need to be established.

Due to the small numbers of Black and minoritised young people, particularly outside of Bristol, in addition to data gaps, the limitation of the data picture presented has to be acknowledged. Although disproportionately is evident within the Review, it does not necessarily reflect the lived experience of Black and minoritised young people and the trends that are observed by those working in the sector. This reiterates the need for further exploration and investment and more diverse data collection processes including case studies, youth voice and community generated data.

The urgency of addressing these issues and implementing recommendations cannot be minimised, we cannot lose sight of the fact each day Black and minoritised young people are being lost to the criminal justice system, failed by institutions resulting in an immeasurable cost to families and the wider community.

**Maya Mate-Kole, Programme Lead, Golden Key/ Commissioner for Bristol CORE YOUTH JUSTICE LEAD, A&S LAMMY SUB-GROUP REVIEW**

<sup>79</sup> Her Majesty's Inspectorate of Probation Annual Report, Inspection of Youth offending Services 2019/2020: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/11/HMI-Probation-Youth-Annual-Report-2020.pdf>

<sup>1</sup> Chapter 3: The Lammy Review (2017): The Lammy Review (publishing.service.gov.uk)



## BACKGROUND

The Lammy Review, 2017 identifies plea decisions are critical in the criminal justice system as there is a stark difference between Black, Asian and Minority Ethnic (BAME) and White ethnic groups. BAME defendants are consistently more likely to plead ‘not guilty’ than White defendants and consequently, if found ‘guilty’, they are then more likely to face more punitive sentences than if they had admitted guilt.<sup>80</sup>

Lammy highlighted a lack of trust in the criminal justice system is at the heart of this issue. “Throughout this review, I met offenders – mostly Black young men – who described how they regretted their initial not guilty plea. Often, they had responded to their arrest with a ‘no-comment’ interview in a police station, before entering an initial not guilty plea.”<sup>81</sup>

The scrutiny of plea decisions within Chapter 5 of the Lammy Review 2017 identified two recommendations:

Recommendation 9: The Home Office, the MoJ and the Legal Aid Agency should work with the Law Society and Bar Council to experiment with different approaches to explaining legal rights and options to defendants. These different approaches could include, for example, a role for community intermediaries when suspects are first received in custody, giving people a choice between different duty solicitors, and earlier access to advice from barristers.

Recommendation 10: The ‘deferred prosecution’ model pioneered in Operation Turning Point should be rolled out for both adult and youth offenders across England and Wales. The key aspect of the model is that it

provides interventions before pleas are entered rather than after.

Recommendations 9 and 10 will be explored over the course of this chapter.



The Sentencing Council identifies an acceptance of guilt:

- a) normally reduces the impact of the crime upon victims;
- b) saves victims and witnesses from having to testify; and
- c) is in the public interest in that it saves public time and money on investigations and trials.

Sentencing Council, Reduction in Sentence for a Guilty plea Definitive Guideline (2017)

outlined their approach of “exploring ways in which those involved in the first point of contact can build trust and improve the experiences of BAME children and parents”.<sup>83</sup> “The Legal Aid Agency and MOJ are working with key agencies involved in explaining legal rights at the police station, including the police, Home Office, Crown Prosecution Service, defence practitioners and National Association of Appropriate Adults, to explore ways of improving experiences at the police station, build trust and secure the best outcome for BAME children.”<sup>84</sup>

In 2019 the Bristol Insight, Performance and Intelligence Service were commissioned by the Avon and Somerset

Lammy Sub-Group to produce an initial scoping report looking at young people supported by Bristol YOT through the out of court and court process. In November 2019, initial findings highlighted some immediate areas of disproportionality, the most distinct, showing that compared to young white people, young people within the Black, Asian and minority ethnic groups go through the court system at a much higher rate than Out Of Court Disposal (OCCD). Consequently, the Out of Court Disposal process was identified as a key area of focus to explore the current data available and to understand current scrutiny for the OCCD process within Avon and Somerset Constabulary.

## METHODOLOGY:

In September 2020 Chief Inspector Paul Underhill, Head of Detainee Investigation Team (DIT) at Avon & Somerset Constabulary was appointed Lead of the OCCD Task and Finish Group.

Key objectives for the theme were defined:

- Develop a Qlik App report for OCCD to enable investigation of the current data.
- Identify if there are any gaps in recording ethnicity and potential measures to resolve gaps.
- Investigate if there is any Gypsy Roma Traveller (GRT) disproportionality- identify current data available and findings.
- UWE Evaluation of ASCEND and OCCD 2 Tier System Recommendations: Further investigation of disproportionality identified in the OCCD process and wider context of findings required.
- Explore how to develop the knowledge /understanding of suspects regarding their options around plea decisions and the out of court disposal process.

Initial focus was centred around the set-up of the OCCD Task and Finish Group comprising of representatives from the Youth Offending Teams in the five local authorities: Bath and North East Somerset (BANES), Bristol, North Somerset, Somerset and South Gloucestershire; Police; CPS; Youth Justice Lead; SARI.

In October 2020 the first OCCD Task and Finish Group meeting commenced in which the Group defined (1) the need to review youth and adult out of court disposals separately and (2) the need

to quantify YOT processes for each of the five local authorities. Based on the time and resources available for this review, the Youth Out of Court process has not been analysed but requires scrutiny from CJS partners.

**RECOMMENDATION 26: Avon and Somerset Constabulary and Local A&S YOTs to review and quantify youth out of court processes.**

In accordance with the findings of the UWE Evaluation in 2020, further analysis and evaluation of the data was undertaken to attain further context and quantify any disproportionality.

Task and Finish group sessions were held between October 2020 and February 2021, focused upon gathering and analysing data on arrest, charge and out of court records available within the Police data and utilising the relative rate index calculation to calculate any disparity.

### National context

#### Out of Court Disposal Process

An out of court disposal (OCCD) is a way of dealing with ‘minor offences’<sup>85</sup> that do not require the victim, witness or suspect to attend Court. There are a number of eligibility criteria that determine if an offender should receive an OCCD instead of prosecution which include:

- (1) the offence, its gravity/severity, and the impact on the victim taken into consideration
- (2) the offender must have either admitted the offence or accepted responsibility and agreed to the conditions that are applied.

(3) the views of the victim will always be considered in the final decision by the police.

In 2017 The National Police Chiefs’ Council (NPCC) supported the move to a two-tier structure and published **Charging and Out of Court Disposals: A National Strategy (2017-2021)**<sup>86</sup> which encouraged a voluntary move by police forces to use only conditional cautions and community resolutions.

The College of Policing Authorised Professional Practice defines:

- A **Community Resolution** is a method of dealing with less serious offences for ‘low-level crime’. Resolutions can be offered when the offender accepts responsibility for offending behaviour and, in most cases, where the victim has agreed that they do not want more formal action taken.
- A **Conditional Caution** is a formal sanction with at least one condition attached which must be rehabilitative and/or reparative. Reparative conditions can include apologising to the victim, paying compensation and repairing any damage caused. The conditions must always be appropriate, proportionate and achievable.

All forces signed up to the strategy. To date some have moved fully to the two-tier model, some are in transition while others retain the full six OCCDs options. Strategic Vision and Aims are outlined in Appendix 6.

<sup>80</sup> Chapter 3: Plea Decisions The Lammy Review (2017): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)

<sup>81</sup> 6 Chapter 3: Plea Decisions The Lammy Review (2017)

<sup>82</sup> NPCC Out of Court Disposals managed by the Police: A review of the evidence. 2018: <https://www.npcc.police.uk/Publication/NPCC%20Out%20of%20Court%20Disposals%20Evidence%20assessment%20FINAL%20June%202018.pdf>

<sup>83</sup> Section 34: Tackling Racial Disparity in the Criminal Justice System: 2018 Update [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/747335/tackling-racial-disparity-criminal-justice-system-2018-update-web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747335/tackling-racial-disparity-criminal-justice-system-2018-update-web.pdf)

<sup>84</sup> 17 Tackling Racial Disparity in the Criminal Justice System: 2018

<sup>85</sup> Minor offences: (a) offences which by their nature are minor in themselves; or (b) offences which are not minor in themselves but which, depending on the particular facts of the case, may be regarded as minor: for example, the offence of theft covers a range of offending - for example, from 1p to £100M - and which, at the lower monetary value may often may be viewed as minor offending. CPS, 2021. <https://www.cps.gov.uk/legal-guidance/minor-offences>

<sup>86</sup> Charging and Out of Court Disposals: A National Strategy (2017-2021): <https://www.npcc.police.uk/Publication/Charging%20and%20Out%20of%20Court%20Disposals%20A%20National%20Strategy.pdf> sentencing-and-courts-bill-2021-equality-statements/reforms-to-the-adult-out-of-court-disposals-framework-in-the-police-crime-sentencing-courts-bill-equalities-impact-assessment#fn:6

In July 2021 the MOJ Policy Paper<sup>87</sup> outlined the proposal to transition the two tier approach to a legislative footing, to ensure that all forces use a consistent OOCDFramework. “Streamlining the options would bring national consistency, an opportunity for early intervention with vulnerable offenders, and a greater focus on victims.”<sup>88</sup> Consequently, all police forces would only use two statutory OOCDFrameworks, Diversionary (similar to the Conditional Caution) and Community Resolutions.<sup>89</sup> Police would be able to continue to use the non-statutory disposal of Community Resolution (CR) for low-level offences as it does not require a formal admission. The policy

suggests that CR could be used in certain schemes or pilots where circumstances or evidence suggests it would address issues of race disparity. A revised CR policy from the NPCC is anticipated by the MOJ to form part of the guidance on the use of the new out of court disposal framework, to ensure there is consistency in its use across all forces.

As part of the proposal to legislate the two tier OOCDFramework the MOJ identifies a risk of indirect discrimination, as for both tiers of the statutory framework, the offender needs to admit guilt and agree to the OOCDFramework in order for the offence to be dealt with outside the court process. Consequently, there is

a risk that “the requirement to accept responsibility or admit guilt would mean individuals from an ethnic minority would be less likely to receive an early intervention via an OOCDFramework and would be more likely to be prosecuted.”

Mitigation for this risk has been identified by the MOJ:

- i. Continue to operate the Chance to Change pilots<sup>90</sup> so that we can inform our long term approach.
- ii. Operate this policy in the context of CJS scrutiny panels, with independent chairs, who should carefully consider any disproportionality in respect of race and OOCDFrameworks.”



### Chance to Change MOJ Pilot

Recommendation 10 of the Lammy Review instructed that the Government roll out a ‘deferred prosecution’ model in which someone accused of committing a low or medium level crime is given an opportunity to complete specified conditions as an alternative to prosecution proceedings being brought against them.<sup>91</sup> This model does not require the offender to admit guilt, and

is intended to address racial inequalities stemming from a lack of trust in the justice system amongst ethnic minority defendants, who are more likely to plead not guilty and subsequently receive more punitive outcomes.

The MOJ has partnered with North West London and West Yorkshire Police forces, Police and Crime Commissioners and the Mayor’s Office for Policing and Crime

in London since Autumn 2018 on a pilot called ‘Chance to Change’. This specifically aims to test the effect of this approach with ethnic minority offenders and is intended to address racial inequalities within the CJS. The outcome of the Chance to Change pilots will inform national standards and policy around pilot design and eligibility, quality assurance and data collection.

## FINDINGS:

### Youth OOCDFramework

In accordance with the methodology of this theme, due to limited resources, the Youth Out of Court process has not been analysed within this Review. Consequently, there is a need to analyse and quantify disproportionality in the youth out of court process.

**RECOMMENDATION 27: Avon and Somerset Constabulary and Local A&S YOTs to review and quantify any disproportionality in youth out of court processes.**

### OOCDFramework Two-Tier Framework: Avon and Somerset Constabulary

In November 2018, Avon and Somerset Constabulary (ASC) adopted the NPCC’s recommendation to amend the existing five outcome framework (Community Resolutions, Simple Caution, Conditional Caution, Penalty Notice for Disorder, and Cannabis/Khat<sup>92</sup> warnings) to a two-tier framework resulting in either Community Resolutions or Conditional Cautions, when an offence is eligible to be dealt with outside of the courts.

In ASC, Police Officers retain discretion on whether they will follow the OOCDFramework process themselves, or refer the case to the Avon and Somerset Police Engage Navigate Divert (ASCEND) Team. The ASCEND initiative was launched in November 2018 to deliver the new two-tier OOCDFramework framework. OOCDFrameworks allow the police to respond quickly, efficiently and effectively to low level offenders without a prosecution in court. The ASCEND Team provide a single point of contact for OOCDFrameworks and coordinate the delivery of Conditional Cautions and Community Resolutions for the Constabulary. The team signpost offenders to supportive services and agencies, conduct needs assessments to determine the conditions that are applied, monitor offender compliance with the conditions set, update police officers and victims

on the completion of the conditions, and, offer support and advice to officers.

In 2019 the National Police Chiefs Council (NPCC) produced a Gravity Matrix to support OOCDFramework decision making, using aggravating and mitigating factors to produce a final score to determine the outcome for the offender. Appendix 6 (B) details mitigating and aggravating factors for all offences and outcomes scores and actions.

In addition to the Gravity Matrix assessment, other eligibility factors include:

- does the offender admit the offence?
- previous offending history
- whether the disposal adequately addresses, supports and reduces the risk of re-offending
- whether the disposal enables rehabilitation of the offender
- the views of the victim
- whether the public interest is best served by using an out of court disposal

### OOCDFramework APP

To support the Gravity Matrix and additional eligibility factors, ASC have developed an Out of Court Disposal (OOCDFramework) App’. This is a web-based application that takes users through a range of questions, starting with the nature of the offence (e.g. Criminal Damage, Public Order, Shoplifting) and asks probing questions related to the offence type and the previously mentioned eligibility criteria, using the gravity score to recommend an outcome of Community Resolution, Conditional Caution or to charge for the offence. It has not been designed as a substitute for officer’s own professional judgement, but provides guidance in understanding the options available. It is not a mandatory requirement to complete the OOCDFramework App as part of the OOCDFramework process and its availability was not mentioned in a Police Constable

Degree Apprenticeship (PCDA) training presentation, which suggests that it could be an under used tool. No data is currently available for further analysis of the information entered into the App, consequently further evaluation of the OOCDFramework decision making process is limited.

There is opportunity to re-develop the OOCDFramework App to enable the data entered into the current OOCDFramework App to be captured and stored, as well as including mandatory fields to record offender ethnicity. This would provide an audit trail of decision making, improve data quality and enable more scrutiny in the OOCDFramework decision making process. A further improvement would be to include the full Gravity Matrix as part of the App, as currently the final gravity score is calculated and recorded separately. The Gravity Score is a crucial eligibility decision point, the Aggravating and Mitigating are factors which are used to calculate the final score, and therefore need to be captured alongside the additional eligibility factors which are contained within the App. This would provide an opportunity to develop scrutiny of the initial decision making and eligibility process which leads into the further process points as captured below for Community Resolutions and Conditional Cautions.

**RECOMMENDATION 28: Avon and Somerset Constabulary to develop scrutiny of the OOCDFramework decision making and eligibility process through the Out of Court Disposal App:**

(1) Development of the OOCDFramework App is required: (a) to capture data, (b) integrate the full Gravity Matrix within the App to support an efficient and audited decision making process.

(2) Use of the OOCDFramework App needs to be mandated to (a) improve data quality, (b) ensure consistent decision making (c) support analysis and scrutiny of the OOCDFramework process.

<sup>87</sup> Reforms to the adult out of court disposals framework in the Police, Crime, Sentencing & Courts Bill: Equalities Impact Assessment. Updated 7 July 2021: <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/reforms-to-the-adult-out-of-court-disposals-framework-in-the-police-crime-sentencing-and-courts-bill-equalities-impact-assessment#fn:6>

<sup>88</sup> Reforms to the adult out of court disposals framework in the Police, Crime, Sentencing & Courts Bill: Equalities Impact Assessment. Updated 7 July 2021: <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/reforms-to-the-adult-out-of-court-disposals-framework-in-the-police-crime-sentencing-and-courts-bill-equalities-impact-assessment#fn:6>

<sup>89</sup> PNDs, simple cautions, cannabis or khat warnings would no longer be used. Fixed Penalty Notices are not within scope of this reform.

<sup>90</sup> 3 Tackling Racial Disparity in the Criminal Justice System: 2020 Update

<sup>91</sup> 3 Section 162: Tackling Racial Disparity in the Criminal Justice System: 2020 Update

<sup>92</sup> A stimulant drug that has effects similar to mild amphetamine.

### Conditions

In order to identify and apply the appropriate conditions for Conditional Caution, the ASCEND team complete a 'needs assessment'<sup>93</sup> for the offender. The ASCEND team also take into account suggestions made by officers and the victim to help them in identifying the relevant conditions appropriate to the individual case. There isn't a standardised set of conditions for a particular offence, but conditions are applied based on what is relevant, meaningful and achievable for individual offenders. Appendix 6 (C) provides an overview of the process of how to do a Conditional Caution and Appendix 6 (D) details available conditions for Conditional Cautions.

### Community Resolutions:

For Community Resolutions, the most common condition would be financial compensation, or reparation in the form of a letter of apology from the offender. Compensation could be payable to a victim for a variety of reasons, such as personal injury, time off work, covering medical or other expenses and pain and suffering. Due to the differences in disposal types, Community Resolutions may not require the completion of a Needs Assessment to identify the appropriate condition (although some conditions associated with Conditional Cautions can be applied to a Community Resolution and would follow the ASCEND process as detailed above) and the condition that is applied is discussed between the officer and the victim as detailed in Appendix 6 (E).

### Scrutiny of Out of Court Disposals:

In Tackling Racial Disparity in the Criminal Justice System: 2020 Update, it details the need for local scrutiny of decision making on OOCd: "Police forces are expected to have scrutiny panels in place with external representation, who review a selection of cases to determine whether the method of disposal is considered appropriate, based on a review of the information/evidence available to the decision maker at the time."<sup>94</sup>

The MoJ and NPCC collaborated to develop National Scrutiny Guidance which outlines best practice around local scrutiny of decision-making on OOCds and helps improve police practice. The guidance details how panels should operate and deliver according to local need, including: scope, panel membership, frequency of meetings, case selection and outcome and reporting.<sup>95</sup>

The scrutiny of OOCds applied by Avon and Somerset Constabulary is completed by the Avon and Somerset Office of the Police Crime Commissioner's (OPCC) OOCd Scrutiny Panel. The aim of this panel is to enhance consistency, transparency and public confidence in the use of OOCds, and to maintain criminal justice partner confidence in the Constabulary's use of discretionary powers. The Panel is made up of representatives from the PPC, local magistrates, HMCTS legal advisor, Crown Prosecution Service, Victim Services and independent representatives. The panel meet on a quarterly basis to review between 20-30 cases, which have resulted in an OOCd. They can make observations and give feedback on the cases reviewed.

Feedback is used to promote good practice, inform policy development or identify training needs for consideration by the Constabulary or other agencies. Findings from the panel are made publicly available via the OPCC website.

The A&S OPCC OOCd Scrutiny Panel reviews themes such as Hate crime and Domestic Abuse with other themes determined in accordance with demand. However, up until this Review (2020), the scrutiny panel did not include a review of disproportionality related to ethnicity. In Tackling Racial Disparity in the CJS 2020 Section 173 outlines a critical expectation that disproportionality in OOCds issued to ethnic minority individuals is examined at least annually.<sup>96</sup> This best practice guidance should be reviewed and used to help influence ongoing scrutiny of disproportionality within OOCds.

**RECOMMENDATION 29:** The A&S PCC Out of Court Scrutiny Panel should follow the joint MOJ/NPCC National Scrutiny Guidance which sets out best practice around local scrutiny of decision-making on OOCds which contains the scope, panel membership, frequency of meetings, case selection and outcome and reporting, and adopt a methodology that allows them to examine, at least annually, disproportionality in respect of OOCds which includes the conditions that are applied.

Since September 2021 the A&S OPCC OOCd Scrutiny Panel now include Disproportionality as part of its annual review themes.

Whilst raw data was made available for the conditions that have been applied to OOCds by Avon and Somerset Constabulary, due to the complexities in eligibility criteria discussed earlier in this chapter, it is not possible to meaningfully compare rates for the different conditions applied to an OOCd as these should be tailored to meet the needs of the individual offenders and victims. As such, the evaluation of disproportionality in the application of OOCd conditions should form part of continued case reviews completed by the OPCC scrutiny panel and the ASCEND team.

Critically, the approach of the Scrutiny Panel should include ongoing scrutiny of cases that have been charged, but may have been eligible for an OOCd, rather than reviewing only cases that have resulted in an OOCd.

**RECOMMENDATION 30:** A&S OPCC to set up a scrutiny framework that scrutinises cases that have been charged, but may have been eligible for an OOCd, rather than reviewing only cases that have resulted in an OOCd.

### Tactical Scrutiny in Avon and Somerset Constabulary

The ASCEND team complete random dip samples (approx. 30 per month) of Community Resolutions processed by PCSOs (in accordance with the change of powers for PCSOs 2020 to check and test compliance) to assess if the use of a Community Resolution

and the conditions that were applied were appropriate. At present, this does not include a review of the offenders' ethnicity and the results are not recorded or stored within a database. If this process was updated to capture the ASCEND teams findings within a database, and include the offenders ethnicity, this could allow for an annual evaluation of approximately 360 Community Resolutions and enable scrutiny and identification of any disproportionality.

**RECOMMENDATION 31:** Avon and Somerset Constabulary ASCEND Team need to extend their assurance reviews of Community Resolutions, to capture the ethnicity of the offender. The results of the reviews (approx. 30 per month) should be collated and analysed annually to allow for sufficient volumes to allow for meaningful analysis into disproportionality that supports the scrutiny of the OPCC OOCd Scrutiny Panel.

### UWE Evaluation of ASCEND

In 2020 Avon and Somerset Constabulary commissioned an Evaluation of the Two Tier System and creation of the ASCEND Team. A key finding from the 2020 Evaluation found that "around a third of OOCds issued by Avon and Somerset Police are delivered by the ASCEND Team. Of the total number of OOCds issued by Avon and Somerset Police, 14% of community resolution and 86% of conditional cautions were referred to ASCEND." (UWE Evaluation of Avon and Somerset Constabulary Engage Navigate and Divert – ASCEND).

The 2020 evaluation completed by the University of the West of England (UWE) into the ASCEND team found some age,

gender and ethnicity differences between offenders that received an OOCd and offenders that were charged for an offence that would have been suitable for an OOCd. However, due to the limitations of the data, the report suggested that further work would need to be done to establish the validity of this result.

In response to the UWE Evaluation report in 2020, an internal evaluation was completed by Avon and Somerset Constabulary which reviewed 197 cases that were dealt with at court to determine if any of these cases could have received an OOCd, and if there was any disproportionality in regards to the ethnicity of the offenders. The Constabulary's evaluation used offences that were most commonly dealt with by means of an OOCd which included Common Assault and Battery, Possession of Cannabis and Section 5 Public Order Offences. The volume of cases with each ethnic group was as follows; 24 Asian, 50 Black, 50 Mixed, 23 Other, 50 White.

The criteria used to assess the cases was;

- At the time of the incident was the offender eligible for an OOCd?
- If they were eligible, were admissions made or did they answer "No Comment" or deny the offence?
- Who made the charging decision Police or CPS?
- If Police made the decision in the view of the reviewing officer, was it proportionate?
- Was the case referred to ASCEND but they refused it for any reason, and if so why?

<sup>93</sup> The needs assessment captures the offenders details, accommodation status, employment and financial status, the offenders physical and mental health, drug and alcohol misuse, relationships and vulnerabilities.

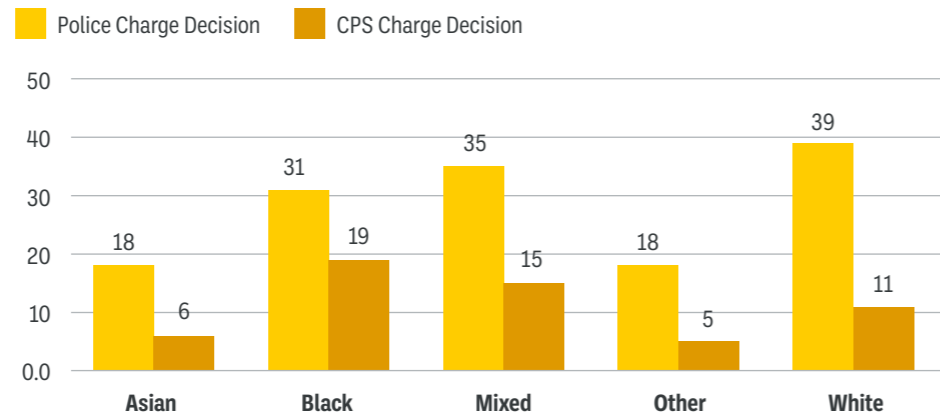
<sup>94</sup> 3 Section 172: Tackling Racial Disparity in the Criminal Justice System: 2020 Update

<sup>95</sup> 3 Section 172: Tackling Racial Disparity in the Criminal Justice System: 2020 Update

<sup>96</sup> 3 Section 173: Tackling Racial Disparity in the Criminal Justice System: 2020 Update

Chart 16 shows the volumes of charge decisions that were made either by the Police or the CPS and Chart 17 shows the RRI. The White and Other groups had proportionately more charge decisions made by the Police, whilst the remaining groups were more likely to have the decision made by the CPS.

**CHART 16: Volume of Police vs CPS Charge Decisions 2020**



**CHART 17: RRI of Charge Decisions 2020**

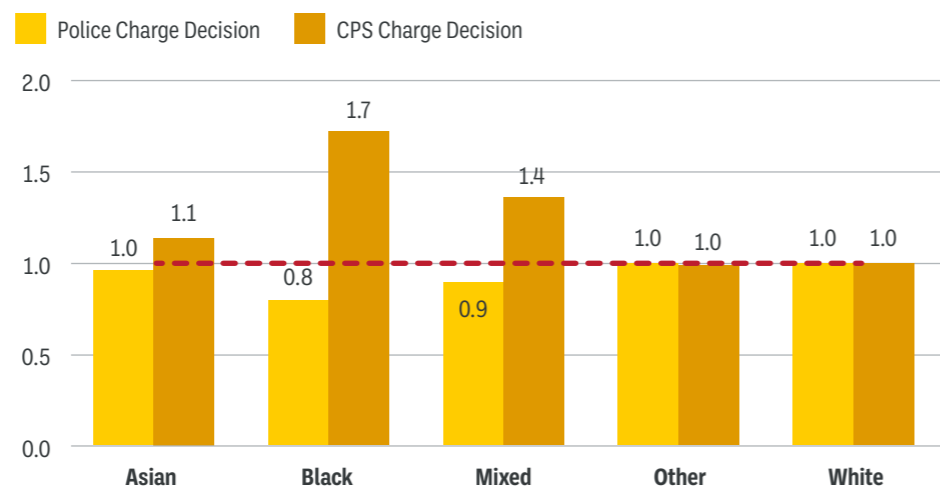
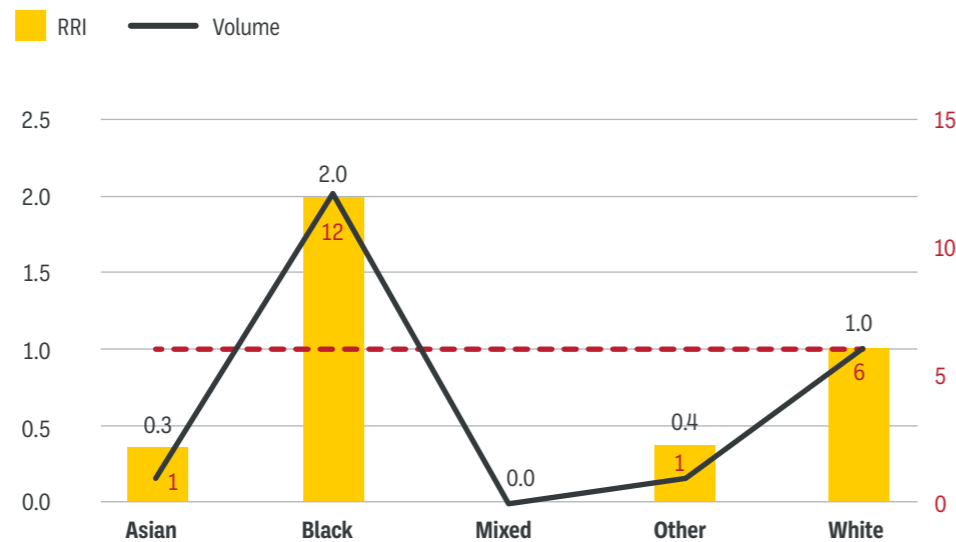


Chart 18 shows that there were twice as many cases that were charged that could have been eligible for an OOCd for the Black group (12) compared to the White group (6). Table 2 provides a breakdown of the reasons why the offenders were charged rather than given an OOCd.

**TABLE 2:**

REASON FOR CHARGE	BLACK GROUP	WHITE GROUP
Offender denied the offence	7	2
Charged due to the offenders not following the conditions set in an original OOCd outcome	2	1
Links to other more serious offences	3	0
Offered an OOCd but refused to engage	0	3

**CHART 18: Charged but Eligible for an OOCd**



The evaluation concluded that there wasn't any evidence of bias towards or away from OOCds for any particular ethnic group, as where there were a higher number of cases that could have been eligible for an OOCd but which resulted in a charge, there were mitigating reasons for these outcomes. The volume of potentially eligible cases is small, but there is an indication that there is a higher rate of denying the offence within the Black Group compared to the White Group which was the most common reason that ruled out an OOCd as a possible outcome.

Further scrutiny is required to understand the differences in 'not guilty' pleas between the ethnic groups and whether this is further evidence of the trust issues that were highlighted in the 2017 Lammy Review which may result a disproportionate amount of BAME offenders going to court.

**Decision Changes by the CPS**

No data was available for this review detailing decision changes by the CPS and referral back to Police.

**RECOMMENDATION 32:** CPS and Avon and Somerset Constabulary to capture data on decision changes by the CPS resulting in referral back to the Police, and that this data is collected for analysis and scrutiny of potential disproportionality.

**Public knowledge and understanding of plea decisions and OOCd**

No data was available for this review detailing decision changes by the CPS and referral back to Police.

Recommendation 9 of the Lammy Review identifies the need to “experiment with different approaches to explaining legal rights and options to defendants. These different approaches could include, for example, a role for community intermediaries when

suspects are first received in custody, giving people a choice between different duty solicitors, and earlier access to advice from barristers.”<sup>97</sup>

Avon and Somerset Constabulary have created an information sheet for offenders in custody which explains the two outcomes (Community Resolution and Conditional Caution), some of the eligibility criteria for an OOCd and the requirement to complete certain conditions. The aim of this Information Sheet is to ensure offenders in custody understand the process and impact of stating ‘no comment’ and ‘not guilty’.

The Constabulary have engaged with a Solicitor and their Legal Department to review this information. This is a basic information document that has had limited input and circulation to date. Further input and engagement is required with local communities and key CJS stakeholders to develop the information provided to the public to help improve offender engagement and understanding of the OOCd process and an opportunity to build trust. Consideration of language, special educational needs, disability, etc. is required to ensure that the information is as accessible as possible. Format of the information also needs further development e.g. braille, audio, webpage, App, etc.

**RECOMMENDATION 33:** A&S Constabulary need to develop the OOCd Information Sheet with input from the Independent Advisory Groups (IAG), local communities, and Legal profession representatives, to improve offender engagement and understanding of the OOCd process and build trust. Consideration is required of format (Leaflet, Audio, Webpage, App etc.), language, special educational needs, disabilities, etc. to ensure that the information is accessible.

Since June 2021, Avon and Somerset Constabulary have been presenting an overview of OOCds to the Independent Advisory Groups across Avon and Somerset to progress engagement and understanding with community representatives about the OOCd process and the impact of plea decisions upon outcomes for offenders.

In July and August 2021 Avon and Somerset Constabulary ran an OOCd event with local magistrates to provide an overview of the OOCd conditions so that offenders who have a ‘not guilty’ plea can be identified by magistrates to develop a secondary check and test process that ensures plea decisions are appropriate and fair.

**RECOMMENDATION 34:** An Information Framework needs to be co-produced between Police, PCC, CJS partners and the communities of A&S to increase engagement with local communities and develop public knowledge and understanding of plea decisions and the out of court disposal process.

<sup>97</sup> 1 P28, Chapter 3, Lammy Review 2017.

**Outcome Data**

Further to the UWE and Constabulary evaluations, data on the arrest and outcome rates have been analysed to understand if disproportionality is present within the OOCDC process. Similarly to the Constabulary's approach, the offence type data utilised for this review is: (1) Violence against the Person, (2) Drug and (3) Public Order offences, which are common offences that may lead to an OOCDC.

The data spans the financial year of 2019/2020.

Lammy review (2017) findings indicated the Gypsy, Roma Travellers (GRT) as a minority ethnic group are often overlooked and require further scrutiny to understand any disparity. Consequently, the arrest, outcome and population data for the GRT group has been extracted from the White group (in which it is commonly categorised) as part of the analysis for this Review.

**CHART 19: RRI of Violence Against the Person, Drug and Public Order Offences (2019/20)**

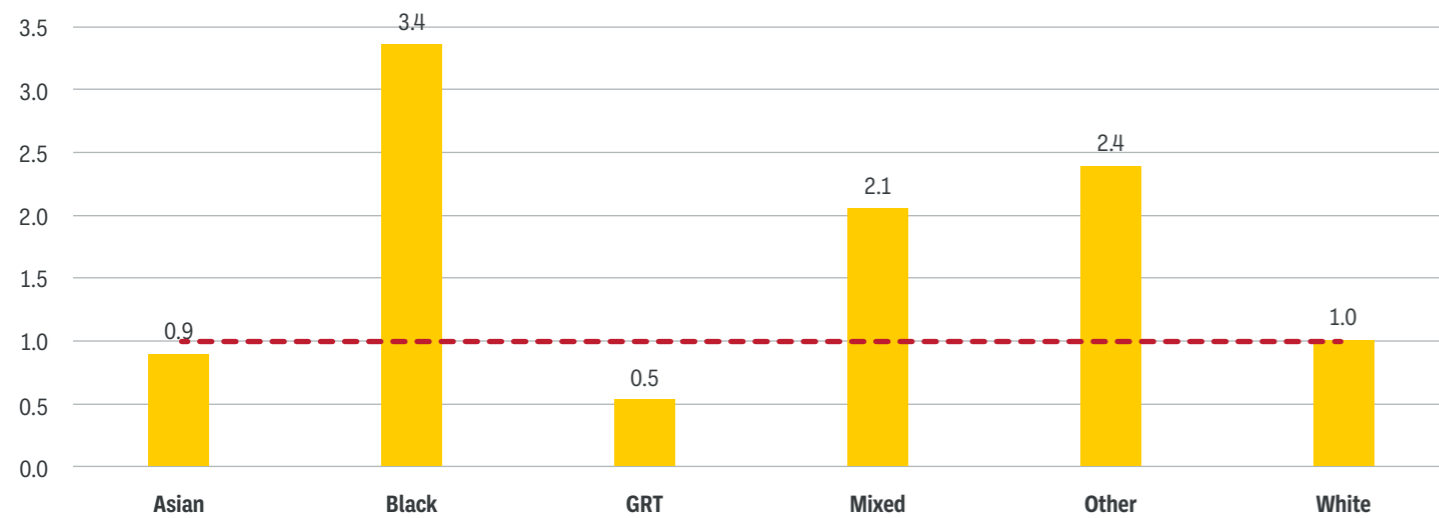


Chart 19 shows the Relative Rate Index for arrest rates by ethnicity for these three offence types.

Compared to the 2011 census population data for Avon and Somerset the following ethnicity groups are more likely to be arrested for these offences in comparison to the White Group:

- the Black group are 3.4 times more likely
- the Mixed group is 2.1 times more likely
- the other group is 2.4 times more likely

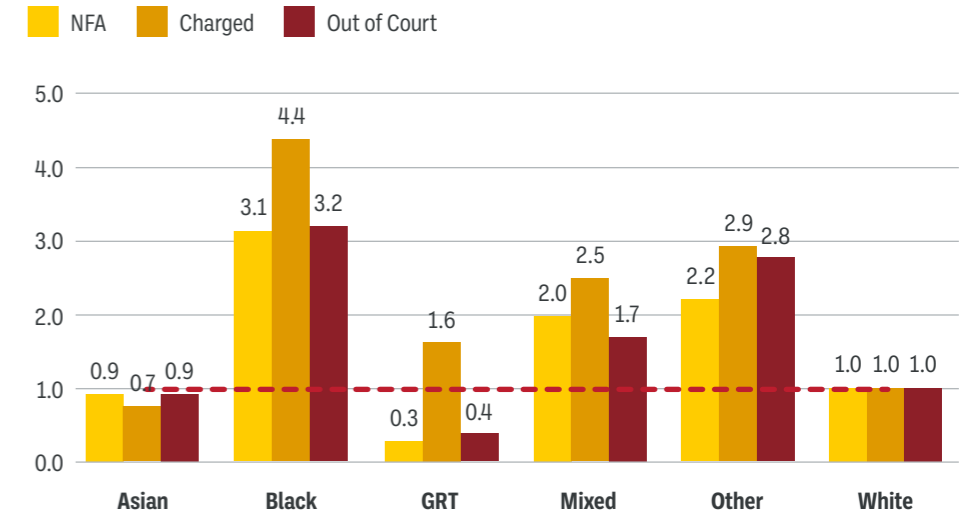
Both the Asian and GRT groups are less likely to be arrested compared to the White group. Whilst the rates of disproportionality differ, there are potential parallels between the pattern of disproportionality shown in the arrests rates and those that are seen in Stop and Search which are explored in the Stop and Search Chapter. The disproportionality in arrests needs further investigation to understand root cause and address this disparity.

**RECOMMENDATION 35:** Avon and Somerset Constabulary need to investigate the potential parallels between disproportionality rates shown in arrests and those in Stop and Search to understand root cause and actively address any disparity.

When analysing outcomes following arrest, this review has found that the approach to compare outcomes against the 2011 census population data (for example, as used within the YJB's 2019 Ethnic Disproportionality Toolkit) may not provide the clearest picture of disproportionality within outcome rates. This is demonstrated when comparing Chart 20, which shows the relative rates for No Further Action (NFA), Charged and Out of Court outcomes, with the relative arrest rates shown in Chart 19. The influence of disproportionate arrest rates as shown in Chart 19 can be seen in the outcome rates shown in Chart 20 which follow a similar pattern. Whilst it is appropriate to measure the arrest rates against the general population data, as this is the first step into the criminal justice system (CJS), subsequent points within the CJS such as outcomes, should measure rates within the arrested population data. An example of this approach is shown in Chart 21 which reveals a different picture to the previous analysis.

Disproportionality is apparent in the Black, Mixed and Other group, being 1.2 to 1.3 times more likely to receive a charge outcome compared to the White group. Although half as likely to be arrested for these offence types compared to the White group, the GRT group are 3 times more likely to receive a charge outcome and less likely to receive an NFA or OOCDC outcome. Further investigation and scrutiny is required to understand why this disproportionality exists within the Black, Mixed and Other groups and particularly in the GRT group to progress towards addressing this disparity.

**CHART 20: RRI of Outcomes in A&S 2011 Census Population (2019/20)**



**CHART 21: RRI of Outcomes in A&S Offending Population (2019/20)**

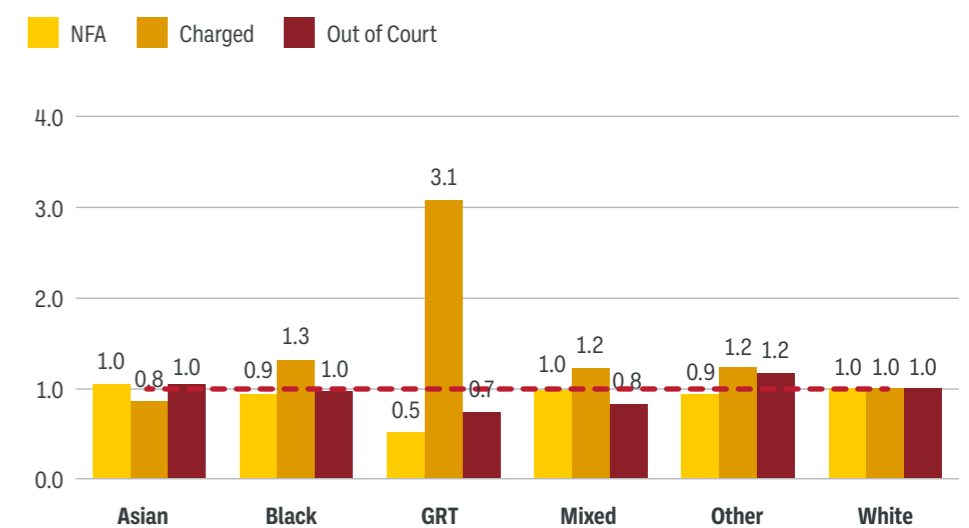


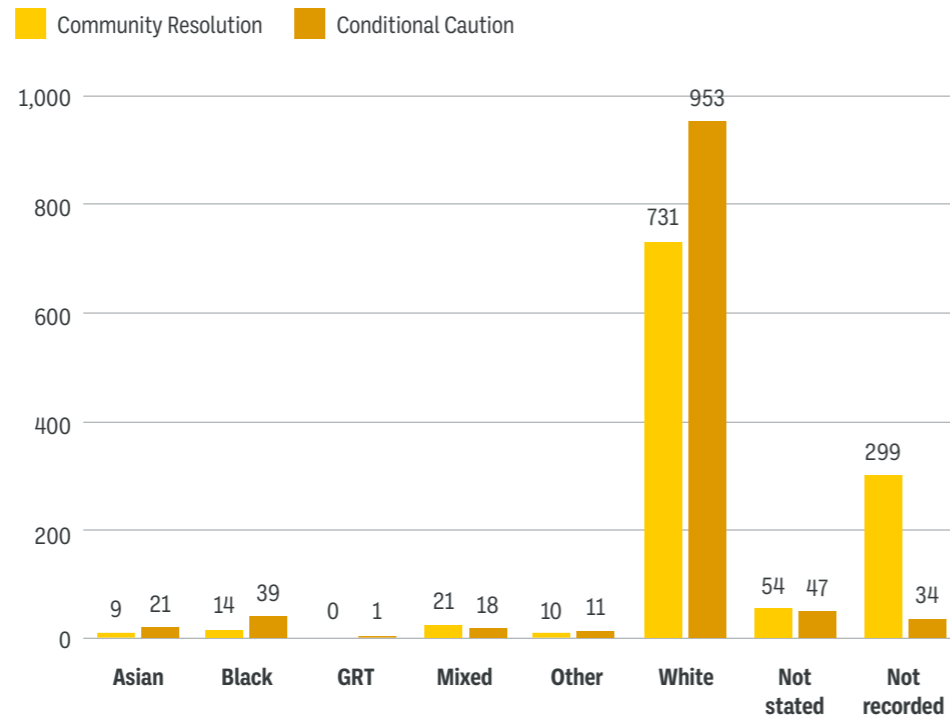
Chart 22 shows that volumes of Community Resolutions and Conditional Cautions that were applied as the OOCs across the different ethnic groups. In Community Resolutions, the second largest volume is in the 'Not Recorded' group where in 299 of these outcomes the ethnicity of the offender has not been recorded.

The disproportionality shown in Community Resolutions for the Not Recorded group in Chart 23 (x2.1) highlights the importance for improved data quality by Officers processing Community Resolutions. This is in contrast to the 34 Conditional Cautions where ethnicity was not recorded. As the majority of Community Resolutions are completed by Police Officers and majority of Conditional Cautions are completed by the ASCEND team, it is possible that there is an opportunity for data quality best practice to be shared to help reduce the number of outcomes where ethnicity is not recorded.

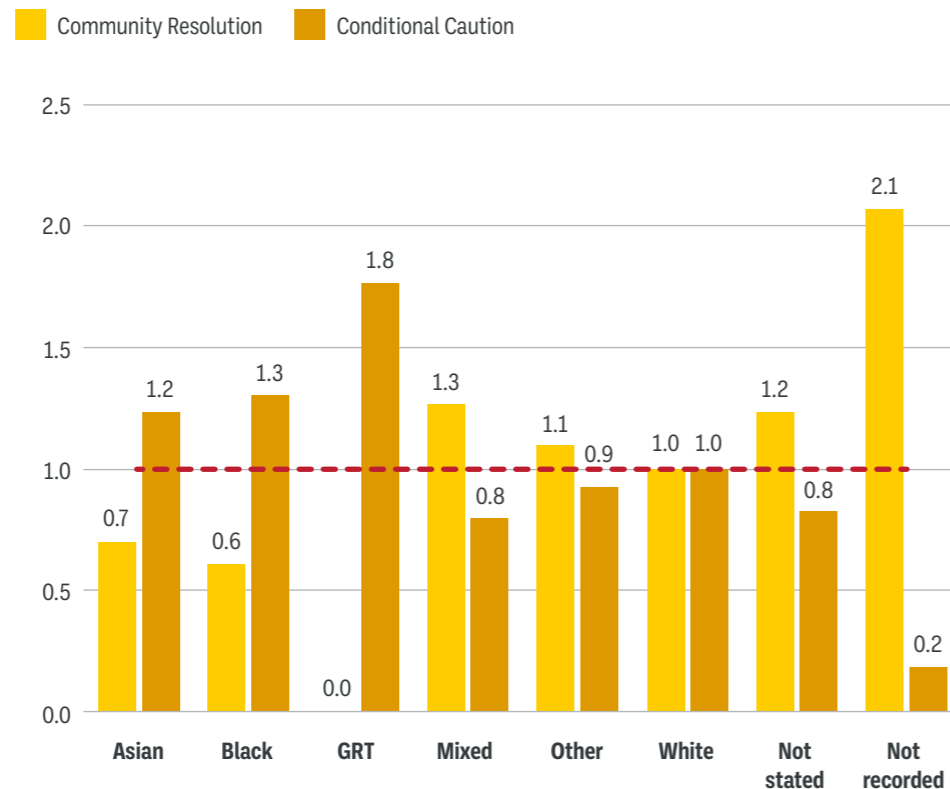
Chart 23 compares the rates of these outcomes for each group to those of the White group. This should be reviewed with reference to Chart 22 to provide the context of volumes for each outcome, as in the example of the GRT group which displays a relative rate times 1.8 for condition cautions, this actually represents only one OOC for this group. Excluding the GRT group and the groups where ethnicity has not been stated or recorded, there are low rates of disproportionality with the Asian and Black groups receiving more Conditional Cautions compared to the White group and the Mixed and Other groups receiving more Community Resolutions.

The outcome data for some ethnic groups is relatively low volumes, therefore it would be necessary to extend the date range for the outcomes to produce a clearer picture of disproportionality for these groups.

**CHART 22: Volume of Community Resolutions and Conditional Cautions (2019/20)**



**CHART 23: RRI of Community Resolutions vs Conditional Cautions (2019/20)**



**RECOMMENDATION 36:** A&S Constabulary should adopt the Relative Rate Index as a method of measuring disproportionality in the offending/arrest rates and the outcome rates for each ethnic group. These should be measured separately to ensure any disproportionality in offending/arrest rates doesn't influence the results for the outcome rates. It is recommended that this functionality is included in the 'Qlik App' currently in development.

**RECOMMENDATION 37:** A&S Constabulary need to scrutinise the comparative high rates of disproportionality by analysing the outcomes for the GRT group

in order to understand the factors contributing to the high charge rates and low NFA and OOC rates.

**RECOMMENDATION 38:** A&S Constabulary need to conduct a further review into the small amounts of disproportionality shown in the charge rates for the Black, Mixed and Other groups. Focus should be on creating 'best match' groups based on offence gravity scores, previous offending and admission of guilt to establish if these factors have an impact on charge rates.

**Deferred Prosecution Models**

Recommendation 10 of the Lammy Review called for the deferred prosecution' model pioneered in Operation Turning Point

be rolled out for both adult and youth offenders across England and Wales.<sup>98</sup> At the time of writing ASC did not have an adult deferred prosecution model in place or pilot planned. However, a youth deferred prosecution model is currently being piloted in Bristol as explored further in the Youth Justice Chapter.

**RECOMMENDATION 39:** Avon and Somerset Constabulary need to actively monitor the outcome of the MOJ Chance to Change pilots and develop local policy around a diversion prosecution model for Avon and Somerset to include: pilot design and eligibility, quality assurance, data collection and intended outcomes.

**CONCLUSION**

Being Avon and Somerset's tactical lead for Out of Court Disposals I wanted to become an integral part of the Lammy Review process, so I volunteered to chair the task and finish group. I wanted to establish our current performance data alongside building a panel that would provide independent advice and scrutiny. The panel was created from representatives from Youth Offending, Youth Justice and SARI. I would like to thank them for their passion and inputs throughout our review. We concentrated on analysing our current performance and identifying areas for improvement. An effective Out of Court Disposal process is better for victims, as it increases confidence, better for suspects, as it provides rehabilitative interventions to prevent an escalation in offending and is therefore much better for the communities of Avon and Somerset. In November 2018 Avon and Somerset moved to the two tier process of issuing Community Resolutions and

Conditional Cautions. We are one of the leading forces nationally and our innovation is improving the national picture, especially through the ASCEND Team. We are now working nationally to produce an APP that is dedicated to delivering OOC's. This will assist officers with their decision making and also allow for any disproportionality to be tracked (Recommendation 26). Independent Scrutiny is also vitally important in reviewing our performance. From 2021 the OPCC Scrutiny Panel are now reviewing cases specifically in relation to disproportionality. Their report is available to the Public on the OPCC website. (Recommendation 27). I have reviewed the detailed report and agree with the findings. In relation to the recommendations I report the following:- An input has been delivered to Magistrates in A&S to consider sending cases back to the Police when there is an early guilty plea at court and no admission to Police (Working towards Recommendation 30)

An independent custody review sheet has been created and is embedded into the Criminal Justice process. We have also created a knowledge hub on the force website, to provide better access for Victims, suspects, appropriate adults and the public (working towards Recommendation 31) An input on Out of Court Disposals has been delivered to our Independent Advisory Groups across the organisation. Excellent feedback has been received. Moving forward the plan is to create an Out of Court disposal group of Community Volunteers, to deliver inputs and to be points of contact to advise their community groups on Police engagement. They will be provided with presentation skills by the Police (Working towards Recommendation 32) We will be creating an action to review all of our recommendations moving forward, with the Governance for the action plan being monitored through both the Tactical and Strategic Out of Court Disposal groups.

**Superintendent Paul Underhill, Avon and Somerset Constabulary  
OUT OF COURT DISPOSALS PRIORITY THEME LEAD, A&S LAMMY SUB-GROUP**

<sup>98</sup> 1 The Lammy Review 2017

## BACKGROUND

The 2017 Lammy Review highlighted over-representation of BAME people in the prison system and evidence indicating differential treatment of BAME offenders in both the adult and youth estates. In 2017 over 20,000 BAME adults were in prisons across England and Wales, representing around 25% of the overall prison population.<sup>99</sup> Data collected by the Prison Reform Trust (PRT) indicates in early 2021, this had increased to 27% of the prison population, (21,574 people). PRT quantified this further by stating “If our prison population reflected the ethnic make-up of England and Wales, we would have over 9,000 fewer people in prison—the equivalent of 12 average-sized prisons.”<sup>100</sup>

The Lammy Review highlighted ‘inadequate governance surrounding key aspects of prison life’ identifying key areas that required immediate focus:

- Differential treatment against BAME offenders in both the adult and the youth estates.
- Poor relationships between BAME men and women with prison staff, including higher rates of victimisation by prison staff. With BAME prisoners reporting they are less likely to have a prison job or participation in offender behaviour programmes.
- Complaints Systems requiring urgent review, with just 1% of prisoners who alleged discrimination by staff, having their case upheld.

- Inadequate governance surrounding key aspects of prison life, such as the Incentives and Privileges (I&P) system, which BAME prisoners widely regard as unfair.
- The lack of diversity among prison officers, including prison leadership.

Key recommendation areas:

- A more comprehensive approach to assessing prisoners’ health, education and psychological state on entry to prisons
- Opening up of decision-making to outside scrutiny, including the way in which complaints about discrimination are handled
- Holding prison leadership teams directly to account for the treatment and outcomes for BAME prisoners.<sup>101</sup>

A Prisons Task and Finish Group was created consisting of representatives from HMP Leyhill, HMP Eastwood Park and HMP Bristol and representatives of HM Prisons and Probation Service. The aim was to capture data and different perspectives around any disproportionality for BAME prisoners. In October 2020 Rachel Thorne, Regional Equalities Lead, HMPPS became Lead of the Prisons Theme, supported by Bradley Read. The first workshop was held in January 2021, focusing upon exploring the initial data provided by each of the three prisons around Use of Force, Privileges and Incentives, Complaints and DIRFs. The second workshop was held in February 2021 analysing disproportionality levels across each prison by adopting the RRI calculation and explored the development of a monitoring framework.

### Out of scope:

- As a private prison, Ashfield Prison has not been included within the scope of this Review.
- Youth Offenders under the age of 18.
- Probation has not been investigated as part of this review.



## METHODOLOGY:

In August 2020 Bradley Read, Head of Diversity and Equality at HMP, Bristol, was appointed Lead of the Prisons theme. Building on the initial themes identified within the A&S Lammy Sub-Group Report 2019,<sup>102</sup> two key objectives for the theme were identified:


- (1) Explore disproportionality data within Use of Force, Complaints, and, Privileges and Incentives.
- (2) Work with the Prison service to develop a monitoring framework that enables accessibility to ethnicity data and a reporting mechanism to measure any disparity to proactively tackle disproportionality.

<b>Bristol</b>	A category B* local and resettlement prison holding approximately 500 young and adult male prisoners.
<b>Leyhill</b>	A category D* open prison in Gloucestershire, holding almost 500 adult male prisoners in preparation for their release back into the community. Around two-thirds are convicted of sexual offences and the majority serving long sentences, half of which were indeterminate or for life.
<b>Eastwood Park</b>	A prison and young offender institution* (YOI) in Wotton-under-Edge, Gloucestershire, for women aged 18 and over. Around 400 women live at Eastwood Park in a mixture of rooms for 1, 2 or 3 prisoners. It has a mother and baby unit for women with children under 18 months old. <sup>103</sup>
<b>HMP Ashfield</b>	Ashfield Prison is a privately run adult male prison in Pucklechurch, Bristol. This prison is managed by Serco Group plc.


\* Prison Types and Categories are detailed on GOV.UK.<sup>104</sup>

<sup>99</sup> P45 The Lammy Review, 2017. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)  
<sup>100</sup> Prison Reform Trust News, 4/2/21. <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/978>  
<sup>101</sup> 1 The Lammy Review 2017  
<sup>102</sup> A&S Lammy Review Sub-Group Interim Report, 2019  
<sup>103</sup> <https://www.gov.uk/guidance/eastwood-park-prison>  
<sup>104</sup> Prison Categories, GOV.UK: <https://prisonjobs.blog.gov.uk/your-a-d-guide-on-prison-categories/>

**National context:**

 In January 2000, 19-year-old Zahid Mubarek was convicted of shoplifting £6 worth of goods from a supermarket and was sentenced to serve ninety days at Feltham Young Offender Institution. In the early hours of the morning scheduled for his release, Zahid was attacked by his racist cellmate, Robert Stewart. Using a broken-off table leg as a weapon, Stewart hit Zahid eleven times whilst he lay asleep. Zahid died a week later in hospital, in March 2000. In November 2000 Robert Stewart was convicted of murder and ordered to serve a life sentence for the murder of Zahid Mubarek. Zahid's Family spent four years campaigning for answers, pushing the Government to hold a Public Inquiry into Zahid's murder. The Inquiry went on to expose failings in the Prison Service that allowed a vulnerable Asian teenager to spend six weeks in a cell with a known racist.

**Local context:**

 In June 2014 Mohamed Sharif, 43, of Somali heritage, was on remand at HMP Bristol following his arrest for common assault. On the 26 June 2014 Sharif was subjected to a brutal unprovoked attack during an unsupervised session in the prison exercise yard by another inmate, Ryan Guest, leaving Sharif severely brain-damaged. Guest had previously told prison officers during his cell sharing risk assessment that he would only share a cell with a white person who was not homosexual.

2000	In October 2000, a report into HMP Brixton by the then Director General of the Prison Service, condemned the prison as 'institutionally and blatantly racist' marking a turning point in how the Prison Service tackled issues of race.
2000-2003	The Commission for Racial Equality (CRE) conducted a formal investigation into Racial Equality in Prisons. <sup>105</sup> Key findings identified unlawful racial discrimination and 14 failure areas. Consequently, a national Race Equality Action Plan was developed to address the failures and improve monitoring and management of race equality across the Prison Service with a Programme Management Board in place to oversee its delivery.
2005	The Chief Inspector of Prisons published, <i>Parallel Worlds: A thematic review of race relations in prisons</i> <sup>106</sup> which provided "a worrying picture of 'parallel worlds' with a lack of shared understanding of race issues within prisons". <sup>107</sup> The House of Lords ruled an independent public inquiry be conducted into Zahid Mubarek's death.
2006	Lord Justice Keith published the findings of the Zahid Mubarek inquiry with 186 failings identified across the prison system, 88 recommendations for improvement, including 10 relating specifically to race and diversity. Recommendations of the Zahid Mubarek Inquiry were subsequently incorporated into the Prison Service's national action plan.
2008	The Race Review: <i>Implementing Race Equality in Prisons – Five Years On</i> <sup>108</sup> highlighted several areas for development, including: prisoners' experience and perceptions; training; and leadership and management.
2013	The Young Review Report <sup>109</sup> examined how learning regarding the disproportionately negative outcomes experienced by black and Muslim male offenders be applied following changes introduced under the Transforming Rehabilitation reforms within the Offender Rehabilitation Act 2014.
2014	HM Inspectorate of Prisons Report <sup>110</sup> held a review of the implementation of the Zahid Mubarek Inquiry recommendations to examine how changes the Inquiry recommended have become embedded in culture and practice, and whether prisons and young offender institutions have become safer as a result of the initiatives.
2018	10 years after the Race Review, the Zahid Mubarek Trust (ZMT) conducted research into current progress in accordance with the changes recommended by the Race Review as follows:
2008	2018
<ul style="list-style-type: none"> <li>• 89 out of 127 establishments across England and Wales had trained full-time race equality officers</li> <li>• 107 prisons had external scrutiny of their race incident complaints</li> <li>• Race equality training was a mandatory residential course for staff</li> <li>• Race Equality policy (PSO 2800) was issued, with 12 mandatory outcome-focused actions</li> <li>• Key Performance Target on Race introduced measuring aspects of delivering race equality, including prisoners' perceptions</li> </ul>	<ul style="list-style-type: none"> <li>• Equality Officers are often cross-deployed, most on part-time without training, covering all 9 protected characteristics</li> <li>• 28 prisons have maintained external scrutiny, and ZMT are covering 11 of them</li> <li>• Equality training is now an online course, with no obligation to complete</li> <li>• Current Equalities policy has reduced to 4 mandatory actions for prisons and expired in 2015</li> <li>• Current performance indicators for prisons do not include race equality outcomes</li> </ul>

2018	Ministry of Justice <sup>111</sup> (MOJ) commission an independent report to examine the circumstances surrounding the serious assault of Mohamed Sharif at HMP Bristol. The report was published on 5 August 2018 with 54 findings and 31 recommendations, and called for additional scrutiny through an independent public hearing. Key findings identified: <ul style="list-style-type: none"> <li>• the attack was motivated by hostility to Muslims.</li> <li>• the racist and homophobic comments made by Ryan Guest should have been explored.</li> <li>• the allocation of staff was unacceptable.</li> </ul> The investigation concluded "We also have serious concerns about the management of race and diversity issues at HMP Bristol... we found evidence of a high level of mistrust between the Somali community in particular and the prison, with concerns in the community that what happened...formed part of a wider pattern." <sup>112</sup>
2019	11 June 2019 following the HMIP inspection and subsequent report <sup>113</sup> the HM Chief Inspector of Prisons issued an urgent notification to the Secretary of State for Justice about HMP Bristol in particular "numerous significant concerns about the treatment and conditions of prisoners. It was the latest in a series of disturbing inspections at the prison over the last six years," <sup>114</sup> culminating in the Chief Inspector invoking the Urgent Notification (UN) process. <sup>115</sup>
2020	In September 2020 the HM Chief Inspector of Prisons conducted a further scrutiny visit to HMP Bristol and identified 'important changes' highlighting a 'strong and energetic leadership' and a 'more purposeful, safe and decent establishment' compared to the previous inspection in 2019.
2021	On 22 January 2021 Ian Blakeman, Executive Director of Strategy, Planning and Performance Directorate provided an update in a letter to Rob Allen detailing progress since the Independent investigation in case of 'AD'. Despite improvements made, it concluded that the Brunel Unit be closed for review and refurbishment and in the meantime mental health support would be provided elsewhere for those who needed it. <sup>116</sup>

The timeline illustrates the national issue of racial discrimination and inequality in prisons continues with a marked regression by 2018 in the action to tackle discrimination and disproportionality in terms of training, monitoring, external scrutiny and resources.

<sup>105</sup> Racial Equality in Prisons: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/273458/0044.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/273458/0044.pdf)  
<sup>106</sup> Her Majesty's Inspectorate of Prisons, *Parallel Worlds*, 2005: <https://www.justiceinspectorates.gov.uk/parallel-worlds/>  
<sup>107</sup> *106 Parallel Worlds*  
<sup>108</sup> *Race Review: Implementing Race Equality in Prisons – Five years on*, 2008: <https://thezmt.org/2020/07/04/race-review-2008/>  
<sup>109</sup> *The Young Review Report: Improving outcomes for young black and/or Muslim men in the Criminal Justice System*, 2014: [https://www.equalcjs.org.uk/sites/default/files/articles/clinks\\_young-review\\_report\\_dec2014.pdf](https://www.equalcjs.org.uk/sites/default/files/articles/clinks_young-review_report_dec2014.pdf)  
<sup>110</sup> *Report of a review of the implementation of the Zahid Mubarek Inquiry recommendations*, June 2014: <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/07/Mubarek-final-published.pdf>

<sup>111</sup> *Final Report of an Independent Investigation into the Case of AD. Rob Allen*, May 2018: <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f2a6f8cee8e5078b252c61f/1596616591207/Rob+Allen+report.pdf>  
<sup>112</sup> *111 Final Report of an Independent Investigation into the Case of AD. Rob Allen*, May 2018.  
<sup>113</sup> *HMIP Report HMP Bristol*, 2019. <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/09/Bristol-Web-2019.pdf>  
<sup>114</sup> *Letter to Secretary of State from HM Chief Inspector of Prisons Peter Clarke re HMP Bristol*, June 2019. <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/06/11jun-UN-letter-and-debrief-final.pdf>  
<sup>115</sup> *HMPPS: Performance and Assurance Framework: Enabling Accountability*, 2018.  
<sup>116</sup> *MPPS Letter from Ian Blakeman to Rob Allen re update on Brunel Unit at HMP Bristol*. 22 January 2021: <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/6051bdff4768bf1df808bd40/1615969792917/AD+investigation+-+update+on+the+Brunel+Unit.pdf>





### Equality in prisons

In Tackling Discrimination in Prisons, 2017 (Prison Reform Trust and Zahid Mubarek Trust)<sup>117</sup> the duties of prisons under the Equality Act 2010 are identified:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations between people sharing a protected characteristic and those who do not.

Ensuring Equality in Prisons (Ref: PSI 32/2011)<sup>118</sup> (revised in January 2020) sets out the framework for the management of equalities issues in prison establishments.<sup>119</sup> The Framework identifies the need for prisons to use SMART to analyse monitoring data:

- Section D.11 states monitoring data should be examined regularly for evidence of disproportionality.
- Section D.12 identifies disproportionality occurs when protected groups are under or over represented in a particular

function or area indicating a need for further investigation.

- Section D.13 states monitoring tools are designed to allow disproportionality to be spotted enabling actions to address it to be identified.
- Section D.14 identifies monitoring data should be shared with staff, prisoners and other stakeholders in a form that is comprehensible to them.

#### Use of force:

Prison Service Order 1600 (PSO 1600) is the Prison Service's policy covering the use of force<sup>120</sup> and details the circumstances in which force can be used and the framework for justifying the use of force.

The use of force will be justified and lawful, only:

- If it is reasonable in the circumstances
- If it is necessary
- If no more force than is necessary is used
- If it is proportionate to the seriousness of the circumstances

A report justifying the use of any type of force must be completed in all cases.

All staff must be trained in Personal Safety Techniques and all officer grades trained in basic Control and Restraint, use of batons, and advanced Control and Restraint.

#### Draft Use of Force Policy Framework June 2020

The HMPPS draft Use of Force Policy Framework June 2020 was circulated to the External Advice and Scrutiny Panel, the Howard League for Penal Reform, and the Prison Reform Trust who provided responses and feedback.<sup>121</sup> However, to date the Use of Force Policy Framework 2020 has not been published.

#### Incentives and privileges:

The system of privileges is a key tool for incentivising prisoners to abide by the rules and engage in the prison regime and rehabilitation, including education, work and substance misuse interventions- whilst allowing privileges to be taken away from those who behave poorly or refuse to engage.

The Incentives Policy Framework (IPF) 2020,<sup>122</sup> sets a common framework within which local prison incentives policies must comply. The IPF incentivises good behaviour and tackles poor behaviour and breaches of the Prison Rules. There must be at least three incentive levels in each prison: Basic,<sup>123</sup> Standard and Enhanced. Governors may create additional levels above Enhanced.

#### Earnable Incentives

Each prison has their own local incentives scheme according to what they understand incentivises their population in accordance with the facilities and opportunities available at their prison. The IPF stipulates where operationally possible, the following 6 designated earnable incentives must be included in local incentive schemes:<sup>124</sup> (1) Access to private cash; (2) Eligibility to earn higher rates of pay; (3) Access to in-cell television; (4) Opportunity to wear own clothes; (5) Additional time out of cell; (6) Extra and improved visits.

Section 5.22 of the IPF 2020 states "A forum must be in place to review the fairness and effectiveness of the local incentives policy, including the efficacy of the incentives on offer. Forums must involve staff; white, Black, Asian and Minority Ethnic (BAME) and Gypsy, Traveller and Romany prisoners and all prisoner groups with protected characteristics where present in the local population."



The proportion of prisoners on Basic Incentives status was highest for Black or Black British and Mixed prisoners. On 31 March 2020, 5% and 4% respectively of prisoners with a Basic Incentives status were of Black or Black British and Mixed ethnicity. This compares with 3% for prisoners who identified as White or Asian and Asian British.

HMPPS Offenders Equalities Annual Report 2019/20

#### Complaints

**"The ability to complain effectively is integral to a legitimate and civilised prison system."**

Nigel Newcomen, Prisons and Probation Ombudsman



Complaints about discrimination enable an institution to be alerted to failings to meet the first two duties of the Equalities Act 2010<sup>125</sup>. The sensitive handling of complaints contributes to good relations between the institution and people from protected groups. Whereas, a failing complaints process potentially fosters disproportionality, creating distrust and poor relations.<sup>126</sup>

#### Prisoner complaints policy framework<sup>127</sup>

Under Rule 11 of the Prison Rules 1999 and Rule 8 of the YOI Rules 2000, prisoners are statutorily entitled to make complaints. Under the Prison Act 1952 it is a requirement that every prison is monitored by an Independent Monitoring Board (IMB).

All prisons should have an effective system with a clear set of procedures for dealing with prisoners' complaints. Prisoners need to be informed of how to make a formal complaint and have ready access to the means to do so<sup>128</sup>.

Prisoners must be informed about the complaints procedures during the 'early days' stages of their time in custody, including the role of the PPO and that of the Independent Children's Rights Advocacy Services for young people.

#### Discrimination incident reporting form (DIRF)

In 2011, the National Offender Management Service (NOMS), now HM Prison and Probation Service (HMPPS) set out how complaints about discrimination should be managed in Ensuring Equality, revised in January 2020.<sup>129</sup> The process is initiated when someone completes a DIRF. The policy requires that:

- Complaint forms are easily available
- Problems are resolved at an informal level, where possible.
- Allegations of serious misconduct are fully investigated.
- Systems for submitting Discrimination Reports and responding to them are private and secure.
- Prisons use data from all complaints about discrimination to identify and target specific problems.<sup>130</sup>

The DIRF process is designed for any prisoner to launch a complaint based on their perceptions of discrimination, be that in process, personal interaction or something else. Prisoners can complain about the behaviour or conducted of other prisoners or staff using this process.

<sup>117</sup> Tackling Discrimination in Prisons, 2017 (Prison Reform Trust and Zahid Mubarek Trust): <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Tackling%20discrimination.pdf>

<sup>118</sup> Ensuring Equality, 2011. <http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi-2011-32-ensuring-equality.doc>

<sup>119</sup> Except for issues relating to the equal treatment of employees which are covered in PSI 33/2011

<sup>120</sup> Prison Service Order 1600: Use of Force, 2005 amended 2015: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/933347/use\\_of\\_force\\_-\\_pso-1600.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933347/use_of_force_-_pso-1600.pdf)

<sup>121</sup> Howard League for Penal Reform: Response to the HMPPS Consultation on the Use of Force Policy Framework June 2020. <https://howardleague.org/wp-content/uploads/2020/06/Use-of-Force-consultation-response-final.pdf>

<sup>122</sup> Ministry of Justice, Incentives Policy Framework, 08 July 2020: [Incentives Policy Framework 2020] ([publishing.service.gov.uk](https://publishing.service.gov.uk))

<sup>123</sup> The Basic level must include as a minimum legal entitlement to which prisoners are entitled.

<sup>124</sup> Prisons are encouraged to develop additional incentives as appropriate.

<sup>125</sup> Eliminate unlawful discrimination, harassment and victimisation and Advance equality of opportunity

<sup>126</sup> Tackling Discrimination in Prison, ZMT and Prison Reform Trust, 2017: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Tackling%20discrimination.pdf>

<sup>127</sup> Prison Complaints Policy Framework, GOV.UK, 2019. <https://www.gov.uk/government/publications/prisoner-complaints-policy-framework>

<sup>128</sup> Prisoners who have disabilities, literacy and learning difficulties or for whom English is not their first language need to be given the necessary support needed to submit a complaint.

<sup>129</sup> Ensuring Equality PSI 32/2011. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/905148/psi-2011-32-ensuring-equality.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905148/psi-2011-32-ensuring-equality.pdf)

<sup>130</sup> 126 Tackling Discrimination in Prison, ZMT and Prison Reform Trust, 2017.

**FINDINGS:**

Data was requested from HMP Bristol, HMP Leyhill and HMP Eastwood Park and focused upon four areas:

- Use of Force: force used by prison staff against prisoners
- Incentives and Privileges: granted to or taken away from prisoners for good or poor behaviour
- Complaints: by prisoners
- Discrimination Incident Report Form (DIRF): the system used for reporting all incidents of discrimination, harassment and victimisation.

Overall there were challenges in the access to and analysis of individual Prison data due to the centralised data systems within HMPPS that monitor and report performance.

Key issues include:

- Data sharing
- Limited access to raw data
- Inconsistencies in the data provided to this review by each prison such as differing ethnicity categories, time periods etc.

- Insufficient time and resources of prisons to provide data
- Gaps or the absence of data at a sufficient level of detail
- Limited time periods (e.g. 1month, 6 months up to a 1 year only)

Consequently analysis of the data for prisons has been conducted on each prison within Avon and Somerset: HMP Bristol, HMP Leyhill and Eastwood Park, individually.

Raw Data provided from each Prison:

	Use of Force:	Incentives and Privileges:	Complaints:	DIRF:
<b>HMP BRISTOL</b>	November 2019 – October 2020 (12 months) 2 Categories of Ethnicity Group (BAME and White) Use of Force Body Worn Video 5 Categories of Ethnicity Group (Asian, Black, Mixed, Other, White) January 2020 – October 2020 (10 months)	Percentages of each IP status January 2021. May– October 2020 (6 months) 2 Categories of Ethnicity Group (BAME and White) Percentages of each IP status category (Standard, Enhanced and Enhanced 2)	November 2019 – October 2020	November 2019 – October 2020 5 plus 1 Ethnicity Group
<b>HMP LEYHILL</b>	May 2020 – October 2020 (6 months) 5 Categories of Ethnicity Group (Asian, Black, Mixed, Other, White)	May 2020 – October 2020 (6 months) Volume of residents on ‘Standard’ incentive only. 5 Categories of Ethnicity Group (Asian, Black, Mixed, Other, White)	May 2020 – October 2020 (6 months) 5 Categories of Ethnicity Group (Asian, Black, Mixed, Other, White)	May 2020 – October 2020 (6 months) 5 Categories of Ethnicity Group (Asian, Black, Mixed, Other, White)
<b>HMP EASTWOOD PARK</b>	July 2020 – December 2020 (6 months)	November 2019 – October 2020 (12 months) Volume of residents that were upgraded to ‘Enhanced’ only.	November 2019 – October 2020 (12 months)	November 2019 – October 2020 (12 months)

Key points to note:

- Overall the time periods the data was provided ranged between 6-12 months and time periods were within October 2019 to December 2020 but not consistent across each area or each prison.
- Overall the Incentive data provided from each prison is not consistent.

- At the outset of this review the Relative Rate Index (RRI) was not being used by all Prisons to measure disproportionality.
- Data was not available within the time period of this review to conduct any investigation into the types of Use of Force and any potential disproportionality for BAME prisoners.

- Ethnicity categories detailed in the data provided to this review were limited to 5 plus 1 and in some cases just Black, Asian and Mixed Ethnicity (BAME) as a single category compared to the White Group.
- Due to the significant differences in the types of prisons included within this review each prison has been examined individually within this review.

**HMP BRISTOL**

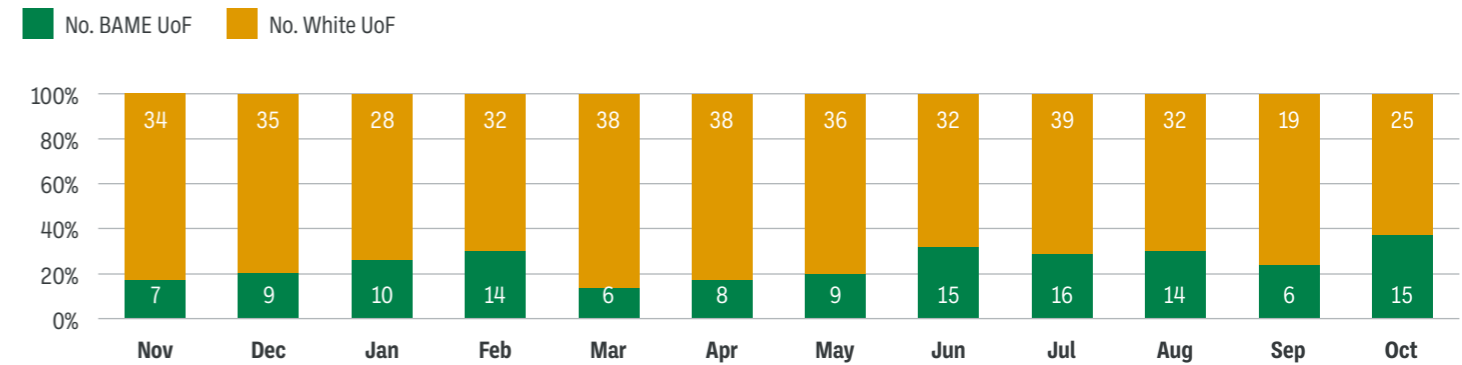
**Use of force**

Chart 24 details the use of force volumes by month between November 2019 to October 2020 between the BAME Group and White Group.

During this period there were 517 instances of Use of Force at HMP Bristol. 129 instances of Use of force were against the BAME Group and 388 instances of Use of force were against the White Group. However, the prison

population has not been quantified and the number of occurrences are not correlated to individual prisoners. Consequently, further analysis of more detailed data is required to accurately quantify any disproportionality.

**CHART 24: HMP Bristol: Use of Force Volumes November 2019 – October 2020**



Charts 25 and 26 show the RRI of Use of Force incidents at HMP Bristol between November 2019 to October 2020 between the BAME Groups and White Group. Chart 23 totals the year and indicates little disparity, with the BAME Group 1.03 times more likely to have Use of Force.

**CHART 25: HMP Bristol: Use of Force RRI (November 2019 – October 2020)**

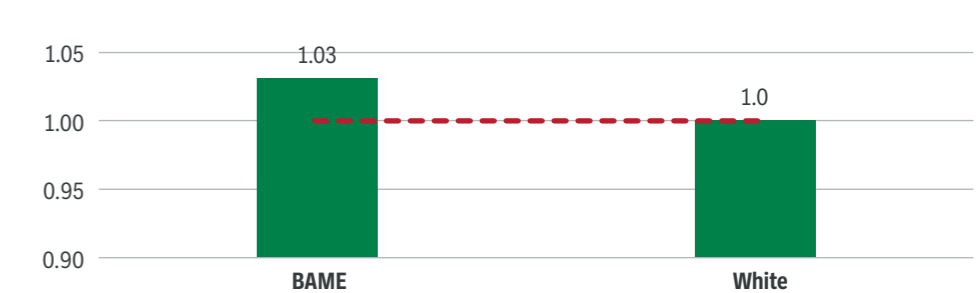
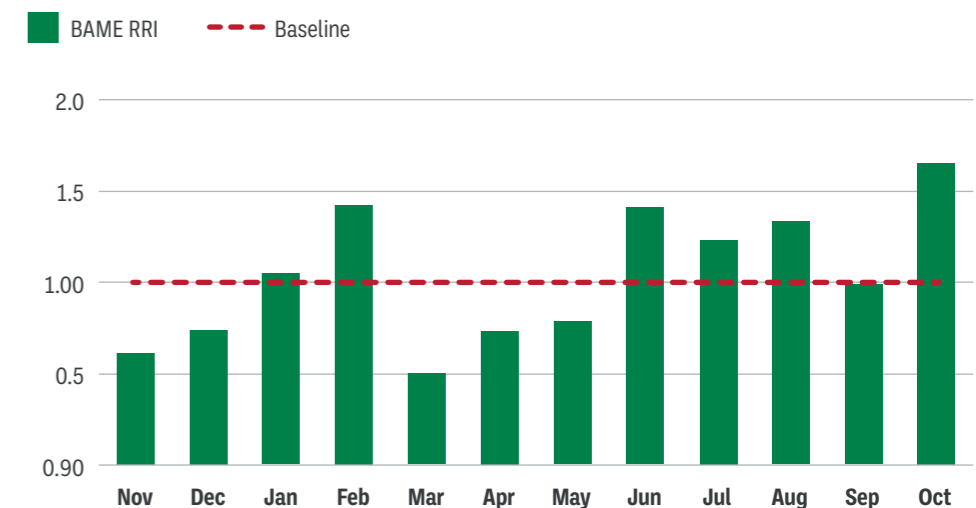


Chart 26 is a monthly breakdown of the same period and indicates a greater range of disparity across this period both negatively and positively. In February, June, July, August and October the rate is higher between 1.23 and 1.66. In November, December, March, April, May and September the rate is below 1. As previously stated further analysis is required of the breakdown of ethnicity groups and a greater time period to establish any trends and identify if there is disproportionality.

**CHART 26: HMP Bristol: Use of Force RRI Monthly breakdown November 2019 – October 2020**



**RECOMMENDATION 40:** HMP Bristol to conduct further analysis to quantify disproportionality within Use of Force over a longer time period, with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

**RECOMMENDATION 41:** HMP Bristol to analyse disproportionality for all Ethnicity Groups using the 18 plus 1 ethnicity categories.

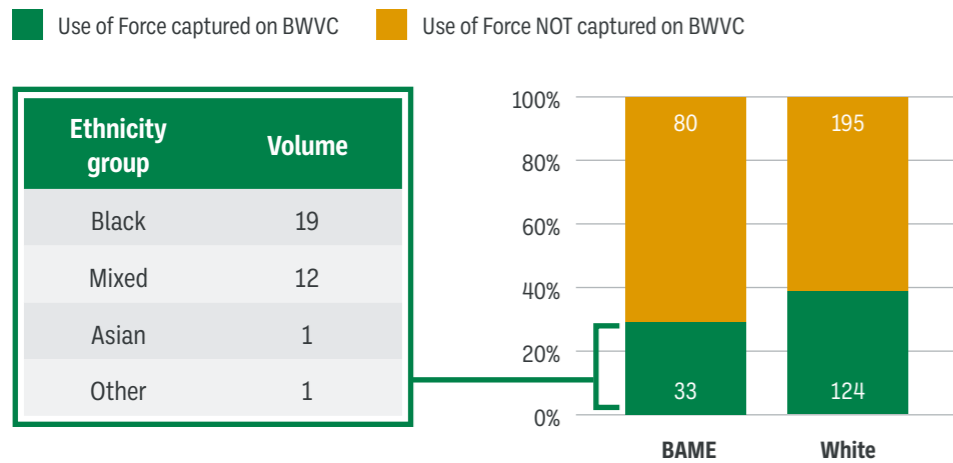
**Body Worn Camera and Use of Force:**

Chart 27 shows the Use of Force numbers captured on Body Worn Camera (BWC) at HMP Bristol between January and October 2020. 29% of Use of Force Incidents for the BAME Group are captured on BWC, whilst 39% of Use of Force Incidents for the White Group are captured on BWC.

Indicating a potential disparity for the BAME Group.

There is insufficient data to investigate further. Analysis of data over a longer period of time and focused upon individual ethnicity groups is required to enable further analysis into any disparities and quantification of disproportionality.

**CHART 27: HMP Bristol: Use of Force Body Worn Video Camera January October 2020**



**RECOMMENDATION 42:** HMP Bristol need to urgently improve their use of Body Worn Video usage during Use of Force Incidents with between 61-71% of incidents not being recorded, according to the data provided. Further scrutiny is required around the potential disparity in the lower proportion of instances recorded for BAME prisoners.

**Scrutiny of Use of Force**

There is an established Use of Force Committee at HMP Bristol led by the Head of Safety (Band 4) with no prisoners in attendance. The Committee is an internal scrutiny group made of representatives within the Prison (such as Governor, Head of Equality and Diversity, Chaplain) who review every Use of Force incident occurring each month.

Independent scrutiny was previously provided by the Independent Monitoring Board, however, they have not been in attendance since March 2020 due to Covid-19. A Use of Force Coordinator tracks progress and analyses data to identify any trends.

**RECOMMENDATION 43:** HMP Bristol need to ensure outside scrutiny for Use of Force is restarted and outcomes shared with CJS partners.

The process to investigate any issues within Use of Force has 3 steps:

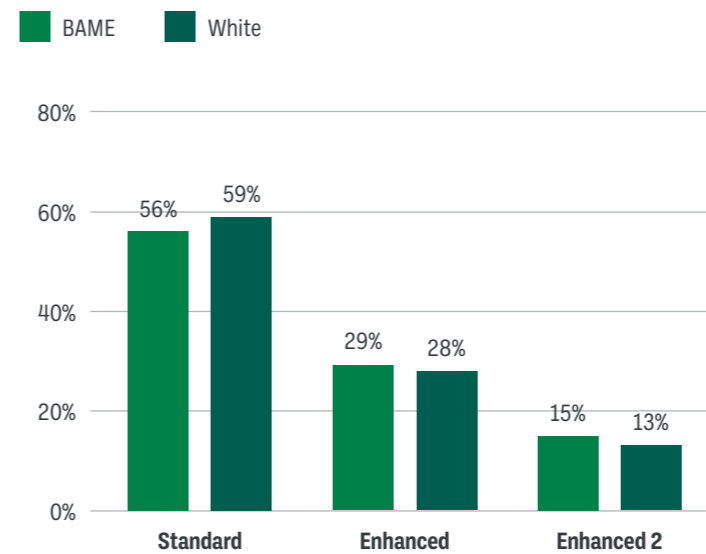
1. Simple Fact Find and update provided to Deputy Governor.
2. A Report is produced.
3. Decision made regarding issue and with suitable action identified and implemented e.g. advice and Guidance, dismissal etc.

**Incentives and privileges (IP)**

A new incentives scheme was introduced at HMP Bristol in May 2020 removing Basic status and moving to Standard, Enhanced and the newly created Enhanced 2 which in addition to Enhanced privileges allows further incentives such as shopping for food and clothes. All new prisoners are entitled to Enhanced status after 2 weeks of arrival subject to their behaviour and engagement in activities, workshops, etc. HMP Bristol changed the process of progression from prisoners having to make an application for enhanced status to that of automatic progression.

The new process was developed in accordance with concerns identified around the application process potentially putting some BAME prisoners at a disadvantage; for example: English may not be their first language. Feedback from the Workshops indicated that some prisoners still refuse IP's due to their cultural beliefs.

**CHART 28: Incentives and Privileges HMP Bristol January 2021**



In the HMIP Report September 2020 Inspectors noted positive practice:

- A range of data from the previous week was scrutinised at the weekly safety action meeting, including incidents, near misses, use of force and security intelligence, and immediate actions were formulated (1.16).
- The weekly use of force learning panel reviewed all incidents of use of force to identify good practice and areas of concern so that immediate action could be taken, practice improved and learning shared with all front-line staff (1.18)

HMPPS Offenders Equalities Annual Report 2019/20

Chart 28 details the percentages of prisoners in BAME and White Groups in the Standard, Enhanced and Enhanced 2 IP status in January 2021. No volumes were quantified in the data provided and the short time period limits further analysis. Consequently, further analysis of more detailed data is required to accurately quantify any disproportionality.

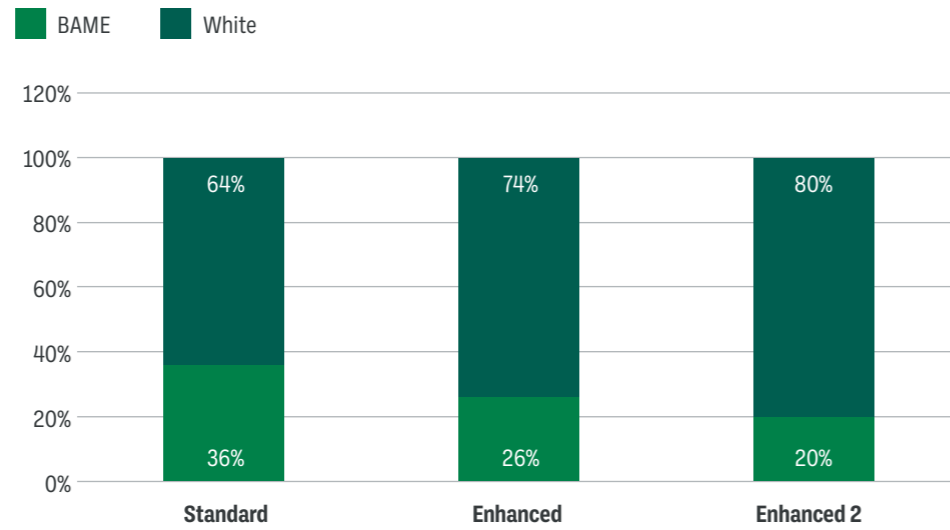
**“The new incentives scheme has been in place since May 2020 and has met with some positive feedback from staff and residents. However, there is some challenge in relation to the progression of BAME residents through the system. A high number of BAME men are declining to advance and more work is required to explore the reasons for this.”**

HMIP at HMP Bristol September 2020

Chart 29 details the incentives progression and regression data provided, quantifying each IP status individually in percentages. No volumes were provided to enable further analysis of IP status across ethnicity groups. Consequently, further analysis of more detailed data over a longer time period by ethnicity group is required to accurately quantify any disproportionality.

**RECOMMENDATION 44:** HMP Bristol need to conduct further analysis into Incentives and Privileges progression and regression over a longer time period, with prisoner population data and the IP status correlated to each ethnicity group using the RRI to quantify and proactively address any disproportionality.

**CHART 29: Incentives and Privileges: Progression and Regression HMP Bristol, May – October 2020**



**Complaints**

No complaint outcome data was available for this review from HMP Bristol. Consequently, this has been raised by HMP Bristol with their Bristol Hub Team to improve their data collection to develop the analysis of complaints.

Chart 30 details the RRI of BAME prisoner complaints from November 2019 to October 2020 showing that proportionately complaints from BAME residents are approximately half that of White residents since January 2020. Further analysis is required over a greater period of time, quantified for each ethnicity group.

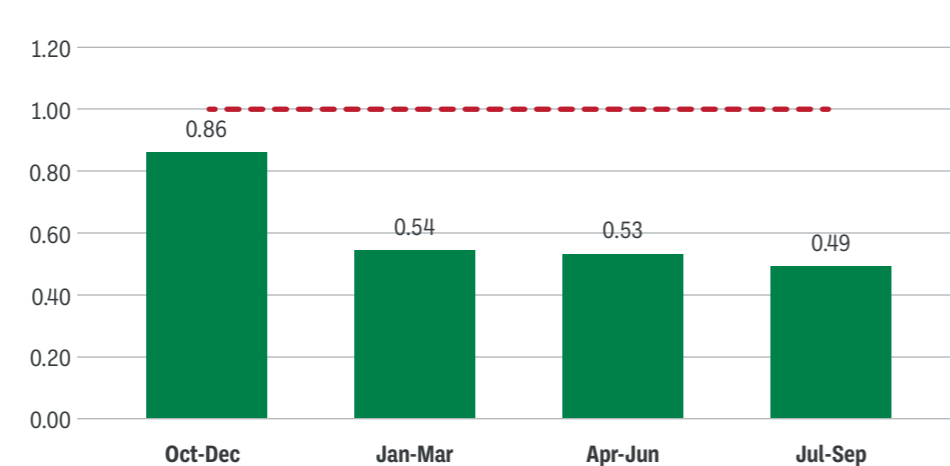
**“2.9 The number of complaints had reduced since March and was lower than most similar prisons. However, in our survey, only 54% of prisoners said it was easy to make a written complaint. There were empty complaint boxes on some wings where prisoners had to request a form from staff or peer orderlies.”**

HMIP Report HMP Bristol September 2020



**RECOMMENDATION 45:** HMP Bristol to capture and analyse complaints outcome data (decisions: upheld or rejected and subsequent actions) to quantify and address any disproportionality.

**CHART 30: HMP Bristol: BAME Resident Complaints (November 2019 – October 2020)**

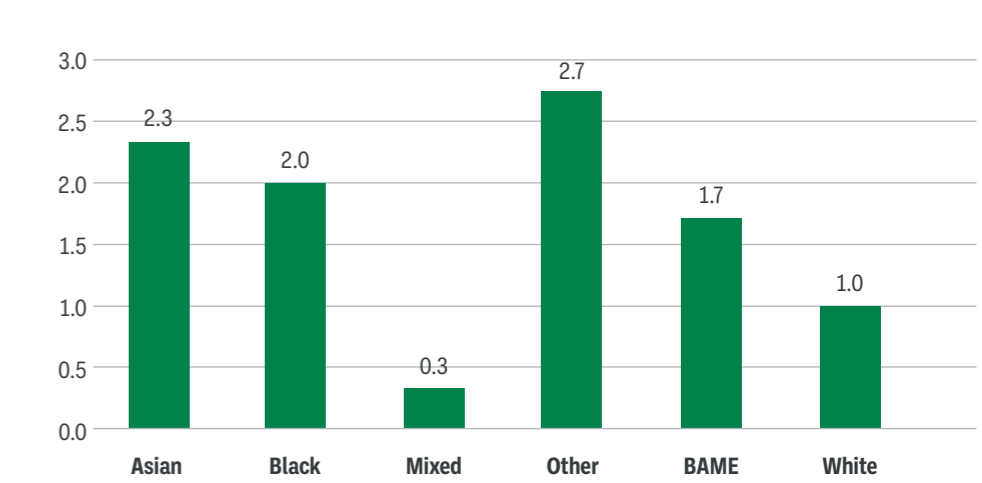


**Discrimination incident reporting form (DIRF)**

Chart 31 quantifies the RRI of DIRFs submitted by residents at HMP Bristol between November 2019 and October 2020, provided to this review. Overall BAME residents are 1.7 times more likely to submit a DIRF. However, when scrutinising by ethnicity Group the RRI increases for the Other (x2.7) Asian (x2.3) and Black (x2) Groups. The Mixed Group RRI is x0.3, indicating no disparity for this group status to that of automatic progression.

Further analysis of DIRF data is required to investigate the disproportionality identified over a much longer period and by individual ethnicity groups. The nature of discrimination incidents need further scrutiny to investigate the root cause of disproportionality and proactively tackle it.

**CHART 31: RRI for DIRFs in HMP Bristol November 2019 – October 2020**



**RECOMMENDATION 46:** HMP Bristol to quantify any disproportionality within the Discrimination Incident Reports (DIRFs) and proactively address any disproportionality.



**HMP LEYHILL**

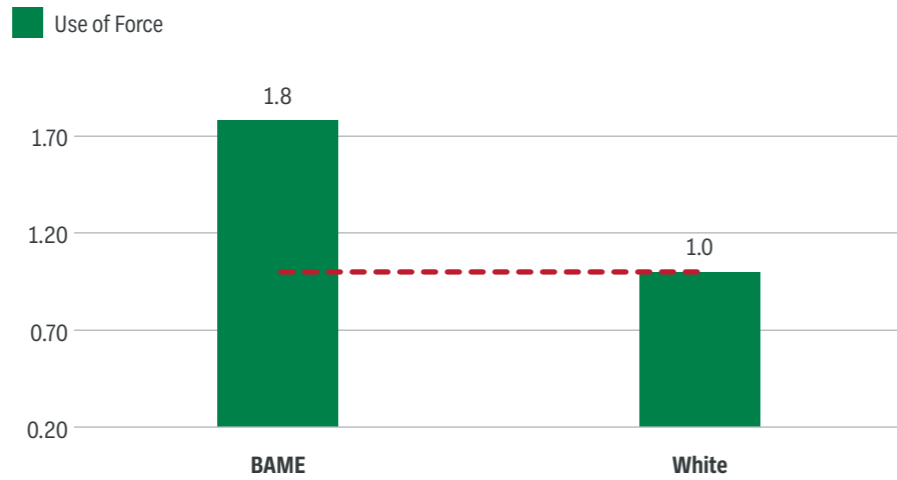
**Use of force**

Leyhill is an open prison with a high percentage of sex offenders and consequently there is a low use of force within the open estate.

Chart 32 shows the RRI of Use of Force incidents at HMP Leyhill between May 2020 to October 2020 between the BAME Groups and White Group. Overall there were very low volumes with 5 uses of force against the BAME group and 12 uses of force against the White group.

There is an indication of disproportionality with the BAME Group who are 1.8 times more likely to have Use of Force. Further analysis is required with each ethnicity group individually and over a much longer time period to establish any trends to quantify if there is any disproportionality.

**CHART 32: RRI for Use of Force in HMP Leyhill (May 2020 October 2020)**



**RECOMMENDATION 47:** HMP Leyhill to conduct further analysis into the disparity identified within Use of Force over a longer time period, with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

**RECOMMENDATION 48:** HMP Leyhill to analyse disproportionality for all ethnicity Groups using the 18 plus 1 ethnicity categories.

**Scrutiny of Use of Force**

Quantified as an ‘ad-hoc’ process at HMP Leyhill due to the low use of Use of Force within the open estate. A New Digital Prison System is in place to capture Use of Force incidents and in addition HMP Leyhill operate a local database to analyse data, themes and trends.

HMP Leyhill’s Use of Force Policy was under review as part of the safety strategy review ongoing at Leyhill. There are quarterly Use of Force meetings in addition to learning panel reviews.

**Training in Use of Force**

Annual Use of Force refresher training is a national requirement for all operational staff at band 3 and above. A minimum of 8 hours is required per year. Newly introduced techniques and equipment are introduced as part of the yearly training cycle.

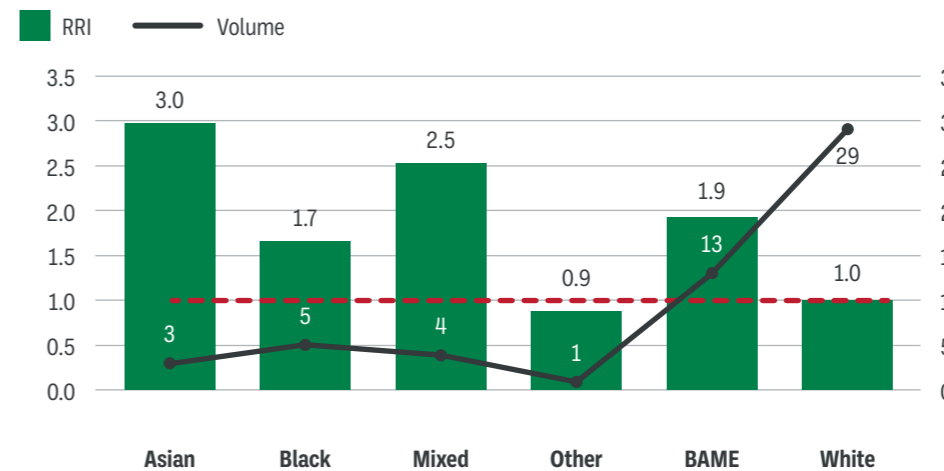
**Incentives and privileges**

The HMP Leyhill Incentives Policy 2021-2022 identifies 4 levels in its incentives status: Basic, Standard, Enhanced and Enhanced level 2. Basic means prisoners are only entitled to essential movements rather than roaming free throughout the day as it’s an open prison.

An Incentives Forum was established in January 2021 to review fairness and impact of the Incentives policy on residents at HMP Leyhill. The forum is monthly and chaired by the Head of Residential and attended by the Policy Lead, Operational Leads and staff and residents from representative of the prison’s population.

Data was provided on the ‘standard’ incentive scheme for 6 months broken down into five plus one ethnicity groups.

**CHART 33: RRI for Residents on ‘Standard’ Incentive in HMP Leyhill (May 20 - Oct 20)**



Feedback from the Workshops indicated around 40% of people on a standard level regime had not applied for an enhanced status despite being entitled to do so. HMP Leyhill were undertaking a wider piece of work to investigate further and review their Incentive policy. Engagement with residents was planned to capture input and lived experience to actively remove barriers around having to apply for enhanced status.

**RECOMMENDATION 49:** HMP Leyhill need to conduct further analysis into Incentives and Privileges across all the IP status levels and into progression and regression over a longer time period. Prisoner population and IP status data need to be correlated to each ethnicity group using the RRI to quantify and proactively address any disproportionality.

**HMIP Report HMP Leyhill, March 2021 Incentives:**  
2.17 Prisoners found the incentives scheme confusing and it did not motivate them to behave pro-socially. There was little differential between the levels of the scheme, and prisoners did not understand how fully to meet what was called the ‘above and beyond’ criteria needed to access the highest level of rewards. Leaders had identified this and were about to launch a new, more clearly defined scheme.

In Chart 33 volumes are quantified by the grey line alongside the RRI for each ethnicity group when measured against the White Group. Disproportionality is indicated for the Asian (x3), Black (x1.7) and Mixed Groups (2.5). However, when measuring the RRI for the BAME group overall the RRI indicates the BAME Group is 1.9 times more likely to be in the ‘standard’ incentive scheme. This variance highlights the importance of analysing each ethnicity group individually to quantify any disproportionality as accurately as possible.

Further analysis of the incentive scheme is limited without the wider context of the basic, enhanced and enhanced level 2 data.

**Complaints**

HMP Leyhill reported that between November 2019 and November 2020, 759 complaints were submitted of which 174 were from BAME residents representing 23% of all complaints. On average BAME residents at Leyhill represent 12% of the population. Feedback from the Workshops highlighted that it was the view of the Diversity and Equality lead that BAME residents felt targeted for MDT searches prompting them to complain. HMP Leyhill conducted a deep dive of all MDTs and Searches undertaken against BAME residents November 2019 to November 2020 which

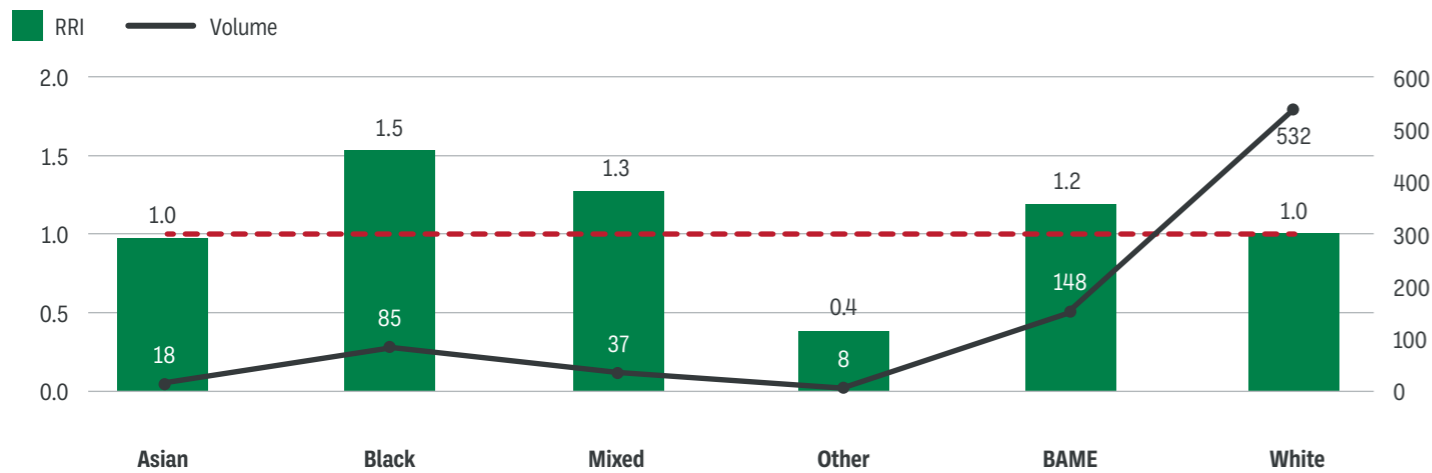
revealed that all MDTs were conducted on suspicion and resulted in a positive sample being submitted and all searches were based on intelligence received.

Overall HMP Leyhill reported that based on all complaints made between November 2019 and 2020, 56% were rejected and 38% upheld, with the remaining 6% confidential so outcomes were unknown. Of all complaints made by BAME residents in that period 61% were rejected and 34% upheld with the remaining 5% confidential so outcomes unknown.

HMP Leyhill reported that a 16 month analysis had been undertaken into the disproportionate submission of complaints by BAME residents but no conclusive understanding of the reasons for this disproportionality had been reached.

Chart 34 is based on the data provided to this review by HMP Leyhill for resident complaints analysed by RRI over the period May 2020 to October 2020. In total 680 complaints were submitted of which 148 came from BAME residents (22%) compared to the average 12% BAME population.

**CHART 34: RRI for complaints at HMP Leyhill (May 20 – Oct 20)**



Disproportionality is indicated for the Black (x1.5) and Mixed (1.3) groups only, highlighting the importance of scrutinising by individual ethnicity groups.

No data detailing the outcomes of complaints was provided for this review. Further analysis of the outcomes of complaints (i.e. upheld or rejected) is required to explore any potential disproportionality.

**RECOMMENDATION 50:** HMP Leyhill to analyse complaints outcome data (decisions: upheld or rejected and

subsequent actions) to quantify and address any disproportionality.

In addition, investigation around the nature of complaints and the process of investigation is required to explore the root cause of the ongoing disproportionality identified for BAME residents' complaints. An independent scrutiny panel to review any disproportionality in complaints would provide independent scrutiny to develop understanding of root cause, help to problem-solve issues and identify potential solutions.

**RECOMMENDATION 51:** HMP Leyhill need to conduct further analysis into the root cause of Complaints over a longer period of time by each ethnicity group using the RRI to quantify and proactively address any disproportionality.

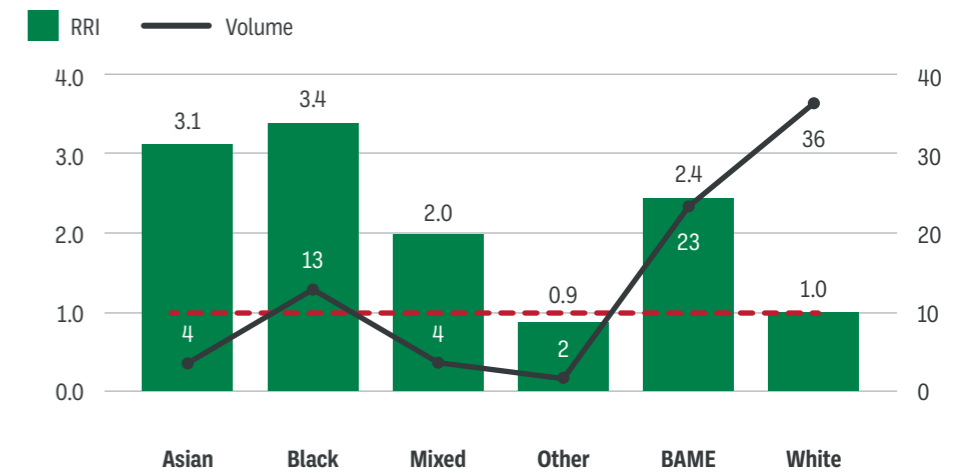
**RECOMMENDATION 52:** HMP Leyhill to create an Independent Scrutiny Panel to review disproportionality in Complaints to provide an independent scrutiny to develop understanding of root cause, identify any learning and development, and action areas of development.

**Discrimination incident reporting form (DIRF)**

Chart 35 quantifies the RRI of DIRFs submitted by residents at HMP Leyhill between May 2020 and October 2020, provided to this review. Overall BAME residents are 2.4 times more likely to submit a DIRF. However, when scrutinising by ethnicity Group the RRI increases for the Asian (x3.1) and Black (x3.4) Groups. The Mixed Group is x2 more likely to submit a DIRF whereas the Other Group RRI is x0.9, indicating no disparity for this group.

Further analysis of DIRF data is required to investigate the disproportionality identified over a much longer period and by individual ethnicity groups. The nature of discrimination incidents need further scrutiny to investigate the root cause of disproportionality and proactively tackle it.

**CHART 35: RRI for DIRFs at HMP Leyhill (May 20 – Oct 20)**



**RECOMMENDATION 53:** HMP Leyhill need to conduct further analysis into the disparity around higher DIRF numbers submitted by BAME residents over a longer period of time (minimum 2 years) by each ethnicity group using the RRI to quantify disproportionality. The nature of DIRFs needs further

scrutiny to explore the root cause of discrimination complaints to proactively address any disproportionality.

**HMP EASTWOOD PARK**

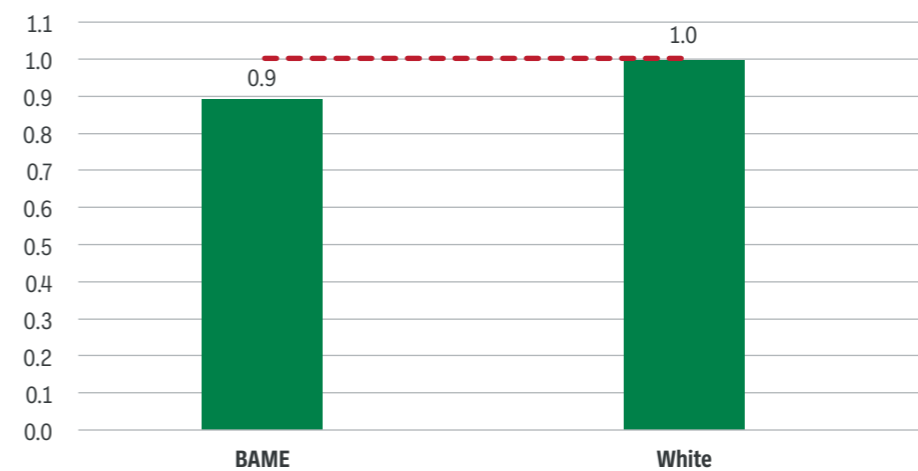
Eastwood Park is a Category B female Prison. It accommodates women on remand and sentences and function in part the same way as a Local Male Jail. It also acts as a Cat C Training prison and therefore houses various different types of female offenders at different stages of their sentences. The Female estate is managed as a separate entity by HMPPS with its own governance structures and in various ways the management of women differs to that of men. It is often the case that self-harm is much higher in the female

estate due to complex and challenging realities of female offending. The role is primarily that of a local prison serving approximately 70 courts by holding prisoners of all ages.

**Use of force**

Use of Force data from HMP Eastwood Park provided for this review covered 6 months from July to December 2020 between the BAME and White Groups. Overall there are 13 uses of force against the BAME group and 87 uses of force against the White group.

**CHART 36: RRI for Use of Force HMP Eastwood Park (Jul 20 – Dec 20)**



In Chart 36 the RRI indicates no disproportionality for the BAME group during this period. However, due to the limited time period and ethnicity categories, further analysis is required over a longer period and with ethnicity groups broken down to quantify any disproportionality.

**RECOMMENDATION 54:** HMP Eastwood Park need to conduct further analysis into the disparity identified within Use of Force over a longer time period (a minimum of 2 years), with prisoner population data and the number of occurrences correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

**RECOMMENDATION 55:** HMP Eastwood Park need to analyse disproportionality for all ethnicity Groups using the 18 plus 1 ethnicity categories.

**Scrutiny of Use of Force**

Use of Force data from HMP Eastwood Park provided for this review covered 6 months from July to December 2020 between the BAME and White Groups. Overall there are 13 uses of force against the BAME group and 87 uses of force against the White group.

**RECOMMENDATION 56:** HMP Eastwood Park need to implement independent scrutiny for Use of Force.

**Training in Use of Force**

Currently Use of Force training at HMP Eastwood Park is a yearly one-day refresher. Once SPEAR<sup>131</sup> and rigid bar handcuffs are introduced, this will increase to a 2 day yearly refresher.

**Complaints**

Complaints at HMP Eastwood Park from January to November 2020 totalled 583. 11% of complaints were raised by the BAME group and 89% were raised by the White group. When analysing the RRI of complaints in this period, both the BAME and White groups were the same showing no disproportionality for this period. Feedback from the Workshop highlighted data from an earlier time period (not available for this review) indicated disproportionality within the number complaints from BAME prisoners, however, a deep dive identified one prisoner had submitted 33 complaints over the duration of her sentence which had significantly skewed the results.

More analysis of Complaints data at HMP Eastwood Park is required over a much longer period (minimum 2 years) and by individual ethnicity groups (18 plus 1) to quantify and proactively tackle any disproportionality. Analysis also needs to focus upon the nature of complaints and the process of investigation to explore the root cause of any disproportionality identified for BAME residents' complaints.

**RECOMMENDATION 58:** HMP Eastwood Park to conduct further analysis of Complaints over a longer time period (minimum 2 years), with prisoner population data and the number of complaints correlated to individual prisoners to clearly quantify and proactively address any potential disproportionality.

An independent scrutiny panel to review any disproportionality in complaints would provide independent scrutiny around any disproportionality to develop understanding of root cause, support problem-solving of issues and the identification of potential solutions.

**RECOMMENDATION 59:** HMP Eastwood Park to create an Independent Scrutiny Panel to review disproportionality in Complaints to provide independent scrutiny of disproportionality to develop understanding of root cause, identify any learning and development, and action areas of development.

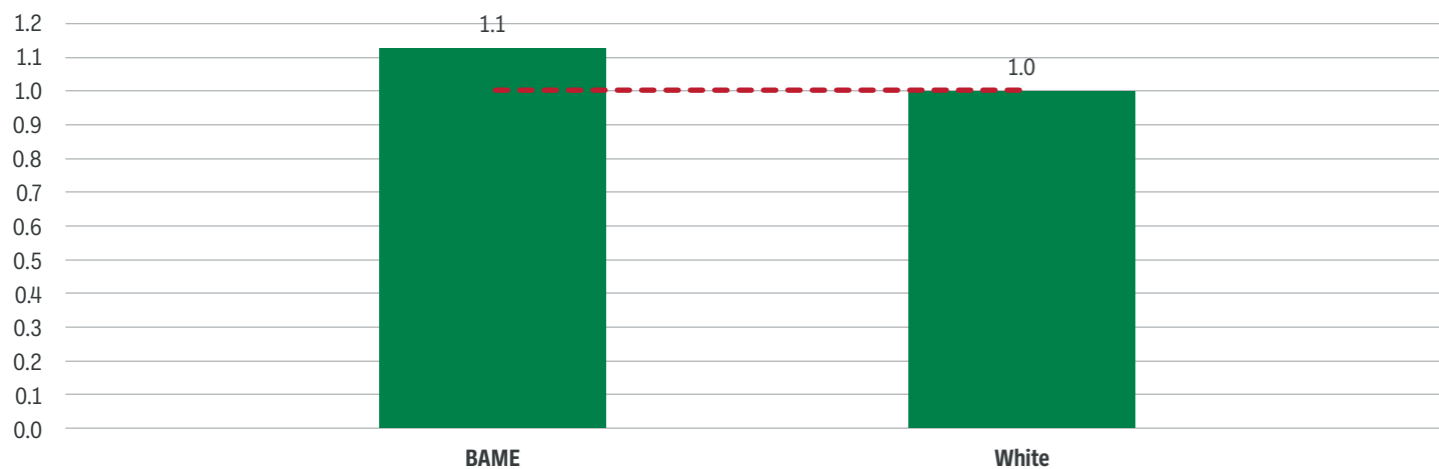
**Incentives and privileges**

During the period November 2019 and October 2020, 13 incentives were upgraded to Enhanced for the BAME group and 87 incentives upgraded to Enhanced for the White group. Chart 37 shows the RRI for incentives upgraded to Enhanced IP status between November 2019 and October 2020, indicating that there is little disparity for the BAME group (x0.1) for this period. Ethnicity categories are limited to BAME and White Groups.

No data was provided to this review to quantify the numbers for each of the IP status levels. Consequently, further analysis of the incentive scheme is limited without the wider context of the volumes of all IP levels and prison population numbers, each defined by individual ethnicity groups (18 plus 1).

**RECOMMENDATION 57:** HMP Eastwood Park need to conduct further analysis into the incentives scheme over a longer time period (a minimum of 2 years), with prisoner population data and volumes identified for.

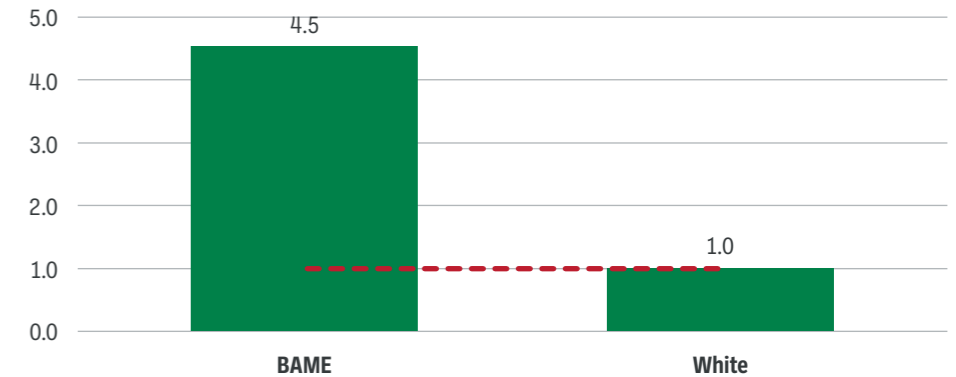
**CHART 37: RRI for incentives upgraded to enhanced HMP Eastwood Park (Nov 2019–Oct 2020)**



**Discrimination incident reporting form (DIRF)**

Chart 38 quantifies the RRI of DIRFs submitted by residents at HMP Eastwood Park between November 2019 and October 2020, provided to this review. Overall residents in the BAME Group are 4.5 times more likely to submit a DIRF than residents in the White Group.

**CHART 38: RRI for DIRFs in HMP Eastwood Park (Nov–Dec 2020)**



Further analysis of DIRF data is required to investigate the significant disproportionality identified over a much longer period (minimum of 2 years) and by individual ethnicity groups (18 plus 1). No data was provided to this review regarding DIRF outcomes. Further analysis of DIRF outcomes and any actions prompted as a result of a DIRF need to be analysed to further understand disproportionality.

**RECOMMENDATION 60:** HMP Eastwood Park need to conduct further analysis into the high DIRF numbers submitted by BAME residents over a longer period of time (minimum 2 years) by each ethnicity group (18 plus 1) using the RRI to quantify disproportionality. Outcomes of DIRFs require scrutiny to explore the root cause of discrimination complaints to proactively address any disproportionality.

<sup>131</sup> Spontaneous Protection Enabling Accelerated Response is a close-quarter protection system that uses a person's reflex action in threatening situations as a basis for defence.

## KEY FINDINGS AND RECOMMENDATIONS

Based on the data provided there is little or no external/independent scrutiny of Use of Force, Incentives & Privileges and Complaints (including DIRFs) focused upon disproportionality for all Prisons within Avon and Somerset.<sup>132</sup> In accordance with Lammy's fair treatment was more likely when institutions bring decision-making out into the open and expose it to scrutiny.<sup>133</sup>

**RECOMMENDATION 43, 52 & 59:** HMP Bristol, Leyhill and Eastwood Park need to put in place External Independent Scrutiny Panels for Use of Force, Incentives & Privileges and Complaints to monitor and address disproportionality.

Limited local raw data was available from any prison within the review pre-October 2019 and for limited periods of between 6-12months.

**RECOMMENDATION 61:** HMPPS: Local prison data to be centrally captured to ensure consistency, data sharing and accuracy to enable analysis and knowledge sharing between prisons to enable scrutiny and ensure transparency.

Recommendation 22 of the Lammy Review highlights data that will be collected and published by HMPPS with

a full breakdown by ethnicity, however, this has not been made available for this Review by the prisons within Avon and Somerset. Ethnicity categories from all 3 prisons was limited to BAME and White Groups and five plus one ethnicity categories. Key feedback from the prisons indicates data reports are managed centrally at the MOJ and limits access to ethnicity data at site level.

**RECOMMENDATION 41, 48, 55:** MOJ and HMP Bristol, Leyhill and Eastwood Park need to develop local analysis and reporting process to ensure access to ethnicity data at the 18 plus one level.

In accordance with the findings of this review, there is little evidence of collaboration between the prisons in this review to quantify, monitor and respond to disproportionality.

**RECOMMENDATION 62:** HMP Bristol, Leyhill and Eastwood Park need to work more collaboratively to progress analysis and understanding of disproportionality using RRI and develop a clear strategy in responding to it.

**(2) Work with the prison service to develop a monitoring framework that enables accessibility to ethnicity**

**data and a reporting mechanism to measure any disparity to proactively tackle disproportionality.**

It was the vision of this review to create a Qlik reporting application for the data explored within the Prisons theme to baseline each element of the Avon and Somerset Criminal Justice system to understand the journey of BAME people through the CJS. However, the limited data provided by each prison and insufficient resources available to this review prevented progress.

Collaboration is required between (HMPPS) prisons within Avon and Somerset and A&S CJB to quantify next steps in developing a framework for external scrutiny that enables data sharing between CJS partners to baseline, monitor and proactively tackle disproportionality across the criminal justice system.

**RECOMMENDATION 63:** HMPPS and A&S Criminal Justice Board to develop a framework for External Scrutiny of prisons that enables data sharing between CJS partners to baseline, monitor and proactively tackle disproportionality across the criminal justice system.

## CONCLUSION

The role of our prisons in society is a complex one. Our role is to keep those who have been sentenced by the court in a safe and decent environment. We aim to allow prisoners to make the best use of their time in jail and provide them the resources and hope that they can turn their lives around. Of course we also need to ensure we protect the public and prevent future victims but we aim to do that through changing lives. The work of Equalities and Diversity in our jails is complex and difficult. Many prisoners import with them years of discrimination, disenfranchisement, and frankly disinterest in authority figures having any regard for them as individuals. We start from an impoverished position.

When I was first asked to lead the work related to this chapter and host a series a workshops with our two closest prisons I was apprehensive. This was because I had worked in prisons long enough to know that the data is not great, its cumbersome, difficult to analyse and of course, since 2008, the prison service has been forced to make efficiencies and save money. This invariably has meant reductions in staff meaning less people to even attempt to manage the data. However, I relished the opportunity to share what data we do have with partners and highlight the good work as well as the challenges we face. We know we can do better and indeed we have been improving. It's vital those reading this report recognise that not every prison is the same, they are societies

within societies, with their own cultures.

This means the problems which face every governor, and their senior management team are different. Some are cultural and about people, some about poor process perhaps, others about lack of oversight, and much is about training. It is simply not possible for prisons to somehow solve all the ills of the world nor should they be expected too. If our communities on the 'outside' can't get this right, prisons are going to struggle. That does not mean we should not be doing everything in our power as an organisation to try.

When we started this process back in 2019, no one could have imagined the very serious and life altering pandemic which would sweep through this country just a few months after. The data above represents at least 6 months of very challenging times from March to November 2020. Unprecedented restrictions meant prisoners were out of the cells less, contact with family and friends severely restricted and they very much felt the pinch of lockdown in the same way we all did. Prison managers had to think differently about what regime they offered and the monitoring of outcomes became even more important. As I write this we are about to enter our second winter with COVID, the newspapers are full of stories today about a 'plan B' as cases begin to climb and I fear this winter will no doubt see a continuation of some of the restriction in prisons which we are now becoming all too familiar with.

What you can see in the data above is the vast difference between sites and the experiences of prisoners, but the data you can see is only part of the story. It is not possible to convey the various competing and opposing views inherent in Use of Force statistics for example. Use of Force can be nothing more than a guiding hold, a robust hand on the arm escorting someone back to a cell. Equally it could mean full relocation to a new cell or location under skilled staff direction, perhaps in handcuffs. All of these circumstances require staff to think dynamically and appropriately about what they are about to do or are doing. Each decision must be defensible, must be recorded, and in Bristol's case, is then reviewed by a panel of experts from all experiences operational and not. It is in between the lines of these encounters that the real truth is spoken and that's very difficult to convey in data.

Prisons in our region, which represents more prisons than we have included here, as they sit outside Avon and Somerset Constabulary Area, have almost all now got a Band 6 Equalities Advisor in place. Someone who carries the weight of rank but also the responsibility for advising the prisons on matters

of diversity and inclusion all supported through a Regional Diversity & Inclusion Lead. For many sites this will be enough to drive the strategy forward. For those with more endemic issues or complex populations such as Bristol, a newly created role which was piloted by HMP Bristol, is now available to all sites in the country, with myself as the first incumbent. This senior leadership role focuses on strategic development of Diversity & Inclusion giving more power to Governors to allocate resources at a high level in order to instigate and facilitate genuine systemic changes in prisons. The role carries enough weight to challenge across, as well as up where needed. HMPPS itself is undertaking a three year review into racial disparity in their sites including a full and comprehensive review of training opportunities and on a recent call it was clear that sites are crying out for good old fashioned face to face training to help support their staff to be better at managing diversity issues and considerations. All of this shows progress and commitment.

I know that each and every one of the Governors managing the three jails included in this study care deeply about ensuring prisoners receive fair treatment, and are working hard to ensure that their processes and cultures support that aim. A close focus on data and a commitment to doing the right thing are driving sites forward. It is not easy, and there is no destination, no one single platform to pull into called 'Equality', the key is ensuring that we never lose sight of what is actually happening and our process and resources are robust and appropriately targeted at recognising disparity and discrimination and tackling it head on. Vital to that constant journey is that our staff receive the best training. That they feel confident and supported to take action where they see fit.

This collaboration has been informative and worthwhile, there are many things to fix and I know I can speak for all currently carrying the responsibility for this work in our jails that we are committed to improvements. In February of this year David Lammy himself said that if he were to undertake his landmark review again he would have gone further. The criminal justice system still has so much to do to improve the trust in the experience of BAME citizens on both sides of the witness box, this must remain our focus and we all have a part to play. This report is just part of that journey and I hope that as we move forward there are more opportunities to share the work being done behind our walls. Much is changing and for the better.

**Bradley Read. Head of Diversity & Inclusions, HMP Bristol PRISONS LEAD: A&S LAMMY SUB-GROUP**

<sup>132</sup> HMP Bristol, Leyhill and Eastwood Park

<sup>133</sup> Tackling Racial Disparity in the Criminal Justice System 2020 update: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881317/tackling-racial-disparity-cjs-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881317/tackling-racial-disparity-cjs-2020.pdf)



## BACKGROUND

The Lammy Review emphasised diversity in the criminal justice workforce was a critical part to achieving the overarching goal of the Lammy Review 2017; “to reduce the proportion of BAME individuals in the CJS and ensure that all defendants and offenders are treated equally, whatever their ethnicity.”

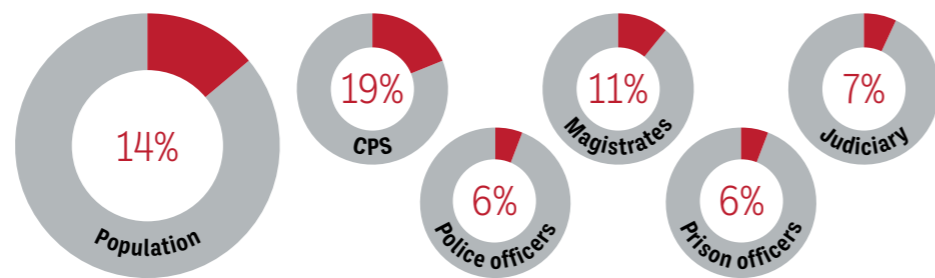
Figure 2 compares the proportion of criminal justice workforce identifying as BAME to general population (as per 2011 census data). The CPS workforce data in 2017 quantified BAME staff make up 19% of the workforce, making the CPS ‘one of the most diverse institutions within the CJS.’<sup>134</sup> Lammy identified, the diversity of the workforce sets the tone within an organisation highlighting “the CPS’s record on this sits alongside its record of largely proportionate decision-making.”<sup>135</sup>

The Prisons Chapter of the Lammy Review highlighted a lack of diversity in the prison workforce and leadership with recommendations 28 and 29 identifying the need to recruit a representative workforce in accordance with prison population and for more BAME staff in leadership positions.

Ethnicity statistics collected about the public sector workforce are used to identify which organisations are succeeding in recruiting a diverse range of employees. Ethnicity data also helps to identify whether or not people from ethnic minority backgrounds are reaching senior levels within organisations.

The Race Disparity Report<sup>137</sup> published in 2018 draws attention to key outcomes for BAME communities within Stop and Search, Sentencing, Youths and Adults in Custody within the Re-offending context. The Lammy review linked this to leadership

FIGURE 2: Proportion of staff identifying as BAME, compared to the general population<sup>136</sup>



in decision making within the Criminal Justice System and his recommendations are centred on accountability by ensuring that measures are taken to address the under-representation of staff across various leadership grades and ensure representation of the populations across England and Wales.

In their Call to Evidence Submission in 2016 the Youth Justice Board identified “BAME people are under-represented in workforces across the youth justice system (YJS), including police, judiciary, magistracy, courts and secure establishments. This disparity increases when examining representation at management and senior management levels. A more diverse workforce is known to bring a number of benefits and we believe that it could help address over-representation, including by increasing BAME young people’s confidence in the system.”<sup>138</sup>

Action on equality and diversity forms an integral part of the vision for Civil Service reform, not only in achieving a make-up that reflects society, but also in improving the Service’s capacity to deliver through valuing and making the best use of the diversity of talent in teams and organisations. Targets to address under-representation of key groups at the most senior levels of the Civil Service were set by the Government because levels

of these groups at the top of the Service provide the most visible signal of change.

Whilst the Civil Service ambition to become the UK’s most inclusive employer Diversity and Inclusion strategy<sup>139</sup> has identified priorities for greater representation and inclusion in implementing different initiatives like positive action pathways and diversity internship programmes, an update of the Lammy recommendations in 2020<sup>140</sup> indicated that the Ministry of Justice was taking positive steps toward working on the target of 14% for new starters in prison and probation and getting 55 talented BAME lawyers into the latest round of a programme to support under-represented individuals interested in joining the judiciary.

Recent figures published by the Ministry of Justice showed that the proportion of BAME staff within Youth Custody Services had risen from 12.9% in 2016 to 15.9% in 2021, unfortunately the overall number of FTE’s from a BAME background decreased by 21% within the Youth Justice Board<sup>141</sup>. The number of children in the CJS system continues to increase according to the YJB 2019/20 workforce report published in September 2020. A reference to the Police workforce report published in 2019<sup>142</sup> showed that the diversity of officers had increased to 7% the highest proportion since records began.

## METHODOLOGY

The Human Resources (HR) theme was a later addition to the original five themes identified within the A&S Lammy Sub-Group Report in December 2019. After the appointment of each Lead for the five priority themes, initial scoping work identified that a more holistic approach to the scrutiny around disproportionality for people within the

BAME group in Recruitment, Retention, Development and Promotion across the Criminal Justice System (CJS) was required. Consequently, a new HR theme was created that brought together the HR elements from the constituent themes to explore HR across the CJS within Avon and Somerset.

In September 2020, Peninah A-Kindberg, BAME Development Policy Lead at HMPPS was appointed Lead of the HR Task and Finish Group and key objectives for the theme were defined:

1. Map the HR life-cycle: Recruitment (Application, Assessment, New Joiner); Retention; Development and Promotion; Leavers
2. Design a data framework
  - Gather available data pertaining to each element of the HR life-cycle from each of the CJS partners across Avon and Somerset to include:
    - Youth Offending Teams (YOTs): Bristol, Bath and North East Somerset (BANES), South Gloucestershire, North Somerset, Somerset;
    - Avon & Somerset Constabulary (ASC);
    - HMPPS – Prisons (Probation is out of scope);
    - Crown Prosecution Service (CPS)
    - Judiciary (Magistrates, Barristers etc.).
3. Analyse available data to understand if there are low numbers for recruitment of BAME Staff and if there is any disproportionality.
4. Analyse available data and understand the retention and development of staff in post and identify if there is any disproportionality.
5. Explore initiatives and actions undertaken to improve diversity.

An HR Task & Finish (T&F) Group was set up in September 2020 with representatives from the YOTs (Bristol and BANES); Avon & Somerset Constabulary (HR and Black Police Association); HMPPS – Prisons and the CPS. No representation was available for the Judiciary element. An HR life-cycle structure and data framework were defined and agreed by members

of the T&F Group with requests for data focused on each part of the HR Life-cycle to include: detailed ethnicity (ideally 18 plus 1), to be local level data for Avon and Somerset, and for the time period 2017/18 - 2019/20.

In early October 2020, each HR T&F Group representative of the CJS partners were provided with a data template

detailed the request for information/ data (detailed in Appendix 7 HR: A). Task & Finish Group Meetings were held every 2-3 weeks between October 2020 and February 2021 to iteratively resolve data gathering issues and analyse available data. Data and information gathering was completed in March 2021 and a workshop to review data and identify key findings was held in March 2021.

<sup>134</sup> P22, The Lammy Review

<sup>135</sup> P22, The Lammy Review

<sup>136</sup> P23, The Lammy Review

<sup>137</sup> Cabinet Office, Race Disparity Audit, October 2017 (revised March 2018): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/686071/Revised\\_RDA\\_report\\_March\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686071/Revised_RDA_report_March_2018.pdf)

<sup>138</sup> P45, The Lammy Review

<sup>139</sup> Civil Service, A Brilliant Civil Service: becoming the UK’s most inclusive employer: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/658488/Strategy\\_v10\\_FINAL\\_WEB6\\_TEST\\_021117.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658488/Strategy_v10_FINAL_WEB6_TEST_021117.pdf)

<sup>140</sup> Ministry of Justice, Tackling Racial Disparity in the Criminal Justice System: 2020 update: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881317/tackling-racial-disparity-cjs-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881317/tackling-racial-disparity-cjs-2020.pdf)

<sup>141</sup> Youth Justice Board, Annual Report and Accounts 2019/20: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/918612/YJB\\_Annual\\_Report\\_and\\_Accounts\\_2019-20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918612/YJB_Annual_Report_and_Accounts_2019-20.pdf)

<sup>142</sup> Home Office, Police Workforce, England and Wales, 31 March 2019 second edition: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/831726/police-workforce-mar19-hosb1119.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831726/police-workforce-mar19-hosb1119.pdf)

**FINDINGS:**

The focus of this theme concentrated upon the following stages of the HR life-cycle:

1. Recruitment /New Joiner
2. Graduate/Apprenticeship
3. Staff in Post
4. Promotions: Retention and Development
5. Leavers

Table 1 details the data submissions from each CJS partners included within this review by:

- (a) **Data type** (e.g. if only a specific element of life-cycle phase)
- (b) **Ethnicity Group Level** (BAME/White; 5 plus 1: Asian, Black, Mixed, Other and White; 18 plus 1<sup>143</sup>)
- (c) **Date range:** Period requested 2017-2020
- (d) **Data level:** e.g. Avon and Somerset (A&S); South West; National.

Criminal Justice Partner	Use of Force:				
	Recruitment/ New Joiner	Graduate/ Apprenticeship	Staff in Post	Promotions, Retention & Development	Leavers:
<b>Avon and Somerset Constabulary</b>	(a) New Joiners only (b) BAME/White (c) 2017-2020 (d) A&S Level data	No data provided.	(a) All (b) 18+1 (c) 2017-2020 (d) A&S Level data	(a) Application stages (b) BAME/White (c) 2019/20 (d) A&S Level	(a) All (b) 18+1 (c) 2017-2020 (d) A&S Level
<b>HMPPS: Prisons Bristol; Leyhill; Eastwood Park</b>	(a) New Joiners (b) 5+1 (c) 2017-2020 (d) National Level	(a) Graduate Scheme Application stages (b) BAME/White (c) 2017-2020 (d) National Level	(a) all (b) BAME/White (c) 2017-2020 (d) A&S Level	(a) Promoted Volumes Only (b) 5+1 (c) 2017/2020 (d) National Level	(a) All (b) 5+1 (c) 2017-2020 (d) National Level
<b>CPS</b>	(a) Application stages, New Joiner Numbers (b) BAME/White (c) 2020 (d) National Level	(a) Apprenticeship Scheme (b) Application stages (c) BAME/White 2017-2020 (d) National Level	(a) All (b) BAME/White (c) 2020 (d) National Level	(a) Promoted Volumes Only (b) 18+1 (c) 2017-2020 (d) National Level	(a) All (b) BAME/White (c) 2020 (d) National Level
<b>Judiciary</b>	(a) Application stages; New Joiner Numbers (b) BAME/White (c) 2017-2020 (d) South West	No data provided.	(a) All (b) 5+1 (c) 2017-2020 (d) South West	No data provided.	(a) All (b) 5+1 (c) 2017-2019 (d) South West
<b>Youth Offending Teams YOTs: Bristol; BANES; South Gloucestershire; North Somerset; Somerset</b>	No data provided.	No data provided.	(a) All (b) 5+1 (c) 2019 (d) National Level	No data provided.	No data provided.

Overall, there were challenges in the access to and analysis of HR data, key issues include:

- Limited access to data, with some CJS partners requiring additional data sharing agreements
- Insufficient time and resources of CJS partners to provide data
- The provision of only National data
- Gaps or the absence of data at local level (Avon and Somerset) or at a sufficient level of detail
- Limited time periods (e.g. 1 year only)

• The ethnicity categories detailed in the data provided were limited to 5 plus 1 and in some cases just Black, Asian and Mixed Ethnicity (BAME) as a single category compared to the White Group.

Limited local HR data was available across the majority of the CJS partners and time periods also varied limiting comparisons between CJS partners. Consequently, analysis of the data across the HR life-cycle has been conducted on each CJS partner individually.

**AVON & SOMERSET CONSTABULARY (ASC)**

**Recruitment**

No recruitment data was available for this review as Police Officer recruitment is managed at national level. ASC are developing an E-recruitment Portal in 2021 that will enable direct access to local level Police Officer recruitment data. Further analysis is required to understand the proportion of BAME candidates and their progression through the recruitment process. In particular scrutiny needs to focus upon the

drop off of BAME candidates in order to proactively improve the process to increase diversity within the workforce.

**RECOMMENDATION 64:** ASC need to analyse candidate progression through their recruitment process to identify the drop off points of BAME candidates and proactively improve the process to increase diversity within the Constabulary.

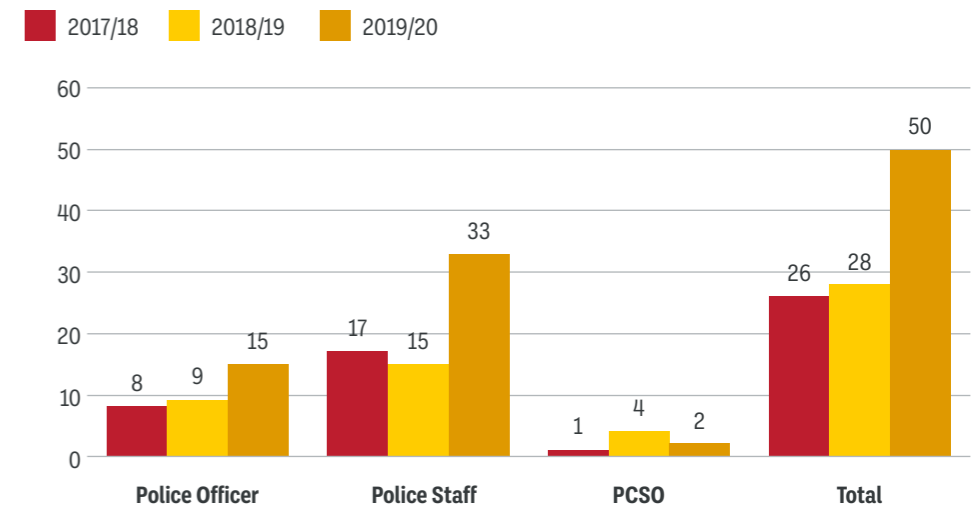
In May 2021 Avon and Somerset Constabulary People Committee reported two black female candidates had been excluded from the recruitment process on the grounds of BMI despite passing the fitness test. The reported identified a BMI study in 2016 had found that Black people aged 18-29 had almost twice the

percentage of muscle/skeleton compared to the percentage of fat than white participants, this making it an inaccurate predictor of obesity for Black people. From 1 July 2021 policy has changed removing BMI as a pass/fail requirement at medical assessment for police officers, PCSOs and Specials.

**New joiners**

Chart 39 details the volume of ASC new joiners<sup>144</sup> within the BAME group between 2017 and 2020. Overall BAME new joiner numbers have increased year on year, but this increase differs between each category. Chart 40 shows the percentage of BAME new joiners as a proportion of all new joiners (i.e. BAME and White) across the 3 years. Over the period 2017 to 2020 Avon and Somerset Constabulary's rate of BAME new joiners increased by 1.2%.

**CHART 39: BAME new joiners volumes**

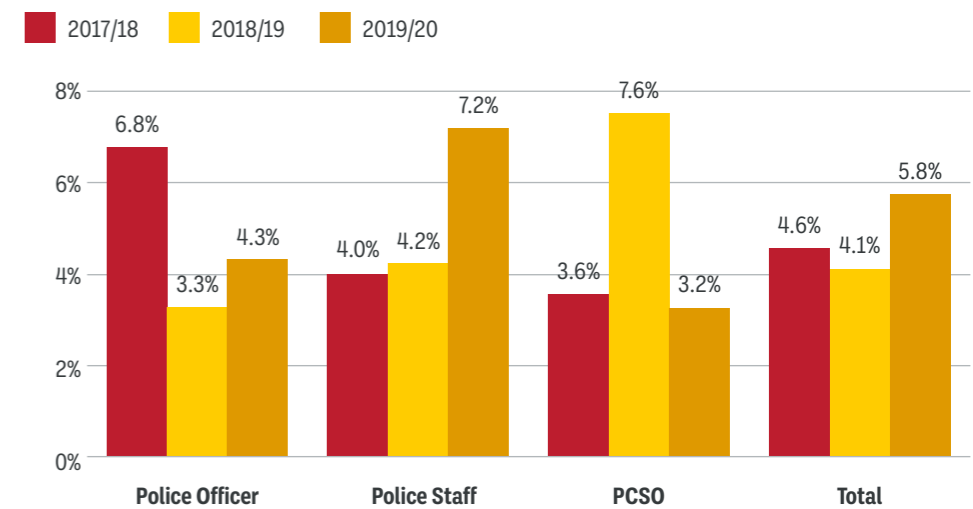


**Graduate /Apprenticeships**

No date provided for this review.

**RECOMMENDATION 65:** ASC need to quantify the latest Graduate data across the ethnicity groups to baseline BAME Graduates to ascertain progress within Avon and Somerset CJS with regards to diversity in employees.

**CHART 40: BAME new joiners as a percentage of all new joiners**



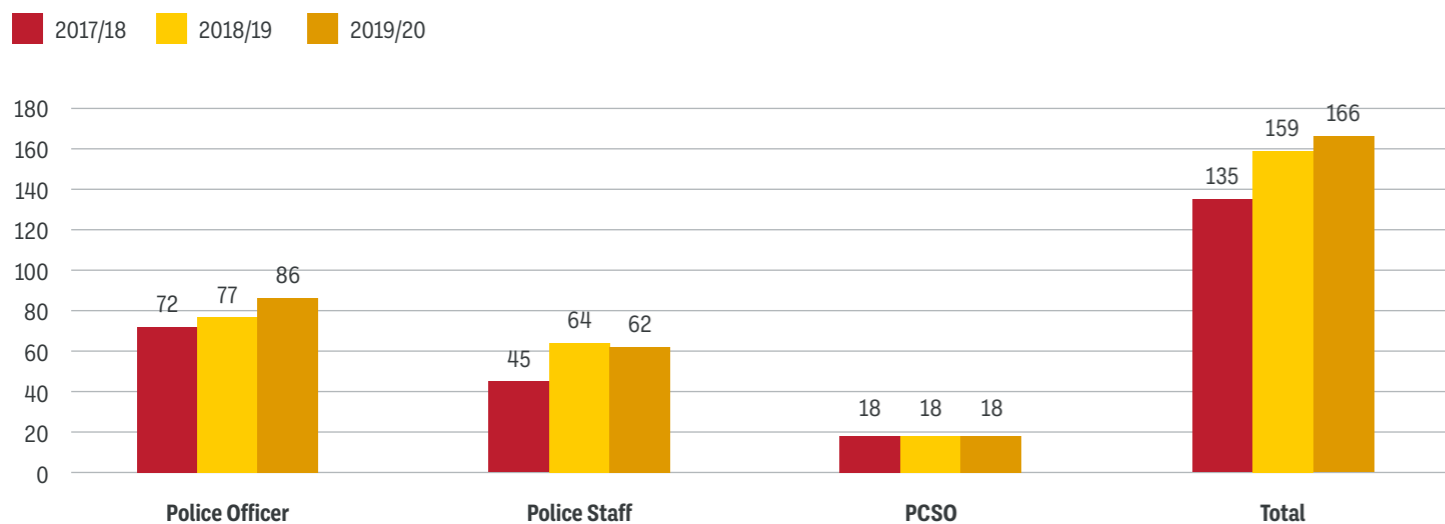
<sup>143</sup> Gov.UK: List of ethnic groups - GOV.UK (ethnicity-facts-figures.service.gov.uk), 2021.

<sup>144</sup> Categorized into Police Officers (PO), Police Staff (PS), and Police Community Support Officers (PCSOs)

**Staff in post<sup>145</sup>**

Chart 41 details volumes of BAME staff categorised by post and in Total, between 2017 and 2020. In totality the number of BAME ‘staff’ in post has increased year on year.

**CHART 41: BAME staff in post volumes**



**CHART 42: BAME staff in post as a percentage of all staff in post**

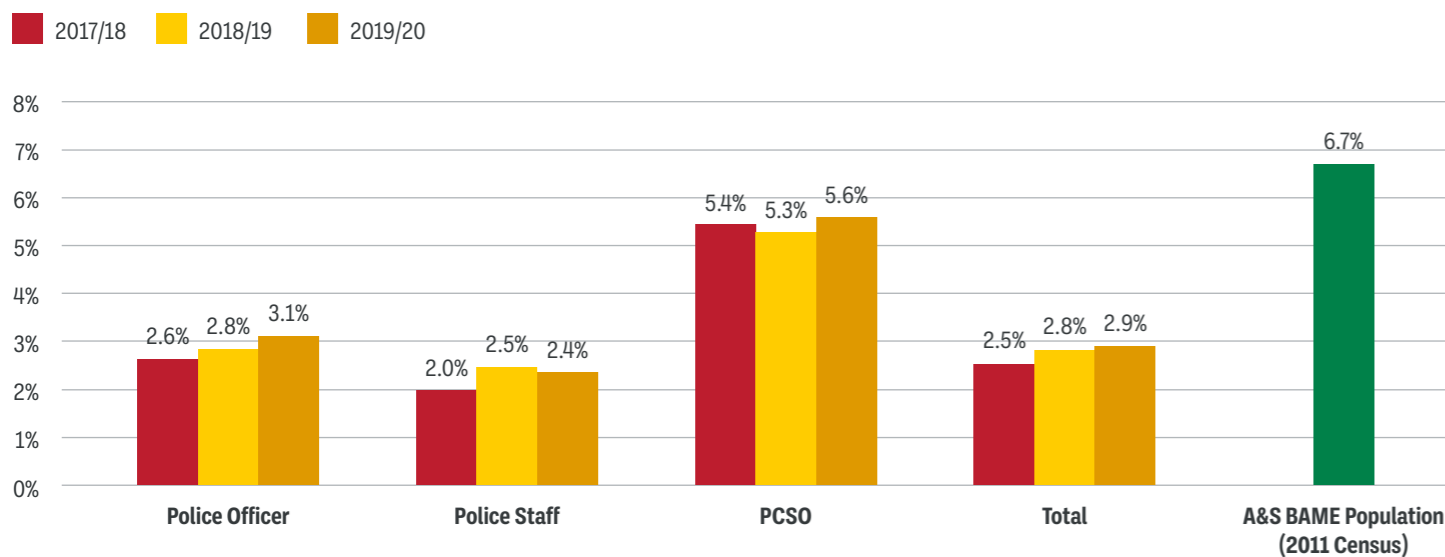


Chart 42 quantifies the percentage of BAME ‘staff in post’ (i.e. BAME and White) across the 3 years. The rate of BAME staff has increased over the 3 years by 0.4%. PCSOs are the highest proportion of staff in the BAME group.

The 2011 Census quantifies the percentage of population in Avon and Somerset who identify within the BAME Group is 6.7%. The percentage of ‘staff in post’ who identify within the BAME Groups at Avon & Somerset Constabulary is 2.91%, demonstrating Avon and Somerset Constabulary is not currently proportionality representative of its communities.

**RECOMMENDATION 66:** ASC need to develop a more diverse workforce, representative of its communities as current census data (2011) indicates ASC is currently under-represented by people who identify within the BAME Groups.

Table 5 shows the ethnicity of staff in post across each role in 2019/20. There is proportional representation for the Black and Other groups in the role of PCSO and the Mixed group in the role of Police Officer. Each of the remaining BAME groups is under-represented in the respective roles when compared to the Avon and Somerset 2011 Census Population data.

Since 2017, year on year volumes of BAME staff in post have increased. However, proportionately the increase in BAME ‘staff in post’ over the 3 year period is 0.4%.

In 2019/20 an average of 8.2% of ‘staff in post’ would prefer not to say or have not specified their ethnicity group. Since 2017 this number has reduced by 1.3%. Consequently, if resolved, could significantly impact the current data and understanding around representation across the ethnicity groups.

In 2021 ASC have been working with the College of Policing and the Home Office on a national survey on Prefer Not to Say responses in regards to protected characteristics. Once this has been completed, analysis needs to take place to understand why some officers and staff prefer not to disclose the ethnicity.

**RECOMMENDATION 67:** ASC need to understand and address the reasons as to why staff in post do not specify their ethnicity category and implement actions to reduce the number of Prefer not to say/Not specified. Improving data and understanding of diversity of ‘staff in post’ at the Constabulary will enable ASC to proactively address areas of potential inequality.

ASC have identified one of the greatest barriers to achieving workforce representation is the lack of interest in pursuing a career in policing within many ethnic minority communities. This is in part related to the experiences and perceptions of the police by some communities and due to the lack of

**TABLE 5**

Staff in post 2019/20				
Ethnicity group	Police officer	PCSO	Police staff	A&S population (2011 census)
Asian	0.4%	1.7%	0.8%	2.62%
Black	0.4%	2.7%	0.5%	1.93%
Mixed	2.4%	1.0%	1.0%	1.77%
Other	0.3%	0.7%	0.1%	0.40%
BAME	3.4%	6.0%	2.4%	6.73%
White	96.6%	94.0%	91.0%	93.27%
Not specified	9.4%	7.0%	6.7%	-

Black, Asian and Minority Ethnic people in senior roles within the Police.

ASC have stated their commitment to becoming the most inclusive police force in the country and are actively working to increase diversity and inclusion where communities are under-represented:

- those from Black, Asian and Minority Ethnic (BAME) communities
- people of all ages, abilities, neurodiversity, faiths, religions, gender, LGBT+ communities
- those from other disadvantaged backgrounds or marginalised backgrounds

**Diverse Workforce Outreach Team**

In September 2019, ASC launched an Outreach Worker pilot. This involved the creation of a team of 7 Outreach workers, an Inclusion and Diversity Sergeant, and an Inclusion and Diversity lead. The Outreach Team engage with local communities to build trust, create awareness of opportunities in policing and increase community insight and engagement. Key areas of focus:

- understand diverse communities, their needs and concerns in order to shape and promote ASC

- increase the diversity of applicants
- improve perceptions of policing as a career

However, despite significant activity to increase diversity in the Constabulary there is only a 0.4% increase in BAME employees over the 3 years up to 2020. The Constabulary needs to develop a more holistic approach to outreach working closely with BAME communities to focus engagement, recognise concerns and active work to resolve them.

**RECOMMENDATION 68:** ASC need to conduct more focused engagement and understanding of communities’ perceptions and lived experiences of the police to understand and actively tackle the barriers preventing BAME people applying for a role at Avon and Somerset Constabulary.

<sup>145</sup> ‘Staff in post’ includes all employees: Police Officer, Police Staff and PCSO.

In accordance with the findings of the Stop and Search theme of this report, more training is required to focus on community engagement, understanding of cultural differences, and the impact of policing upon communities. Engagement and learning could be achieved through communities and police co-producing regular learning packages that break down the barriers between the police and the communities they serve. Training needs to be continuously evolving to build understanding and meet the needs of police and communities. Training should be monitored and evaluated by performance to ensure aims and outcomes are achieved, and to capture feedback and learning to enable training to be modified and developed over time.

**RECOMMENDATION 69:** ASC need to develop training for all staff to have more emphasis upon community engagement, understanding of cultural differences, and understanding of the impact of policing upon communities. Communities and Police should be co-producing regular learning packages that break down the barriers between the police and the communities they serve.

**Promotions, retention & development:**

Analysis of Retention and Development at ASC has focused upon the latest data available at the time of this review, 2019/20. It is important to note that there are low numbers within some ethnic groups, and therefore we have not provided volumes for data protection reasons. Consequently, some context is lost in interpreting the data as the low volumes within the Asian, Black, Mixed and Other Groups indicate disparity at an earlier stage within the HR life-cycle.

**CHART 43: Percentage of police officers in each rank by ethnicity (2019/20)**

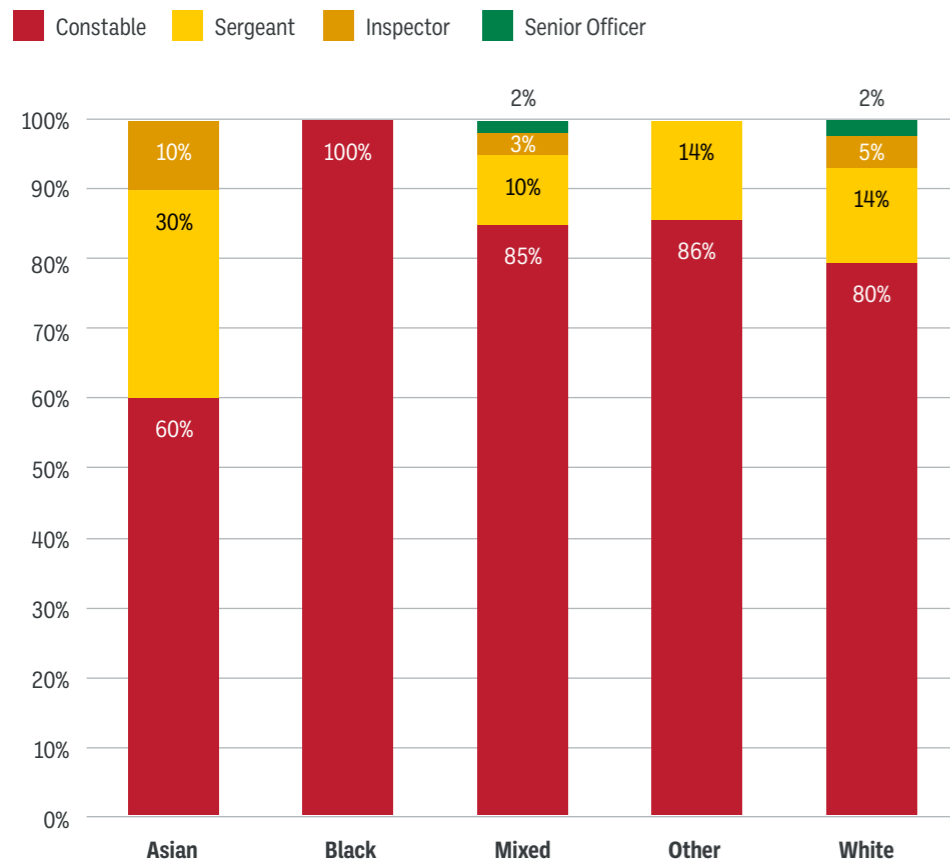


Chart 43 shows the proportion of Police Officers at each rank by ethnicity in 2019/20.

Asian Group has a higher proportion of officers in the rank of Sergeant and Inspector compared to all other groups.

- All Police Officers in the Black Group are employed in the role of Constable, however, there were fewer than 10 Black Police Officers.
- Only the Mixed Group has officers employed in the Senior Officer ranks, and this is in proportion with the White Group.
- The highest ranking officers in the Other Group are Sergeants.
- There are no Senior Officers who identified within the Asian or Black Groups.

**CHART 44: Percentage of Police Staff in each Grade by Ethnicity (2019/20)**

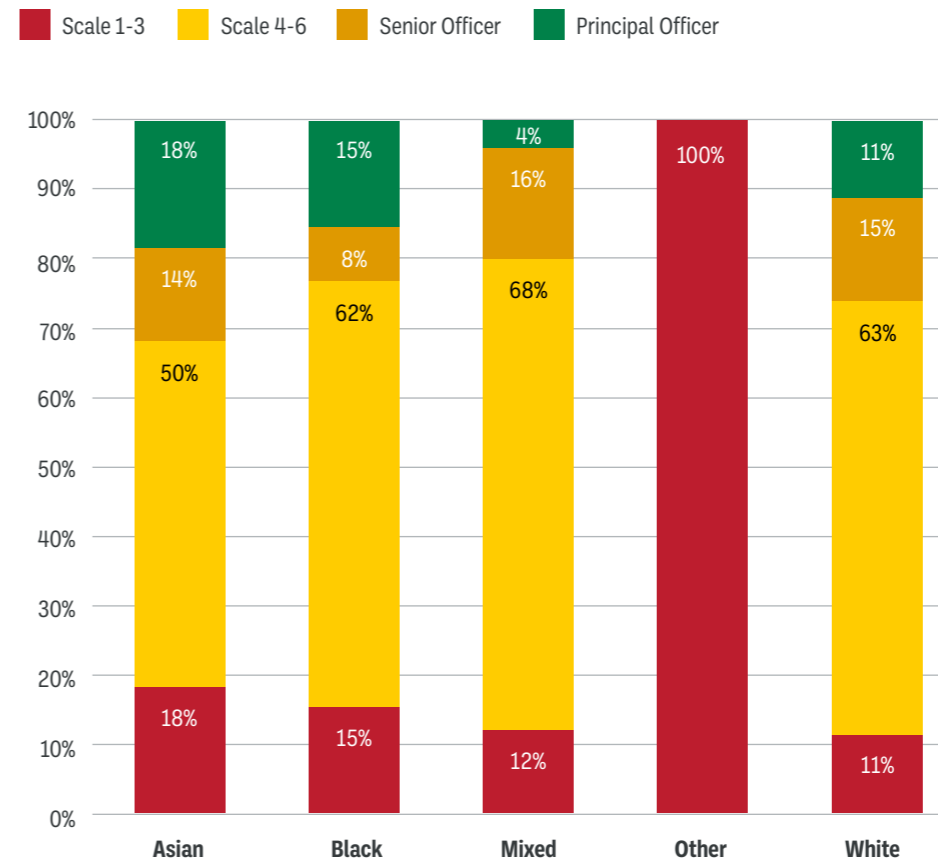


Chart 44 shows the proportion of Police Staff at each grade by ethnicity in 2019/20.

- The Asian and Black groups have a higher proportion of staff employed in the Principal Officer grade compared to the White group, however they also have a higher proportion of staff employed in Scale 1-3.
- The Mixed group has a similar distribution of staff compared to the White group, only with fewer staff in the Principal Officer grade and more in the Scale 4-6.
- All Police Staff in the Other ethnicity group are employed in Scale 1-3, however there were fewer than 10 Police Staff who identified as Other.

**Promotions (Police Officer Only):**

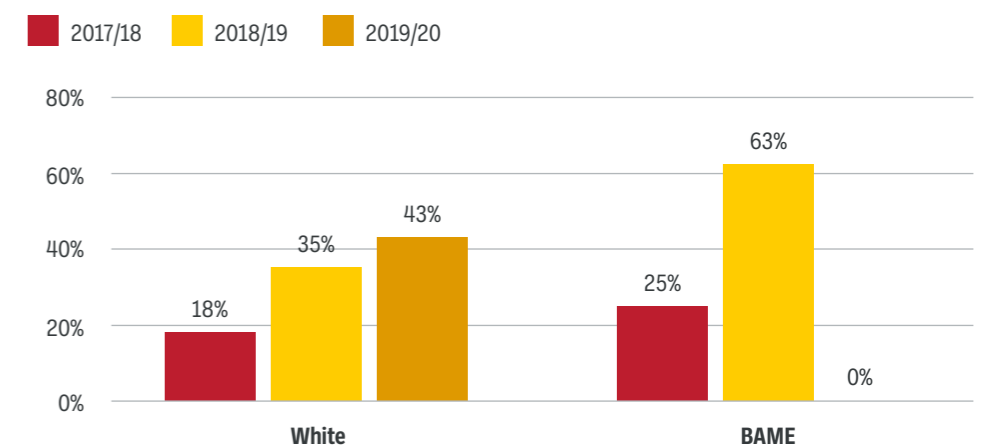
Table 6 shows the percentage of BAME and White Police Officers that applied for promotion, as a proportion of their relative 'staff in post' volumes. In 2017/18 and 2018/19 the proportion of BAME officers applying for promotion was higher in comparison to the White group. However this decreases below that of the White group in 2019/20. The proportion of applications from the White group remains similar across all the 3 years.

Chart 45 shows the percentage of applicants successfully promoted across the 3 years. The success rate of BAME applicants was higher than the White group in 2017/18 and 2018/19. However, all of the BAME officers that applied for promotion in 2019/20 were not successful. Although the number of BAME applicants in 2017/18 and 2018/19 was below 10, the number of BAME applicants in 2019/20 was much lower.

**TABLE 6:**

Applications as a percentage of 'staff in post'		
Year	White	BAME
2017/18	9%	11%
2018/19	8%	10%
2019/20	8%	2%

**CHART 45: Percentage of applicants successfully promoted**



In 2017/18 and 2018/19 the proportion of BAME officers applying for promotion, and being successful, was greater than the proportion of White officers. However, in 2019/20 (up to March 2020), no applicants were successfully promoted and therefore further analysis is required to understand the decline in BAME applicants in 2019/20.

**RECOMMENDATION 70:** ASC need to investigate the reasons for the decline in BAME promotions in 2019/20 to proactively address any barriers that may result in disproportionate outcomes for BAME applicants in the promotion process.

ASC run a BAME Leadership Programme aimed at sergeants and inspectors from ethnic minority backgrounds which supports and encourages them to go for promotion. To date the highest rank currently held by officers from an ethnic minority background within ASC is Chief Inspector. This leadership programme, along with other mentoring schemes

and support networks, aims to support officers from diverse backgrounds to reach their full potential and become leaders. The first cohort finished the programme in January 2021 and a second cohort started at the end of March 2021.

**RECOMMENDATION 71:** ASC to quantify the impact of their BAME leadership programme and other schemes to support officers from diverse backgrounds to develop and progress within the Constabulary.

Chart 44 quantifies all police officers in the Black Group are constables which indicates potential barriers in BAME police officers career progression.

**RECOMMENDATION 72:** ASC to review potential barriers to promotions from Constable to Sergeant for BAME police officers. The BAME leadership programme should be developed further to include a Constable to Sergeant progression route.

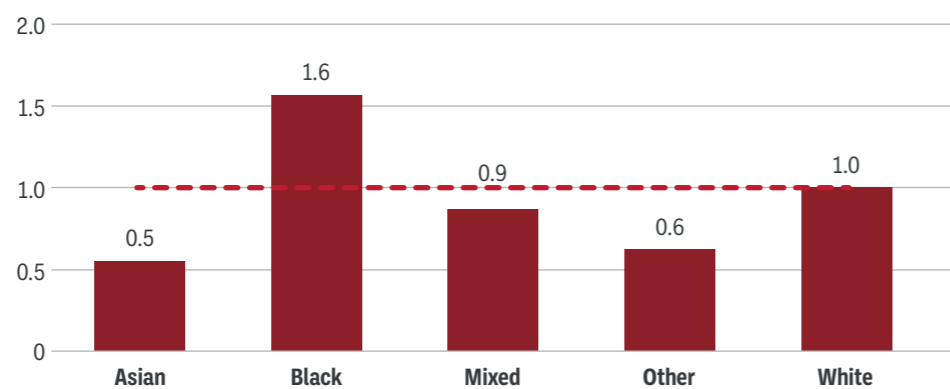
**Leavers:**

Charts 46 and 47 calculate the leaver rates using the Relative Rate Index (RRI) for each ethnic group based on the number of leavers as a proportion of the 'staff in post' for each group, and compares the rates for each group to that of the White group. Between 2017/18 and 2019/20, the RRI of 1.6 indicates some disproportionality in the leaver rates for the Black group. However, the Asian, Black and Other groups had fewer than 10 leavers across the 3 years.

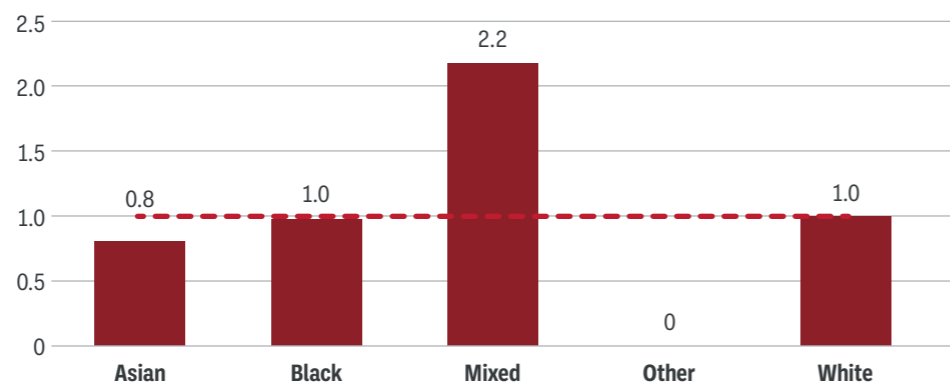
Between 2017/18 and 2019/20, the RRI of 2.2 indicates disproportionality in leaver rates for the Mixed group. The Asian and Black groups had fewer than 10 leavers across the 3 years, and there were no leavers from the Other group.

**RECOMMENDATION 73:** ASC need to further investigate the reasons for the higher leaver rates for Police Staff in the Mixed Group and Police Officers in the Black Group to proactively address any potential issues that may be resulting in disproportionate leaver rates for 'staff in post'.

**CHART 46: RRI for leaver rates for police officers (2017-2020)**



**CHART 47: RRI of leaver rates for police staff (2017-2020)**



**Diversity action and initiatives**

**Representative Workforce Team (RWT)** are a dedicated team of staff who work to increase the diversity of the Constabulary workforce to reflect the communities served. Key aims and activity of the RWT is detailed in Appendix 7 HR B.

**ASC Diversity Champions:** Support and mentor external candidates through all stages of recruitment at ASC. Diversity Champions have regular meetings with

candidates to provide guidance and support during the recruitment process. Further details in Appendix 7 HR B.

**Staff Support groups:** ASC have over eight Staff Support Groups including the Black Police Association (BPA) whose primary objective is to ensure that those of a black and minority ethnic background within the service are treated fairly. They help reassure and encourage others from black and

minority ethnic backgrounds to consider the police as a good career choice.

**ASC Inclusion and Diversity Board** is the strategic governance around equality, diversity and inclusion work at the Constabulary. The "Five big ideas" were developed in 2018 creating the framework upon which diversity and inclusion has been developed at ASC over the last 3 years detailed in Appendix 7 HR B.

**Prisons**

**New joiners**

In April 2017 the Secretary of State Elizabeth Truss launched Her Majesty's Prison and Probation Service (HMPPS) which replaced the National Offender Management Service (NOMS). This prompted a change in the systems that NOMS used and all staff across prisons, probation and headquarters were moved onto the MOJ Standard Operating Platform. Consequently, there were some levels of systems incompatibility that resulted in the loss of some staff diversity data. In 2018 HMPPS set out on a campaign to encourage staff to declare their diversity data. The Lammy Review baseline data relates to the earlier period 2017/18 when the transfer was in progress reflected in the HR data compiled as part of this report. Although efforts have been made to encourage staff to declare their ethnicity on the new system, this has led to the high percentages of 'Not Recorded' in the New Joiner data (detailed in Appendix 7 HR C).

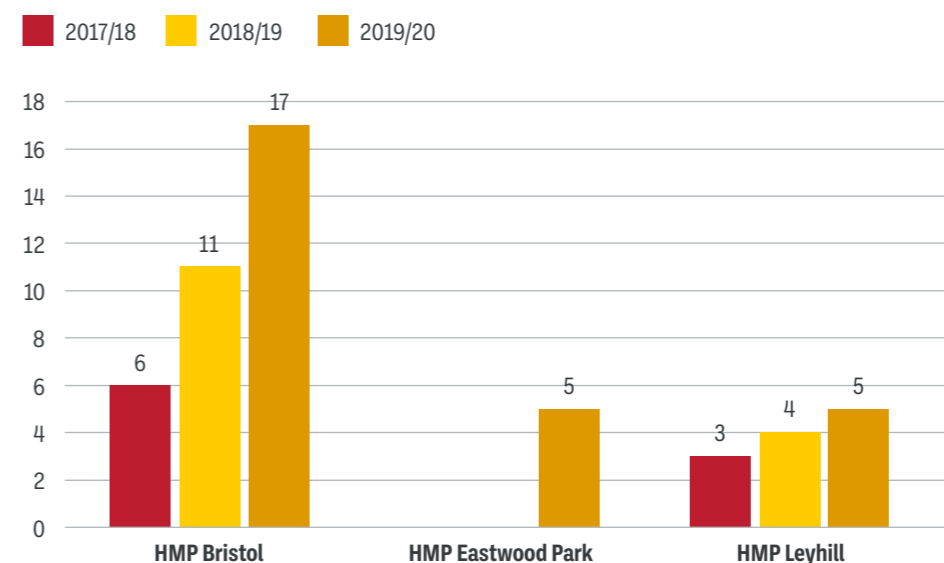
In 2017/18 98% of new joiners did not have their ethnicity recorded and by 2019/20, 45% of new joiners still did not have their ethnicity recorded. Consequently, for the period 2017 to 2020 no meaningful analysis of the ethnicity of new joiners could be completed for this review. In the most recent published data HMPPS has increased the data declaration target on ethnicity of 80%, indicating there has been progress to address this issue.<sup>146</sup>

**Graduate scheme:**

National data was provided for this review for the period 2017 to 2020 showing the number of applications to the National HMPPS Graduate Scheme and the success rates of the BAME and White applicants. (Data Charts in Appendix 7 HR C).

In 2017/18, 2018/19 and 2019/20, the BAME applicants had a lower success rate compared to the White applicants. The percentage of applicants offered a position is lower for the BAME group than the White group. Further scrutiny is required to understand the reasons for the differences in success rates.

**CHART 48: BAME staff in post volumes**



**Staff in post:**

Chart 48 shows the 'staff in post' volumes for BAME staff at each of the three prisons within Avon and Somerset. In line with data protection rules, where the volume of staff in an ethnic group is 2 or below, the information has been redacted at source and does not appear in the data for the years provided below.

<sup>146</sup> Her Majesty's Prison and Probation Service workforce quarterly: March 2021 Her Majesty's Prison and Probation Service workforce quarterly: March 2021 - GOV.UK (www.gov.uk)

Chart 49 details the percentage of staff in post who identify within the BAME Group. The BAME workforce population for HMP Eastwood Park and HMP Leyhill is significantly below the A&S Population rate of 6.7%. Whereas HMP Bristol in 2019/20 had 5.2% of the workforce who identified within the BAME Group indicating a positive progression rate since 2017/18.

Average BAME prisoner population is between 9% and 24% (identified in yellow) compared to the census population levels of 6.7% in Avon and Somerset for the BAME population (identified in orange). This indicates an urgent need to address the low BAME staffing levels in Avon and Somerset prisons.

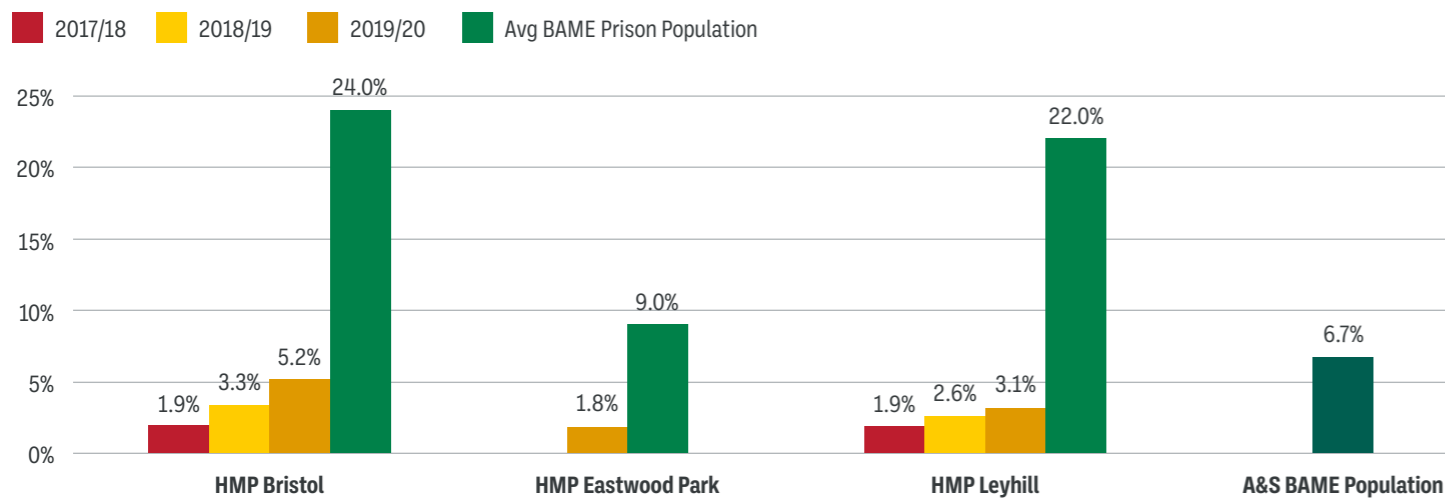
**RECOMMENDATION 74:** HMPPS: HMP Bristol, Eastwood Park and Leyhill need to develop a more diverse workforce representative of its communities as current census data (2011) indicates all 3 prisons are currently under-represented by people who identify within the BAME Groups.

**Promotions:**

Data on the application stage of the promotions process was not available for this review. Table 7 is national data detailing the number of promotions as a percentage of the ‘staff in post’ for each ethnic group.

Promotions as a % of staff in post (national data)					
Year	Asian	Black	Other	Mixed	White
2017/18	6%	5%	4%	7%	6%
2018/19	5%	5%	6%	7%	6%
2019/20	4%	4%	5%	6%	5%

**CHART 49: BAME staff in post as a percentage of all staff in post**

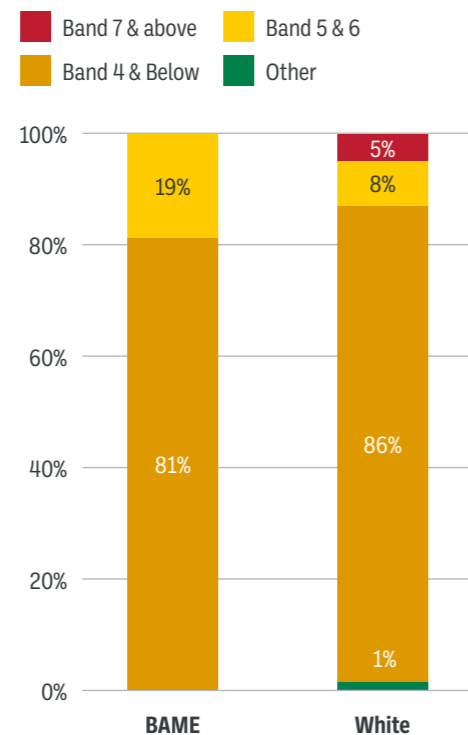


**Retention & development:**

The low volumes of BAME staff in Eastwood Park and Leyhill required data be redacted and therefore, only HMP Bristol data relating to the proportions of staff by grade was able to be analysed for this review. The low volumes of BAME staff at HMP Eastwood Park and HMP Leyhill, highlights the importance of scrutiny of employee data at local level, to ensure potential disproportionality within specific Prisons, which may not be identifiable at national level, are addressed.

Chart 50 shows the proportion of BAME and White staff members at HMP Bristol within each grade.

**CHART 50: Proportion of prison staff by grade – HMP Bristol (2020)**



The BAME group has a larger proportion of staff employed in Band 5 & 6 compared to the White group, however, there are no BAME staff employed in Band 7 & above, indicating potential disparity at senior level.

**RECOMMENDATION 75:** HMPPS: HMP Bristol need to create leadership development opportunities for people within the BAME Group to proactively address any potential barriers that may prevent BAME employees progressing into senior roles within the HMPPS.

Between 2017 and 2020, the Mixed Group had the highest percentage of promotions in comparison to all ethnic groups. The Asian and Other groups showed the same rate of promotion as the White group in at least one of the three years. The Black group had a lower rate of promotion across all three years. Over the 3 years the Asian group’s percentage of promotion had reduced the most by 2%.

Analysis of local data from each prison (Bristol, Leyhill and Eastwood Park) is required to investigate and quantify any potential disproportionality for Promotions.

**Leavers:**

Data on the application stage of the promotions process was not available for this review. Table 7 is national data detailing the number of promotions as a percentage of the ‘staff in post’ for each ethnic group.

**RECOMMENDATION 76:** HMPPS to quantify the latest new joiner, Promotion and Leaver data across the ethnicity groups for prisons in Avon and Somerset: Bristol; Leyhill and Eastwood Park to baseline the HR life-cycle across levels across ethnicity groups (18 plus one) to quantify if there is any disproportionality at local level for BAME employees.

Between 2017 and 2020, the Mixed Group had the highest percentage of promotions in comparison to all ethnic groups. The Asian and Other groups showed the same rate of promotion as the White group in at least one of the three years. The Black group had a lower rate of promotion across all three years. Over the 3 years the Asian group’s percentage of promotion had reduced the most by 2%.

**Diversity actions and initiatives:**

In response to Lammy 28 and 29 HMPPS has been quite responsive, Jo Farrar, HMPPS CEO and MoJ Race Champion, since April, gave her personal commitment to this priority on behalf of HMPPS. In 2019 alongside the Senior BAME Staff Recruitment and Progression Lead, HMPPS appointed four Senior BAME Staff Development Leads who were responsible for ensuring that the right systems and processes were in place to ensure that all

talented BAME staff have the right support, mentorship and opportunities to progress on an equal footing into senior roles and in particular to help increase the number of Black and Asian Minority Ethnic (BAME) staff at all levels of HMPPS by developing a pipelines into senior leadership roles by 14%.

Statistically this is a significant challenge because the attrition rate of senior posts is low and currently, HMPPS does not have sufficient BAME middle managers ready to apply for vacancies when they do arise. Therefore much of the focus in the short term has been on improving the middle management position and in appropriate senior positions advertising externally for BAME applicants.

It is recognised through extensive engagement with existing BAME staff that to achieve and sustain this scale of progress HMPPS needs to fundamentally change and challenge existing culture as well as build the trust of talented BAME staff working in the organisation who regrettably do not always have the confidence to apply for progression opportunities. There is also a need to fundamentally improve recruitment, attraction and selection processes to ensure that they are more attractive to BAME applicants and are non-discriminatory in their application.



The Development Leads have developed a foundation in recognition of the challenges raised in the Lammy progress report which has led to the launch of the Race Action Programme launched in December 2020, marking a significant investment within HMPPS to tackle race discrimination and become a truly inclusive organisation. The aims of the Race Action Programme are to ensure that:

- HMPPS becomes a culturally competent organisation, with an ethos of inclusion evident throughout
- service users and staff feel empowered and encouraged to call out all racism, with the confidence that robust action will be taken against all forms of discrimination
- staff understand and confidently seek to meet the individual cultural needs of those in our care
- staff from all backgrounds and protected characteristics feel a sense of belonging in HMPPS and are supported to reach their full potential

While this investment is rightly targeted at tackling the significant challenges faced around race inequality and discrimination, there is no doubt that the activity within the RAP will offer much wider benefits to diversity and inclusion within HMPPS. The project programme

has five distinct work programmes to advance Inclusive recruitment, retention and talent Management, this are interlinked with L&D programmes that improve cultural competence and development of a D&I learning suite. Other work programmes will focus on policy harmonisation and application, staff and service user support and third sector stakeholder and partnering in recognition of tackling disparity through interventions from lived experience led organisations in the 3rd sector.

A BAME learning and development taskforce was setup in 2019 which is seeking to re-align existing development schemes which will have targeted sessions for BAME staff and include: -

- The Aspiring Leaders Programme (workshops)
- Spark – a scheme to develop high potential employees (i.e. B2-4 and non-op) into operational middle managers – in 2021 - 25% of the participants came from the BAME background
- Ignite – a scheme to bring external talent into operational senior roles (B9)
- Catalyst – a scheme to support new SCS recruits (both internal and external recruits)
- Thrive coaching and mentoring schemes – specifically aimed at BAME

staff with 36 staff going through a Level 5 ILM Coaching qualification with the aim of coaching other BAME staff.

- Leadership Toolkit that defines the career map for all staff
- Empowered leaders programme – a 9-month leadership development programme offered to senior leaders to support the reform agenda and to develop closer working links across HMPPS.

On the recruitment – there is a dedicated post linked to the Lammy recommendations to handle inclusive recruitment, 12 pilot have been identified across Prisons where there have been challenges in attract diverse talent pipelines – the expected output is the production of a blueprint strategy that can be tailored to fit regional demographics and needs and learning from areas of best practice where the recruitment target has hit the census forecast of 19% as well as the Lammy target of 14%, the challenges identified remain on the resource to develop and implement localised outreach strategies that run consistently throughout the year and the high attrition rates being seen past Covid.

**CPS:**

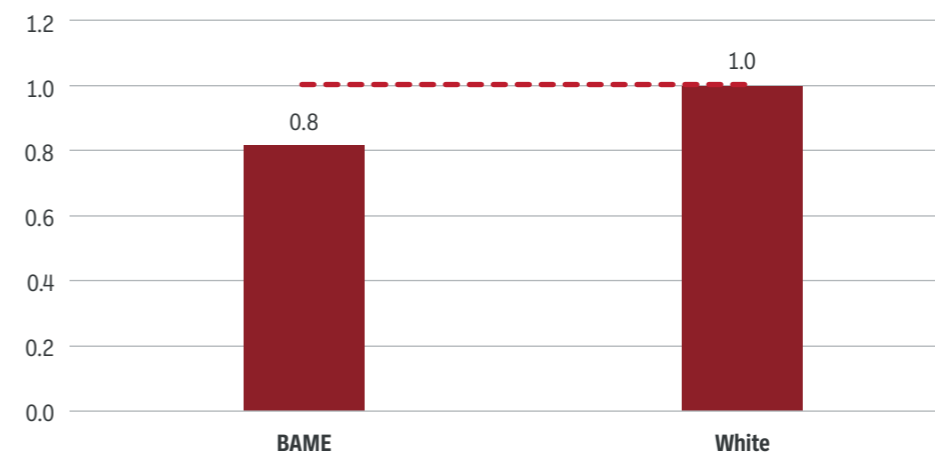
No local level data was available for this review. National data was provided for 2019/20. Consequently, there is no baseline understanding of disproportionality within the CPS at local level within Avon and Somerset.

**RECOMMENDATION 77:** CPS to quantify the latest New Joiner, Apprenticeship, Staff in Post, Promotion and Leaver data across the ethnicity groups for at local level for Avon and Somerset to baseline the HR life-cycle across levels across ethnicity groups (18 plus one) to quantify if there is any disproportionality at local level for BAME employees in the CPS within Avon and Somerset CJS.

**New joiners:**

The National 2019/20 CPS application data (Appendix 7 HR D: CPS) shows that at each stage in the recruitment process, the proportion of White candidates increases, whilst the proportion of BAME candidates decreases. This indicates increasing disproportionality as applicants progressed through the process. The proportion of White candidates offered a position is higher than the proportion of BAME candidates across all roles, and most notably in the Crown and Senior Crown Prosecutor roles.

**CHART 51: RRI for CPS leavers as a proportion of SIP (2019/20) National Data**



**Actions and initiatives**

The CPS HR strategy was in the process of being revised in 2021 with actions focused upon BAME recruitment and staff levels to include:

- Increased declaration rates.
- Comparison of workforce data to local population data to address disproportionality.

**Apprenticeship scheme**

In the 2019/20 National CPS Apprenticeship Scheme (detailed in Charts in Appendix 7 HR D: CPS) process the proportion of BAME and White candidates is similar at each stage of the application process, with BAME candidates seeing a small increase at the Offer stage, indicating no disproportionality.

**Staff in post:**

Nationally, the CPS have BAME staff levels that are proportional (or higher) than the national BAME population in all grades with the exception of SCS Band 9-11, which is the highest grade in the data provided. Charts in Appendix 7 HR D: CPS

**Promotions:**

National data in 2019/20 details the number of Internal and Temporary promotions as a percentage of the ‘staff in post’ for each ethnic group (detailed in Appendix 7 HR D: CPS). The proportion of BAME staff receiving either an Internal or Temporary promotion is half that of White Staff. Further investigation is required to address this disparity.

**Leavers**

Chart 51 compares the number of leavers as a proportion of the ‘staff in post’ at CPS in 2019/20 for the BAME group compared with the White group. BAME leaver rates in the CPS are lower than White Leaver rates. Further data over a greater period is required to determine if this is replicated over time.

- Work to identify barriers for BAME employees moving to more senior roles.
- Analysis of recruitment data to identify at what grade and where in the organisation the attrition rate for BAME candidates throughout the recruitment process is disproportionately higher and put measures in place.
- Investigation to determine why employees with protected

characteristics are disproportionately less likely to gain permanent or temporary promotion

**RECOMMENDATION 78:** CPS to provide an overview of their 2021 HR strategy identifying key objectives and activity related to equality, diversity and inclusion within Avon and Somerset.

### YOUTH OFFENDING TEAMS (YOTS): BRISTOL, BATH AND NORTH EAST SOMERSET (BANES), NORTH SOMERSET, SOMERSET, SOUTH GLOUCESTERSHIRE

No data was provided to this review for recruitment/new joiners, graduate/apprenticeship, promotions, retention, development and leavers. Consequently, there is no baseline understanding of disproportionality within the YOTs at local level within Avon and Somerset.

**RECOMMENDATION 79:** YOTs in Avon and Somerset: Bristol, BANES, North Somerset, Somerset and South Gloucestershire need to quantify the latest Recruitment, New joiner, Graduate/apprenticeship, Promotion, Retention, development and Leaver data across the ethnicity groups at local level for Avon and Somerset to baseline the HR life-cycle across ethnicity groups (18 plus one) and quantify if there is any disproportionality at local level for BAME applicants and employees in the YOTs within Avon and Somerset CJS.

#### ‘Staff in post’

Nationally, the percentage of BAME YOT staff is higher in comparison to the national UK BAME population. The Black, Mixed and Other ethnic groups are proportional or have a higher representation than the national population percentage for each group. The Asian group is under represented when compared to the national figure for this group.

#### Retention & development

Review of the national data of YOT Staff in 2019 (detailed in Appendix 7 HR E: YOTS) indicates small variances in the proportion of staff at each grade across the ethnic group. Each group has representation at all grade levels, indicating there is

little or no disproportionality.

#### Diversity actions and initiatives:

##### Elevate

As part of the Youth Justice Board Workplace Development Strategy Elevate, a six-month management development programme started in September 2021, to address the under-representation of Strategic leaders who are Black, Asian, and Minority Ethnic in the Youth Justice system. Elevate aims to support the career progression of under-represented groups in the Youth Justice workforce.

Key areas of the programme:

- One-to-One Coaching
- An action learning set - a safe space to share experiences, identify areas for development and set goals for the future
- Mid-way workshop
- Building a Personal Portfolio of Evidence
- Career progression planning
- Completion of an individually identified project to showcase how their analytical/reflective skills have developed during the programme
- Opportunities to shadow colleagues in different settings
- Input from colleagues who are Strategic leaders
- Presentation to the YJS Management Board on their experience of Elevate

Elevate follows a positive action program delivered in 2014 called Accelerate 3. It was a two-year Positive Action Leadership Programme designed for middle and senior managers who are Black, Asian, Minority Ethnic (BAME),

or who have a disability. The aim was to enable participants to deploy their talent, and gain the skills, knowledge, and understanding, to compete effectively for top jobs in the Criminal Justice Sector. Preliminary findings suggest that between 30% and 50% from the different cohorts achieved promotion in addition to measurable growth and empowerment.

**RECOMMENDATION 80:** Youth Justice Board to share findings and evaluation outcomes of the Elevate Programme with the A&S CJB to understand if this programme improves career progression for under-represented groups in the Youth Justice workforce.

The YJB will also be launching an apprenticeship programme due to start in 2021 to recruit black, Asian and minority ethnic (BAME), ex-service users and other under-represented groups.

**RECOMMENDATION 81:** YJB to quantify the impact of the apprenticeship programme scheduled to start in 2021 focused upon recruiting BAME employees.

#### JUDICIARY:

There was no representative available for the Judiciary in the HR theme and only National South West level data available for this review. Consequently, further investigation is required to access and analyse Avon and Somerset level HR data for the Judiciary.

**RECOMMENDATION 82:** A&S Criminal Justice Board will need to appoint a Judiciary representative and dedicated resources in order to analyse and assess disproportionality within the Judiciary in Avon and Somerset.

## CONCLUSION

In measuring the progress that has been made against the Lammy Recommendations the A&S Lammy Sub Group HR Task and Finish group set out to review baseline and incremental data across the 6 agencies. The challenges that have emerged during this process of gathering and exchanging data led to some delay in interpreting the data that was received.

The HR data covered various aspects of the HR life-cycle as it was important to identify where there were issues within this cycle and how each of the agencies has responded to the “Explain or Reform” concept required under the Lammy review. Alongside this was also the contextualising of experiences of BAME staff in the workplace in order to gain a holistic insight into organisational change.

Whilst accessing the data was a major challenge throughout this process, the interpretation of that data proved to be another major factor in drawing conclusions on the progress made for the following reasons (the list is not conclusive): -

- High levels of inconsistency in the way data was recorded against each of the different ethnic classifications
- Lack of baseline data within some agencies
- Inconsistent classifications of staff grades for instance in comparing the equivalent grades across the different agencies, we had to make some

assumptions of what we considered a senior role in the police compared to the CPS or the Prisons and Probation

- The limited resources available to the A&S Lammy Sub-Group to analyse and interpret the data.
- The incompatibility of systems which dictated the format and the structure of the data
- Limited data declaration rates – due to changes in systems across the MOJ
- Missing data within some areas of the HR life-cycle i.e. within talent, learning and development some agencies did not record the development schemes available to staff and the take-up, similarly with graduate intakes we had to rely on data from the Cabinet Office which looked at the recruitment across the Civil Service

In responding to the findings of the data across some aspects of the HR life-cycle, our recommendations may be inconclusive due to the limited data available.

We recognise the journey that each agency has been on and the challenges that have been presented in monitoring and recording data. We have paid close attention to the interpretation of data and how this maybe perceived by the different agencies and within this taken a cautious approach.

We have focused on the wider issues that impact on policies and procedures,

the societal and environmental factors that contribute to disparity by relating to the service users experience of the criminal justice system.

Our final recommendations are focused on the crucial aspects of the HR life-cycle towards a more progressive approach to lessening the gaps, achieving some levels of consistency and regular reporting and sharing best practice as much as developing more innovative approaches to address under-representation and factoring in the role of technology in understand and responding to data.

We have also acknowledged that we do not have enough information and called for further research on what works in promoting and progressing towards a more representative workforce, the changes that are required towards orientating towards an inclusive culture and the role of organisational development in surging forward.

We are very grateful to all the representatives of the various agencies who contributed to the HR task and finish group, to share good practice as well as some of their organisational challenges, we acknowledge the commitment they have in making incremental changes towards progress. The scale of work to be done remains significant.

Peninah A-Kindberg, BAME Development Policy Lead at HMPPS

**HR LEAD,  
A&S LAMMY SUB-GROUP REVIEW**



## BACKGROUND

In Chapter 4: Courts of the Lammy Review, 2017, David Lammy identified the “Systematic scrutiny of magistrates’ decisions is hindered by the absence of reliable data collected on a number of key issues.”<sup>147</sup> Recommendation 11<sup>148</sup> calls for the MOJ to address the key data gaps in the Magistrates’ Court including pleas and remand decisions.

Sentencing was another key area of concern drawing upon the MOJ analysis published in 2016<sup>149</sup> which examined the associations between ethnic background and being sentenced to prison in the Crown Court in England and Wales in 2015.

Key findings:

- For offenders convicted of recordable, indictable offences in the Crown Court in 2015, there was an association between ethnicity and being sentenced to prison. Under similar criminal circumstances the odds of imprisonment for offenders from self-reported Black, Asian, and Chinese or other backgrounds were higher than for offenders from self-reported White backgrounds.
- Within drug offences, the odds of receiving a prison sentence were around 240% higher for BAME offenders, compared to White offenders.

Lammy Recommendation 12 of the Lammy Review 2017 called for the Open Justice initiative to be extended and updated to view sentences for individual offences at individual courts, broken down by demographic characteristics including gender and ethnicity.<sup>150</sup>

**“From a so called ‘system’ which operated in silos, we are moving to a criminal justice service where police, prosecution and courts work more effectively together.”**

Nick Herbert  
Minister of State for policing and criminal justice MOJ: *Swift and Sure Justice: The Government’s Plans for Reform of the Criminal Justice System*, July 2012



## METHODOLOGY

In July 2020 His Honour Judge Peter Blair Q.C. (HHJ Blair) was appointed to oversee the Judiciary priority theme supported by Pushpanjali Gohil, Barrister, to explore the development of a process to collect sentencing data from Crown Courts in Avon and Somerset that would enable the capture of ethnicity in outcome data and analysis into how cases progress through the criminal court system and whether there is any disparity in the court system.

## FINDINGS

In August 2020 The Sentencing Council were engaged with to support this development and showed interest in being involved but had very limited resources to progress. MOJ analysts were also engaged in the early development discussions to consider methodologies and the scale of data sampling required.

Judge Blair met with David Lammy in September 2020, outlining the work in Avon and Somerset to develop a process to enable the capture of sentencing data to include ethnicity. David Lammy supported the request for data from the Lammy Review 2017, however, further investigations to access and analyse this data identified that it was not accessible to due limited access and data held was only up to 2016.

Further investigation determined the MOJ together with the Office of National Statistics and Data First have accumulated a huge database of sentencing data containing millions of case results around sentencing and case results from the Crown Court. Access to the database is restricted to academic research projects only. Consequently, in September 2020, Judge Blair and Pushpanjali Gohil working with the Cabinet Office Race Disparity Unit, proposed that an academic research project be commissioned. Initial investigations looked at local Universities within Avon and Somerset and national options to identify suitable academic specialists to lead the project.

## What is Data First?

Data First is a data-linking programme led by MoJ and funded by ADR UK. It aims to maximise opportunities for analysis and understanding with MoJ data by linking administrative datasets from across the justice system and beyond and enabling researchers within government and academia to access the data. Figure 2 details the potential data available from magistrates’ court datasets.

In October 2020 Judge Blair and Pushpanjali Gohil met with Remmie Mendoza of the Race Disparity Unit at the Cabinet Office, Dr Jose Pina-Sánchez, Associate Professor in Quantitative Criminology at University of Leeds and Dr Eoin M Guilfoyle Teaching Associate in Law, University of Bristol, to discuss the creation of a research project to assess disproportionality in sentencing of people according to their ethnic origin. It was agreed that Dr Jose Pina Sanchez would lead the quantitative research project and submit a funding application to research based on the initial data the MOJ included within the Lammy Report 2017.

In conjunction with the quantitative research, Dr Eoin Gilfoyle UWE of the University of Leeds will conduct the qualitative research around what is happening in the sentencing process to produce a disproportionality. Potential qualitative research would look at a range of approaches to capturing information such as ‘Mystery Shoppers’ who would attend court and sit in the public gallery to gather random observations; interviews with advocates. A methodology for the qualitative research would need to be developed to effectively capture and analyse qualitative data in coordination with the quantitative data.

A funding application for the research projects is in progress.

FIGURE 3: Information contained in Data First magistrates’ court dataset



## CONCLUSION

The data identified within the Sentencing Surveys completed in 2015 identified the shocking finding that within drug offences, the odds of receiving a prison sentence were around 240% higher for BAME offenders, compared to White offenders. The findings of this review identified that no further analysis had taken place since 2015 to quantify the current levels of prison sentences and understand if

there is disproportionality for BAME people sentenced to prison for drug offences. This indicates that wider data collection and analysis are vital to assess disproportionality in sentencing people according to their ethnic origin.

Significant progress has been achieved deriving from the ambition of this Review to proactively address the data gaps and understanding around disproportionality in sentencing.

**RECOMMENDATION 83:** A&S CJB to maintain a watching brief of the progress of the Judiciary Data First Sentencing project and ensure that the outcomes of this research is shared with CJS partners.

<sup>147</sup> 1 David Lammy MP, Lammy Review 2017.

<sup>148</sup> Recommendation 11: The MoJ should take steps to address key data gaps in the Magistrates’ Court including pleas and remand decisions. This should be part of a more detailed examination of magistrates’ verdicts, with a particular focus on those affecting BAME women.

<sup>149</sup> Associations between ethnic background and being sentenced to prison in the Crown Court in England and Wales in 2015. (2016) <https://www.gov.uk/government/statistics/associations-between-ethnic-background-and-being-sentenced-to-prison-in-the-crown-court-in-england-and-wales-in-2015>

<sup>150</sup> Recommendation 12: The Open Justice initiative should be extended and updated so that it is possible to view sentences for individual offences at individual courts, broken down by demographic characteristics including gender and ethnicity.

**In 2021 the Stuart Hall Foundation in partnership with the Centre on the Dynamics of Ethnicity (CoDE) published the SHF Race Report.**

It provides summaries of 13 key reports published between 1981 (The Scarman Report) and 2017 (The Lammy Review), addressing racism and racial inequality in communities, education, employment, policing and the criminal justice system. The SHF Race Report provides a thematic analysis of the 589 recommendations of the 13 reports explored and identifies eight overarching themes.

In **Identifying Disproportionality in Avon and Somerset criminal justice system** our findings closely parallel the eight thematic areas identified within the SHF Race Report. The key findings of this review are:

- The disconnect between legislation and policy and their implementation and enforcement.
- The need for a more holistic approach and greater collaboration across different agencies to tackle disproportionality within the CJS.
- The need to improve and standardise quantitative and statistical data collection mechanisms in order to establish consistency in how different ethnic and racial categories are defined. Qualitative data should have an equal weighting to capture ‘lived experience’ to comprehensively quantify impact and outcomes within the CJS.
- Partner agencies across Avon and Somerset have communicated their commitment to equality and diversity, however, there are issues around disclosure and transparency of data. Therefore this poses challenges when trying to measure, monitor and evaluate the effective of policies and actions to address disproportionality.
- Overall improvements are required in the recruitment, retention and career progression of BAME people across the CJS in Avon and Somerset. There is a lack of BAME representation in senior leadership positions across the A&S CJS which must be addressed.



- All CJS partners need to develop mandatory training and education around racial awareness, cultural competency and anti-racism which is monitored and outcomes measured.
- Targets and key performance indicators around tackling disproportionality need to be established, routinely monitored and published to ensure transparency to evaluate the performance of A&S partners and ensure accountability.
- Independent scrutiny panels need to be set up to scrutinise disproportionality within A&S CJS to ensure reporting and actions taken to tackle disproportionality are effective. Where reporting and actions are absent or ineffective the principle of ‘explain or reform’ be adopted to ensure accountability by CJS partners.

The Report of the Commission on Race and Ethnic Disparities, published March 2021 was commissioned by the government to look into discrimination against BAME people in education, health and criminal justice. **“This Commission finds that the big challenge of our age is not overt racial prejudice, it is building on and advancing the progress won by the struggles of the past 50 years.”**<sup>151</sup> However, within this 50 year period the extensive reports into racism and inequality, and documented lived experience of Black, Asian and Minority Ethnic people in the UK have consistently provided a clear evidence-base that whilst the perception overt racism may appear to have declined, covert racism runs deep within the structure and systems of UK society.

One of the most contentious passages in the report argues that a “new story” needs to be told about the slave trade, which would highlight the cultural opportunity for African people. Prime Minister Boris Johnson challenged to us all to **“change the narrative so we stop the sense of victimisation and discrimination,”**<sup>152</sup> is based on a false premise. BAME people in UK suffer from discrimination first and foremost, as a result they are victimised, and this is not a sense or a just feeling it is a lived reality.

At the outset of this Review the vision was to produce a data picture of the journey of BAME people through the Criminal Justice System, by quantifying any disproportionality across the priority theme areas. At senior level the Avon and Somerset Criminal Justice Board committed strategic support to address inequality and disproportionality across the Avon and Somerset CJS. The resourcing of this Review by A&S partners across the CJS was limited to Avon and Somerset Constabulary and the OPCC. We would like to thank the priority

theme leads for their hard work and dedication and the A&S Lammy Sub-Group who provided professional support through board meetings, Task and Finish Groups and Workshops.

Despite the strategic commitment of partners, there were insufficient resources required to deliver this review within the initial timeframe, due to the scale of data gathering, analysis and reporting which was significantly impacted by the limited resources and support provided by some A&S CJ partners. If criminal justice partners wish to proactively address inequality and disproportionality in Avon and Somerset then commitment needs to be agreed through formal collaboration agreements which identify a framework for change which includes quantifying standards and data sharing. Accountability in tackling disparity for BAME people must to be defined by A&S CJ partners to ensure real measurable change is achieved.

The legacy of this review is taking forward the 83 Recommendations and this will provide a comprehensive action plan for A&S CJ partners to proactively progress the strategic ambition of the A&S CJB to identify, understand and tackle disproportionality.

In order to achieve a fairer system in which every group and every individual can have confidence, we need to work together to remove discrimination root and branch from UK society and its institutions.

**“This must be a watershed moment for change. BAME people have been “overexposed, under protected, stigmatised and overlooked for generations.”**<sup>153</sup>



<sup>151</sup> The Commission on Race and Ethnic Disparity, 31 March 2021: The report of the Commission on Race and Ethnic Disparities - GOV.UK (www.gov.uk)

<sup>152</sup> Calls for action, not words, as Johnson launches UK racism commission | Reuters: June 2020

<sup>153</sup> Baroness Doreen Lawrence, An Avoidable Crisis: An Avoidable Crisis (lawrencereview.co.uk)

## AVON AND SOMERSET LAMMY SUB-GROUP TERMS OF REFERENCE

### Objective

To proactively build upon the findings of the Lammy Review (2017) and the Cabinet Office Race Disparity Audit (2017). This will be done by providing strategic direction, co-ordination and oversight of single and multi-agency actions to explain and/or reform racial disparity in the Avon and Somerset criminal justice area.

### Remit

- Work together to identify the opportunities and areas of focus to begin explaining or reforming disproportionality and disparity e.g. the application of discretion and decision making in service delivery
- Decide the strategic and operational actions that single and/or multi-agencies should undertake, with timescales
- Ensure own agency undertakes agreed activity, reports back to the sub group and delivers effective and co-ordinated communication with staff and partners concerning disparity and disproportionality
- Provide a forum for the resolution of multi-agency issues arising from findings/data and lessons learned and make recommendations for further reform/improvements
- Develop and share good practice
- Each of the 6 Priority Themes will undertake their own task and finish groups ensuring minutes and actions logs are maintained and kept by the Avon and Somerset Improvement Officers.

### Membership

Core membership of the Sub Group will comprise of representatives from Organisations/agencies across CJS. Other partners will be invited as required. Full List in Appendix 1.

Where a group member is unable to attend a meeting, they should endeavour to ensure a suitable deputy attends in their place, with responsibility for decision making for their agency.

### Reporting/Governance

The Lammy Review A&S CJB sub group will report to the Avon and Somerset Criminal Justice Board.

### Data Handling Conditions

The data and information that has been provided by organisations/agencies will be used to gain an insight into ethnic proportionality at key points identified through the criminal justice system by the members of the A&S Lammy Review Sub Group. The handling conditions of data provided for the purposes of the A&S Lammy Review will be in three phases:

**Phase 1** – For this initial phase, data supplied by organisations/agencies for the purpose of analysis will be stored within a secure network governed by the Avon and Somerset Constabulary for the purpose of analysis. Data will only be shared with members of the A&S Lammy Review Sub Group\* and will be retained for as long as necessary for the purposes of this review and in accordance with A&S retention policy.

\* This includes Avon and Somerset Constabulary employees outside of the A&S Lammy Sub Group but only for the purposes of data storage and analysis.

**Phase 2**- Once analysed, the findings produced will be shared with A&S Lammy Review Sub Group members, plus additional parties or representatives identified as having a vested interest in the aims of the review, solely for the purposes outlined in the review remit detailed above. Data that is shared will be classified as 'OFFICIAL' and conditions will be added prohibiting recipients from forwarding or copying the information outside of the A&S Lammy Review members. Where data is of a volume that could risk breaching anonymity, it will be redacted before sharing any wider than the A&S Lammy Review Sub Group membership.

**Phase 3** – All findings and a summary of data will be comprised in a draft A&S Lammy Review report. The A&S Lammy Sub Group and organisations/agencies that have supplied data will be provided with a copy of the draft report to review and provide their approval for its wider release. As above where data is of a volume that could risk breaching anonymity each organisation will have the opportunity to review this before the report is shared, this includes any requests under the Freedom of Information Act.

### Meeting Frequency

Monthly.

### Administration

The Lammy Review LCJB Sub Group will be administered by the Avon and Somerset Improvement Officers.

## A&S LAMMY SUB-GROUP INTERIM REPORT 2019

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## INTRODUCTION

**“An effective justice system depends on procedural fairness. Equitable treatment at every stage in the criminal justice process is essential. And a society that cannot trust its institutions to protect the people and treat them fairly cannot effectively control the crime that we rightly fear.”**

MOJ Tackling Race Disparity 2018



The Avon & Somerset Lammy review sub-group was set up in February 2018 and was chaired by Manjinder Purewal until November 2018, and was the Avon & Somerset LCJB response to the government’s Lammy Review, published Sept 2017.

The A&S Lammy Sub Group’s brief is to bring together regional Criminal Justice Partners, to look at the overall system effect in producing differential outcomes for the various ethnic groups within the criminal justice system, using Lammy’s recommendations as a starting point to proactively address local disparity issues in Avon and Somerset, using the reviews “explain or reform” principles.

Desmond Brown was appointed Chair on the 1st May 2019, with the key strategic challenge to work collaboratively with criminal justice partners, to achieve the vision of producing a data picture of the journey of BAME people through the criminal Justice System.

Having accurate relevant data is central to identifying and tackling disparities wherever they arise in the criminal justice system. But culture change, and a growth in trust of the CJS by BAME individuals, will only occur by demonstrating the sustained, practical and visible implementation of reform.

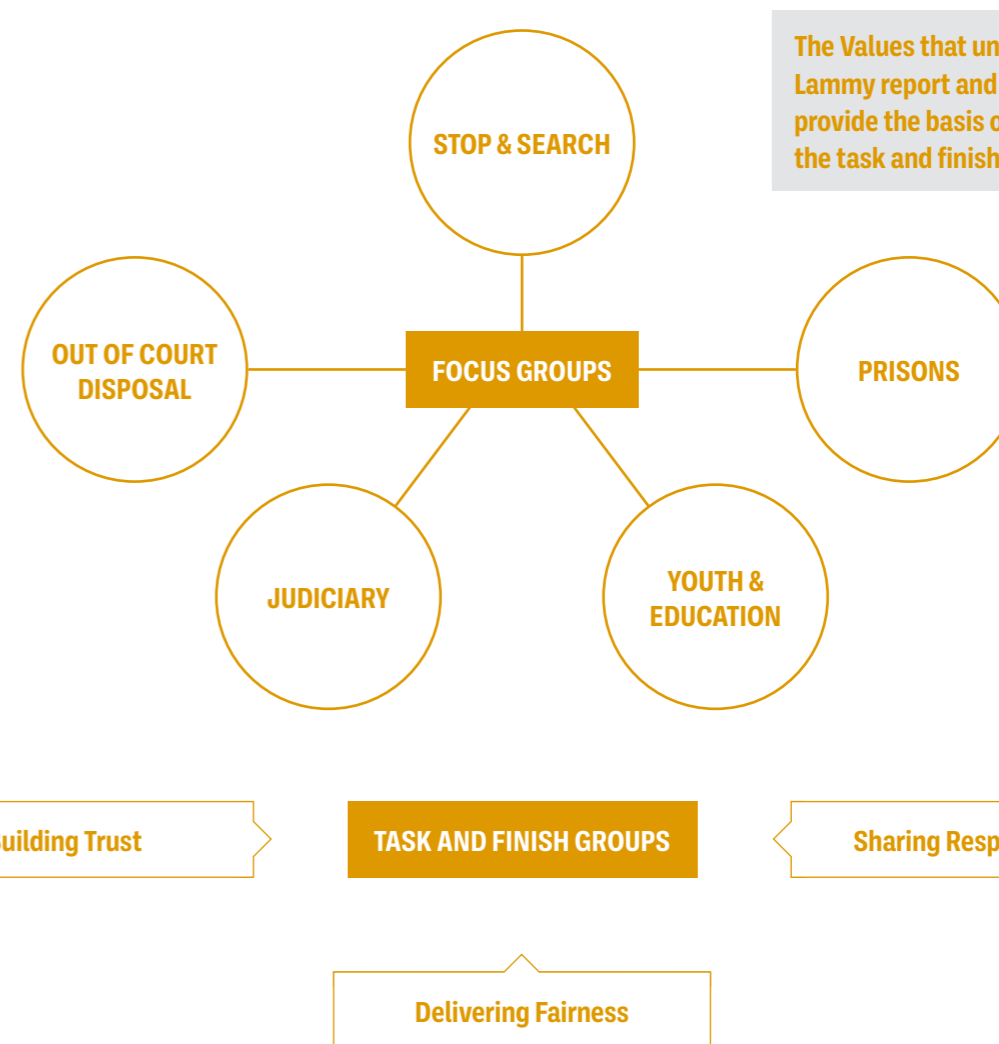
Therefore along with the overarching principle of the collection of robust relevant data, there are 3 further core principles that under pin the work of the A&S Lammy sub-group:

- **Building Trust**
- **Delivering Fairness**
- **Sharing Responsibility**

The first meeting of the A&S Lammy Sub-Group was on the 5th August 2019 with bi-monthly meetings switched to monthly meetings moving forward. It was agreed that BAME persons journey

through all parts of A&S Criminal Justice System should be mapped, focusing on areas of decision making, so called pinch points, for evidence of disproportionately. An initial scoping of all available A&S Criminal Justice ethnicity data highlighted immediate areas showing disproportionate outcomes for BAME people. The 5 priority themes are listed below and will be discussed in more detail further on in this document.

- **Stop & Search**
- **Youth Justice**
- **Prisons**
- **The Judiciary**
- **Out Of Court Disposals**



The A&S Lammy Sub-Group will continue to drill into the available A&S Criminal Justice data whilst probing, analysing and challenging bias in an attempt to “explain” or “reform” disparity and then finding solutions to address the problem area, and/or escalating the issue, before moving on to analyse another area.

I would like to thank Sub- Group members for their commitment and passion and for proactively engaging with the agenda. And look forward to building on the work to date in 2020.

### AVON & SOMERSET LAMMY SUB-GROUP MEMBERSHIP

The key Criminal Justice agencies that contributed to the group through 2018 / 2019 were as follows:

Role	Name
Independent Chair	Desmond Brown
LCJB - Support to Lammy review group	Rebecca Harris
Avon & Somerset Police	Assistant Chief Constable Steve Cullen Chief Inspector Guy Shimmons
Bristol City Council	Andrew Mallin Richard Hawkrige
HMPPS	Bradley Read Peninah Achieng-Kindberg
A&S Deputy Bench Chairman	Carole Johnston
Citizens Advice/ Witness Services	Mohammed Dhalech
OPCC	John Smith
Youth Offender Service (YOT)	Justine Leyland Sally Churchyard
National Probation Service (NPS)	Rachel Wedmore
Her Majesty's Court and Tribunal vice (HMCTS)	Tony Rendell Paul Long
Resident Judge	HHJ.Peter Blair QC
Stand Against Racism and Inequality	Alex Raikes
Commission On Race Equality	Maya Mate-Kole
BAME Lawyers	Rodney Wilson Anjoli Gohil
A&S Deputy Bench Chairperson	Carole Johnston

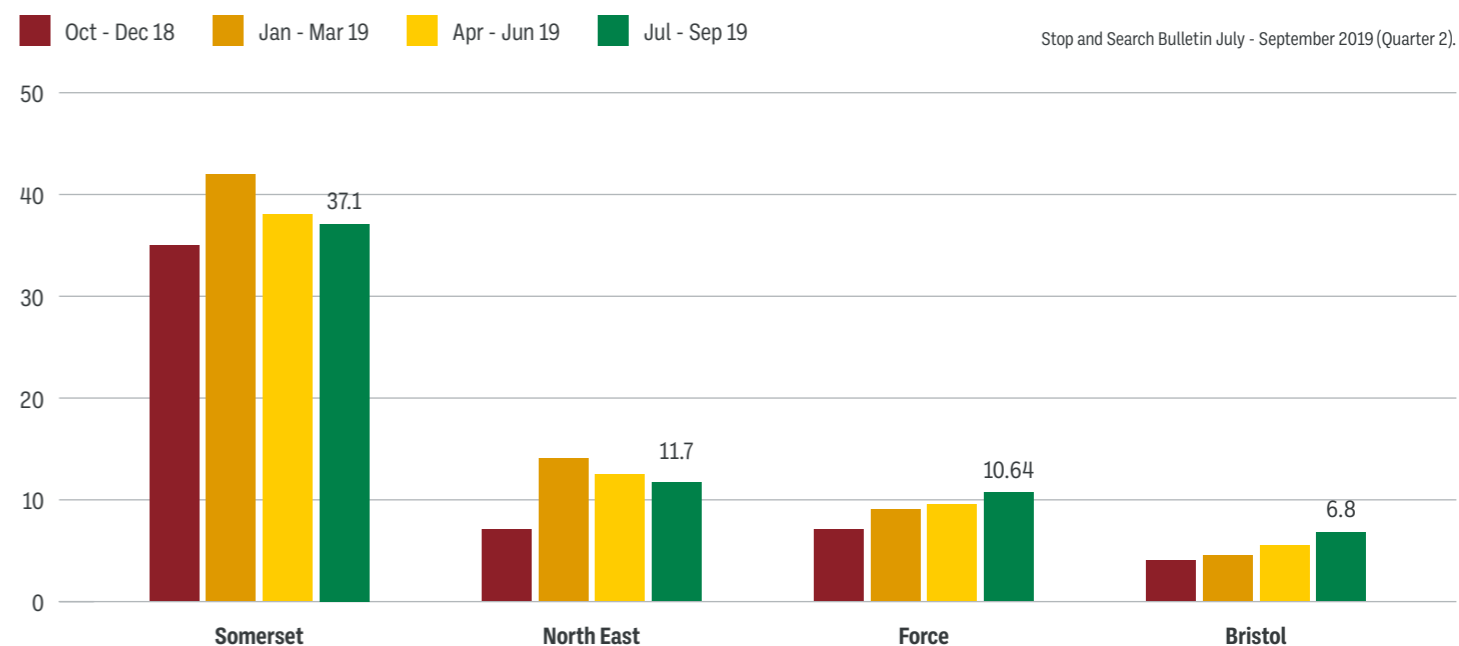
### STOP & SEARCH

Relationships between the community and the police have a profound effect on trust in the justice system as a whole. Regionally in A&S, the issue of the disproportionate use

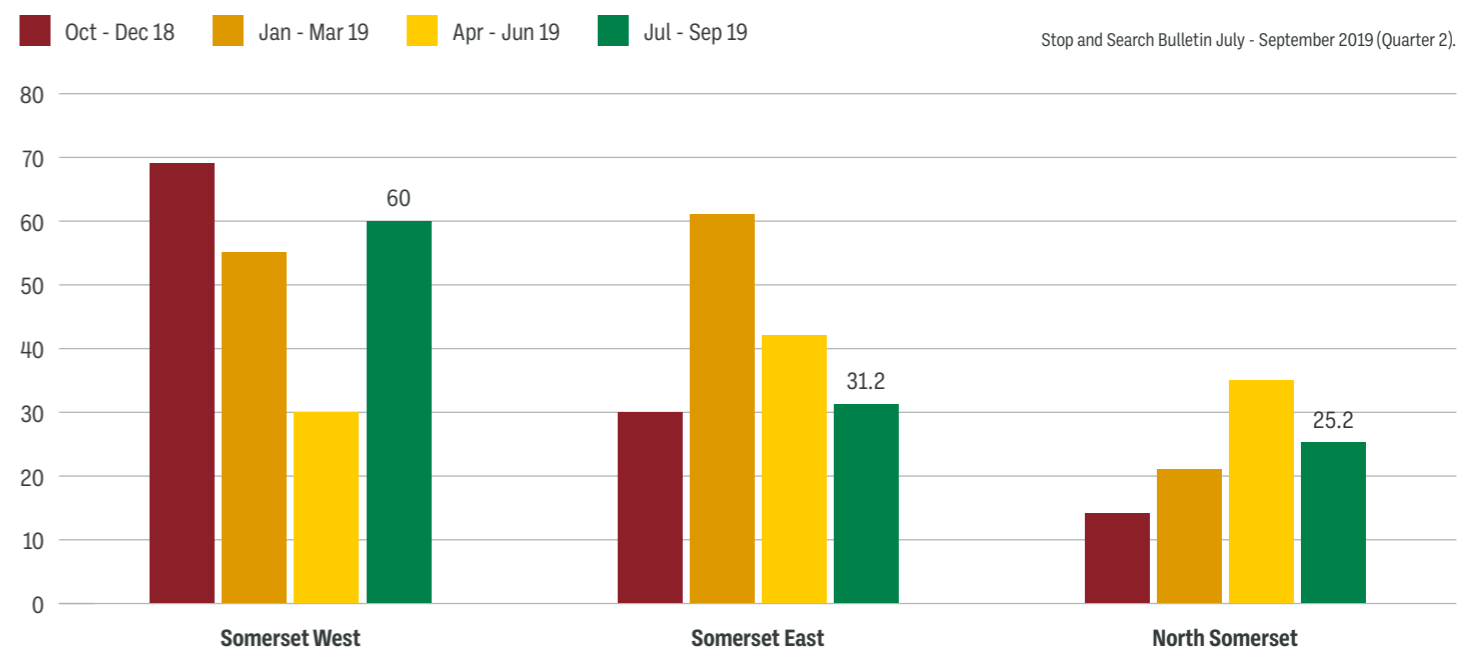
of Stop and Search on BAME communities continues to drain trust in the CJS as a whole.

#### DISPROPORTIONALITY

Black people searches in relation to the black resident population (Chart 7)



Disproportionality in Somerset



Despite recent proactive reforms by A&S constabulary to increase accountability and promote good practice, the latest published A&S constabulary data, July - September 2019, shows force-wide that those of black ethnicity are 10.64 times more likely to be stopped and searched than those of white ethnicity. Somerset presents a worrying disparity, showing that those of black ethnicity are 37.1 times more likely to be stopped and searched than those of white ethnicity. (Based on demographic breakdown of each local population. 2011 census).

**Stop & Search Task & Finish Group**

Working with Chief Superintendent Richard Corrigan and the A&S internal stop and search scrutiny group, the Stop and search Lammy Task and Finish Sub group will examine four initial themes.

- **The disproportionality in Somerset**
- **Searches where ethnicity is not recorded at all**
- **Recruitment, retention and development of BAME police officers and staff.**

**YOUTH JUSTICE SYSTEM**

David Lammy highlighted the youth justice system as his biggest concern within his review in 2017. In March 2019 in his oral evidence to the justice committee on the progress to the implementation of the recommendations of the Lammy Review, he said:

**“It would be crazy, frankly, if I suggested that things had not got considerably worse since my review.”**

In the year ending March 2017, UK wide figures showed 24% of first time entrants to the Youth Justice system were BAME, 54% of the remand population was BAME and 41% of boys in young offender institutions (YOIs) were BME.

In 2019, 51% of boys in young offender institutions (YOIs) and young adult men aged 18 to 21 identified as being from a BME background. In addition, Her Majesty’s Inspectorate of Prisons (HMIP) found, 42% of children in secure training centres (STCs) were from a BAME background. The proportion of BME boys and men behind bars in YOIs in England and Wales is nearly four times the 14% BME proportion of the wider UK population.

**“The main pathways and risk factors for young people into the youth justice system all record high levels of ethnic disproportionality: from school exclusions, the care system, Child and Adolescent Mental Health Service (CAMHS) and first contact with the police. There is a long history and a plethora of evidence around the black community’s poor relationships with the police and the corrosive effect of Stop and Search policies.”**

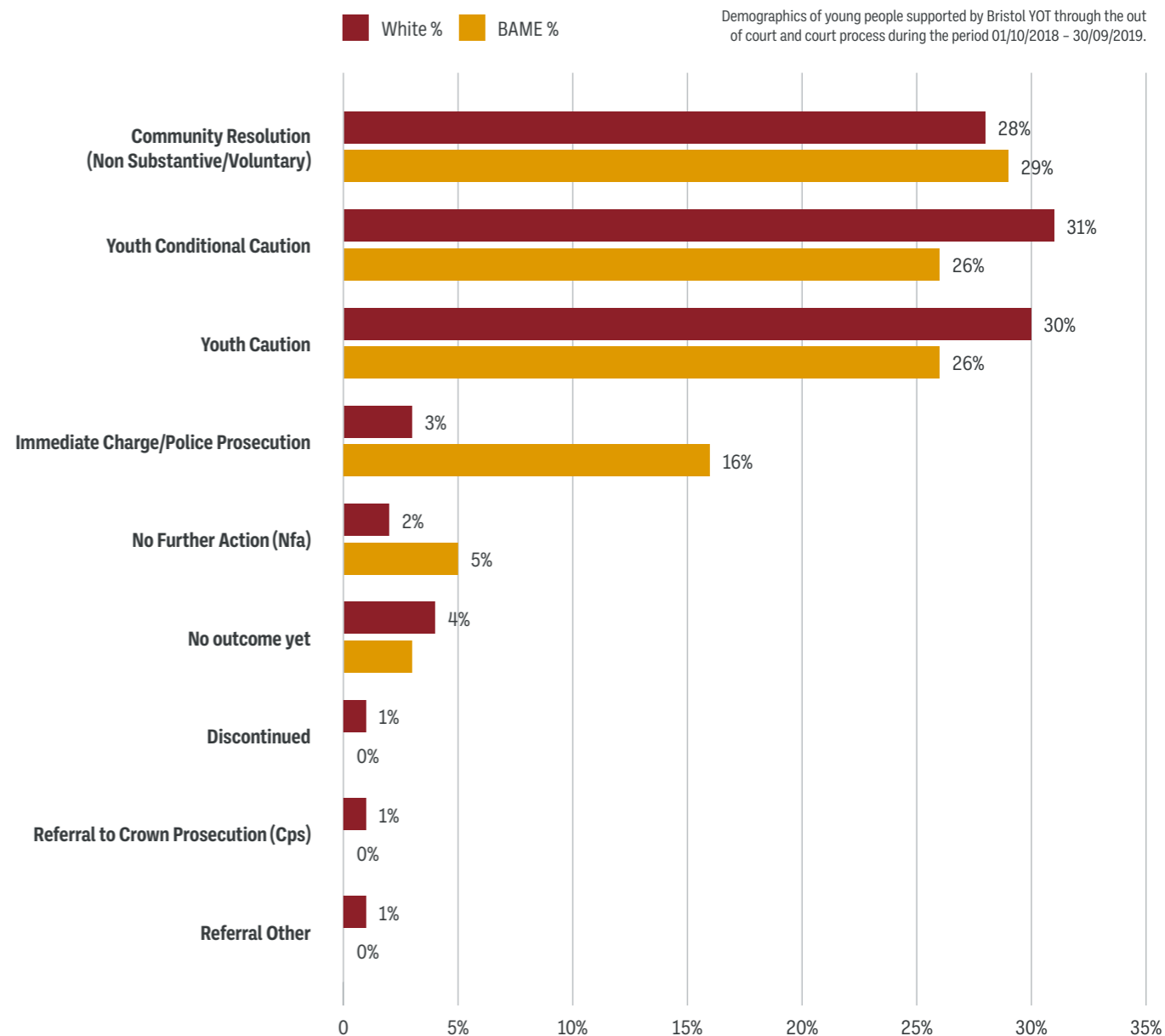
Young Review/Black Training and Enterprise Group (BTEG) – Written submission to Call for Evidence: June 2016

**The school to Prison Pipeline**

Local evidence commissioned July 2019 by Bristol Safer Options Team, shows that exclusions from school have a direct impact on BAME young people entering the A&S CJS, with BAME boys on free school meals twice as likely to be excluded as their white peers. The report by Bristol Insight team found that over 90% of all children subject to fixed term exclusions were either suspect or offender for a criminal offence over the previous twelve months.

**Youth Out of Court Process**

The Bristol Insight, Performance and Intelligence Service were commissioned by the A&S Sub-Group to produce an initial scoping report looking at young people supported by Bristol YOT through the out of court and court process. In November 2019, a draft report highlighted some immediate areas of disproportionality, the most distinct, showing that young BAME people go through the court system at a much higher rate than Out Of Court Disposal (OOC) compared to young white people.



**Youth Justice Task & Finish Group**

Building on both the local Exclusion and the emerging YOT OOC data sets, the Youth Justice Task and Finish group, will explore further ‘Up River’ to discover where, if at all, disproportionality exists in decision making in A&S, from school exclusions and youth deferred prosecutions all the way through to release from custody and re-offending rates for BAME young people. Youth Justice covers a broad area therefore the Youth Justice Task and Finish group, will examine several initial themes.

- **Exclusions and the link to entry into A&S CJS for BAME young people**
- **Deferred Youth Prosecutions - ‘The Call In, the Safer Options ‘Weapons in School’ Pilots as well as YOTs OOC panel.**
- **Impact of ‘Referral Order guidance’ and what has been learned from the trial of disproportionality toolkit in A&S**
- **Recruitment, retention and development of BAME YOT staff and volunteers**
- **Recruitment and development of BAME magistrates in Youth courts.**

## PRISONS

Use of force (UOF), Incentive and Earned Privileges (IEP) access to meaningful activities and the complaints processes have consistently been areas of disproportionality for BAME people in prisons. In October 2019 a new streamlined reporting process for monitoring offender data was brought on line in A&S. Data on disproportionality in offender outcomes can now be explored using the Equalities Monitoring Tool (EMT) available internally in HMPPS. The EMT provides reporting by ethnicity against IEP, complaints & adjudications, segregation, Kitchen staff and gym access for example.

### Use of force

Figures for Bristol Prisons UOF in September 2019 show an increase in UOF for the BAME prisoners. 35% of prisoners in HMP Bristol define as BAME, yet 79% of all prisoners who had force used against them were BAME, whilst only making up 29% of adjudications.

### Incentive and Earned Privileges (IEP)

All prisons should have established a forum which involves both BAME and White prisoners and staff, using the principles of procedural justice to improve the trust and confidence among the men and women in the IEP system. Internal assurance mechanisms have been established to track the implementation and effectiveness of the forums and data on IEP levels and proportionality will be monitored through the Equalities Monitoring Tool.

### Complaints

A revised Prisoner Complaints Framework and guidance template for the operational delivery of an effective prisoner complaints process is in place as of October 2019. Work is continuing to make the process for Discrimination Incident Report Forms (DIRFs) more accessible and transparent, to build trust amongst prisoners and reduce high dismissal rates. Both revised processes will embed a problem-solving approach into both the submission and response stages of complaints as well as reinforcing that ‘balance of probabilities’ is the standard of proof for investigating complaints.

### Maturity Screening Tool

A maturity screening tool has been developed using ten of the Offender Assessment System (OASys) items to help prisons determine how many young adults in their care are likely to require services or interventions to promote maturity. This is now automatically applied for young men aged 18-25 who have a layer 3 OASys assessment, but a stand-alone version of the tool is also now available.

(The Offender Assessment System is used in England and Wales by Her Majesty's Prison Service and the National Probation to measure the risks and needs of criminal offenders under their supervision). Locally HMPPS have sought to use the maturity Screening Tool as part of the early days in custody/induction work. These plans are still developing and HMP Bristol is hopeful that we will be able to have something in place by the end of the year.

### Recruitment, Retention and development of BAME staff

HMPPS have committed to a target of 14% of all staff recruited being from a BAME background by December 2020 and are tailoring recruitment campaigns to focus on attracting increased numbers of BAME candidates amongst new recruits

and will ensure appropriate focus on race and other protected characteristics through all recruitment processes. Prison Officer and OSG Recruitment campaigns are run nationally, however MoJ External Comms have been working with HMP Bristol to market a more diverse workforce. In September 2019 73% of our workforce had completed their staff declaration in reference to Ethnicity, a 24% increase.

### Prisons Task & Finish Group

Along with HMPSS A&S representatives, the Task and Finish group will identify areas where decision making and use of discretion apply, and look if any disparities exist in outcomes for BAME people within A&S prisons. Initial themes will include:

- External prison scrutiny panels- UOF/IEP/Complaints
- Analysis of 1st quarter of local EMT hub data analysis – January 2020
- Recruitment, retention and development of BAME staff and volunteers
- Introduction of monitoring Frame work

Prisoner Outcomes National Annual data from Annual Offender Equalities Report and summary of Q4 (December – March 2019)

Population					
National average of BAME prisoner population = 27.07% (National average of White prisoner population = 72.93%)					
Complaints Raised					
National average of complaints for BAME prisoners = 32.28% (National average of complaints Raised by White prisoners = 67.72%)					
Highest proportion of BAME complaints in comparison to population			Lowest proportion of BAME complaints in comparison to population		
	Comp	Pop		Comp	Pop
Avon & Sth	28.62%	20.47%	N Mids	22.51%	27.02%
Sth Cen	34.35%	26.74%	IRC	45.18%	49.27%

## JUDICIARY

The government’s judicial diversity statistics were published in July 2019 showing the representation of BAME office holders in the courts, tribunals and magistracy across the UK, as of April 2019. BAME people made up 7% of Court Judges, 11% of Tribunal Judges, 17% Tribunal members and 12% of Magistrates. Locally great strides have been taken with 33% of the latest intake of A&S Magistrates coming from BAME backgrounds. However, there is concern over the number of BAME magistrates sitting on the youth court circuit in A&S.

### Representation

The Pre-Application Judicial Education (PAJE) programme was launched in April 2019. The programme is aimed at supporting lawyers who are eligible for judicial roles from under-represented groups including BAME lawyers.

### The Sentencing Council Surveys

Between 1 October 2010 and 31 March 2015 the Sentencing Council conducted a data collection exercise called the Crown Court Sentencing Survey. The paper-based survey was completed by the sentencing judge passing sentence in the Crown Court. It collected information on the factors taken into account by the judge in working out the appropriate sentence for an offender and the final sentence given. Unfortunately data on ethnicity was not collected, therefore The Sub-Group is exploring with the MOJ, Cabinet Office Race Disparity Unit, and the Recorder of Bristol Peter Blair QC, the logistics of producing a new sentencing survey that will collect data on outcomes including ethnicity.

### Judicial Task & Finish Group

- Work with MOJ and Peter Blair QC to agree process to collect sentencing data from A&S crown Courts including ethnicity outcome data
- Recruitment, Retention and Development of Courts, Tribunals and Magistracy staff and volunteers

Avon and Somerset Lammy Sub-Group	South Gloucestershire Council	Avon and Somerset Constabulary Black Police Association (BPA)
Avon and Somerset Constabulary	YOTS (BCC, BANES, South Glos., Somerset, North Somerset)	Golden Key
Office of the Police and Crime Commissioner	Youth Justice Board	Crown Prosecution Service
Avon & Somerset Criminal Justice Board	Strategic Independent Advisory Group	Commission on Race Equality
Bristol City Council	HM Prison and Probation Service	SARI
Bath and North East Somerset Council	HMP Bristol	<b>A&amp;S Lammy Sub-Group Project Team:</b> Chair of the A&S Lammy Sub Group, Priority Theme Leads
North Somerset Council	HMP Leyhill	Avon and Somerset Constabulary: Business Analyst and Improvement and Assurance Officer and Planning and Delivery Coordinator.
Somerset Council	HMP Eastwood Park	

**A thank you to all the contributors to the Task and Finish Group sessions and workshops in 2020/21 across the 6 theme areas.**

<b>A&amp;S</b>	Avon and Somerset
<b>BAME</b>	Black Asian and Minority Ethnic
<b>CHAT</b>	Comprehensive Health Assessment Tool
<b>CJS</b>	Criminal Justice System
<b>CPS</b>	Crown Prosecution Service
<b>CRCs</b>	Community Rehabilitation Companies
<b>DFE</b>	Department for Education
<b>DIRF</b>	Discrimination Information Report Form
<b>DWP</b>	Department for Work and Pensions
<b>EMT</b>	Equalities Monitoring Tool
<b>GRT</b>	Gypsy, Roma and Traveller
<b>HMCTS</b>	Her Majesty's Courts and Tribunals Service
<b>HMPPS</b>	Her Majesty's Prison and Probation Service
<b>HMRC</b>	Her Majesty's Revenues and Customs
<b>ICO</b>	Information Commissioner's Office
<b>IEP</b>	Incentives and Earned Privileges; an internal prison policy for incentivising behaviour
<b>JAC</b>	Judicial Appointments Committee
<b>JDF</b>	Judicial Diversity Forum
<b>LAA</b>	Legal Aid Agency
<b>MOJ</b>	Ministry of Justice
<b>MOPAC</b>	Mayor's Office for Policing and Crime
<b>MQPL</b>	Measuring the Quality of Prison Life
<b>NHS</b>	National Health Service
<b>OASys</b>	Offender Assessment System
<b>PAJE</b>	Pre-application Judicial Education programme
<b>PCC</b>	Police and Crime Commissioner
<b>RDA</b>	Race Disparity Audit
<b>RRI</b>	Relative Rate Index
<b>SRA</b>	Solicitors Regulation Authority
<b>YOT/YOS</b>	Youth Offending Team/Youth Offending Service
<b>YJB</b>	Youth Justice Board



APPENDIX YOUTH JUSTICE A: DEFINITIONS

TYPES OF SCHOOLS<sup>154</sup>

**Community schools**, local authority maintained schools not influenced by business or religious groups and follow the national curriculum.

**Foundation schools and voluntary schools**, are funded by the local authority but have more freedom to change the way they do things - sometimes they are supported by representatives from religious groups.

**Academies and free schools**, are run by not-for-profit academy trusts, are independent from the local authority - they have more freedom to change how they run things and can follow a different curriculum.

**Grammar schools**, which can be run by the local authority, a foundation body or an academy trust - they select their pupils based on academic ability and there is a test to get in.

SCHOOL DISCIPLINE AND EXCLUSIONS<sup>155</sup>

Head teachers can exclude a child if they misbehave in or outside school. There are 2 types of exclusion - fixed period (suspended) and permanent (expelled).

• **Fixed period exclusion** is where a child is temporarily removed from school. If the fixed period is within 5 days schools should set and mark work. If the exclusion is longer than 5 school days, the school must arrange suitable full-time education from the sixth school day, such as a pupil referral unit<sup>156</sup>. Children can only be receive fixed term exclusions up to 45 school days in one school year, even if they've changed school.

• **Permanent exclusion** means a child is expelled. The local authority must arrange full-time education from the sixth school day.<sup>157</sup>

Grounds for Exclusion<sup>158</sup>

A pupil must only be excluded on disciplinary grounds. The decision to exclude must be: lawful; rational; reasonable; fair and proportionate. A decision to exclude a pupil **permanently** should only be taken **“in response to a serious breach or persistent breaches of the school’s behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.”**<sup>159</sup>

Under the Equality Act 2010 schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason.

Factors to be considered before an exclusion:

- Pupils should be given an opportunity to present their case before a decision is made.
- Section 18 of the DFE Statutory Guidance of Exclusions identifies that **“head teachers should take account of any contributing factors identified after an incident of poor behaviour has occurred - for example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying.”**

• Section 19 highlights early intervention should be used to address underlying causes of disruptive behaviour. This should include:

- an assessment of whether appropriate support is in place to support any special educational needs or disability that a pupil may have;
- the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour.

Alternative Options to an exclusion:

Directing pupils off-site for education: Maintained schools have the power to direct a pupil off-site for education, to improve his or her behaviour (see section 29(3) Education Act 2002 and the Education (Educational Provision for Improving Behaviour) (Amendment) Regulations 2012). If the school decides to use this power, they must:

- ensure that parents are given clear information about the placement - why, when, where, and how it will be reviewed;
- keep the placement under review and involve parents in the review;
- have regard to guidance from the Secretary of State on the use of this power.

Managed Moves: A pupil can also be transferred to another school as part of a ‘managed move’. This is to allow the pupil to have a fresh start in a new school and is an alternative to an exclusion. Managed moves are voluntary - they must only be arranged with the consent of the parties involved, including the parents.

OOCD (A)








College of Policing: Charging and Out of Court Disposals: A National Strategy (2017-2021)

Strategic Vision:

Charging and Out of Court Disposals to achieve criminal justice outcome decisions that:

- Involve victim engagement
- Are fair and proportionate to the criminality involved
- Are consistent across all police forces
- Are simplified for the public and practitioners
- Are designed to reduce further offending
- Allow officers discretion within national standards

Strategic Aims:

	Victims are at the heart of decision making, are listened to and understood, are informed of action taken and their views are recorded.
	Out of court disposals have conditions attached to them which seek to address underlying offending behaviour through rehabilitative conditions and/or enable swift reparation to victims and communities.
	Systems are simple, streamlined and make the best use of technology.
	Decisions are made and obtained in a timely manner.
	Decisions are transparent, and involve independent and public scrutiny.
	Innovation is encouraged to reduce harm caused by re-offending.
	An evidence base is developed and maintained to assess what works and this is easily accessible to all parts of the Criminal Justice System.

<sup>154</sup> <https://www.gov.uk/types-of-school>

<sup>155</sup> <https://www.gov.uk/school-discipline-exclusions/exclusions>

<sup>156</sup> Pupil Referral Unit: PRUs are a type of school that caters for children who aren't able to attend a mainstream school for pupils requiring greater care and support than their school can provide.

<sup>157</sup> <https://childlawadvice.org.uk/information-pages/school-exclusion/>

<sup>158</sup> <https://childlawadvice.org.uk/information-pages/school-exclusion/>

<sup>159</sup> DFE Statutory Guidance of Exclusion from maintained schools, academies and pupil referral units in England September 2017. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/921405/20170831\\_Exclusion\\_Stat\\_guidance\\_Web\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921405/20170831_Exclusion_Stat_guidance_Web_version.pdf)

<sup>32</sup> 19 Pace Code A 2015

<sup>33</sup> College of Policing: Searching for Cannabis: [https://whatworks.college.police.uk/Research/Documents/Stop\\_and\\_search\\_cannabis\\_Final\\_report.pdf](https://whatworks.college.police.uk/Research/Documents/Stop_and_search_cannabis_Final_report.pdf)

<sup>34</sup> PEEL: Police Legitimacy 2017: [peel-police-legitimacy-2017-1.pdf](https://www.peel.police.uk/legitimacy-2017-1.pdf) (justiceinspectorates.gov.uk)

## OOCD (B)

Figure 1 shows the factors to be considered for all offences, but there are also factors specific to offences relating to Domestic Abuse, Hate Crime and Traffic Offences. The resulting score is then considered against the Final Score and corresponding Action table in Figure 2 which directs the police officer or ASCEND worker to an outcome for consideration.

Aggravating Factors (+)	Mitigating Factors (-)
Conviction is likely to result in significant sentence	Conviction is likely to result in unusually small or nominal penalty.
Weapon used or violence threatened during commission of offence.	Prosecution is likely to have detrimental effect on victim's physical or mental health.
Offence against public servant (e.g. police, nurse, council employee, etc.).	Offender supplied information which reduced risk, loss or harm to others.
Offender abused a position of trust - e.g. carer, employee etc.	Offender was influenced by others more criminally sophisticated.
Offender was ringleader / organizer.	Genuine mistake or misunderstanding.
Evidence of premeditation.	Vulnerability of the offender.
Offender was part of an Organised team or offence was committed by a group.	Provocation from victim or victim's group and offender reacted impulsively.
Victim was vulnerable, deliberately put in considerable fear or suffered personal attack, damage, disturbance, or domestic abuse.	The offence is minor.
Victim was targeted because of their vulnerability.	Offender is or was at time of offence suffering from significant mental or physical ill-health and offence is not likely to be repeated.
There are grounds for believing the offence is likely to be repeated or continued - e.g. by a history of recurring conduct.	The offence is unlikely to recur or the offender is unlikely to re-offend, Referral options available for the offender to be diverted at an early opportunity.
Evidence of exploitation.	The offence is so old that the relevance of any response is minimised.
The offence, though minor, is an issue for the local; area and is supported by an impact Statement.	The offender wants to engage in the Restorative/Rehabilitative process.
Directed, influenced or coerced a vulnerable person to commit the offence.	The offender has put right harm or loss caused; has expressed regret; offered reparation or compensation.

Figure 1: General Mitigating and Aggravating Factors for All Offences (NPCC, Charging and Out of Court Disposals - Gravity Matrix Two-Tier Framework. V1 - February 2019)

Score	Action
4	<b>Always Charge</b> A conditional caution would not usually be appropriate for a score of 4 however it could be considered in exceptional circumstances relating to the offence, the offender or the victim where it can be justified (see notes below).
3	<b>Normally Charge</b> • Consider a conditional caution if the circumstances fit and you as the decision maker can justify this (see notes below).  • A community resolution would rarely be suitable, but could be applied if the decision maker can fully justify this outcome.
2	<b>Normally Conditional Caution</b> (consider charge if justified or community resolution if appropriate).
1	<b>Community Resolution</b> (consider conditional caution if justified).

**Notes:**

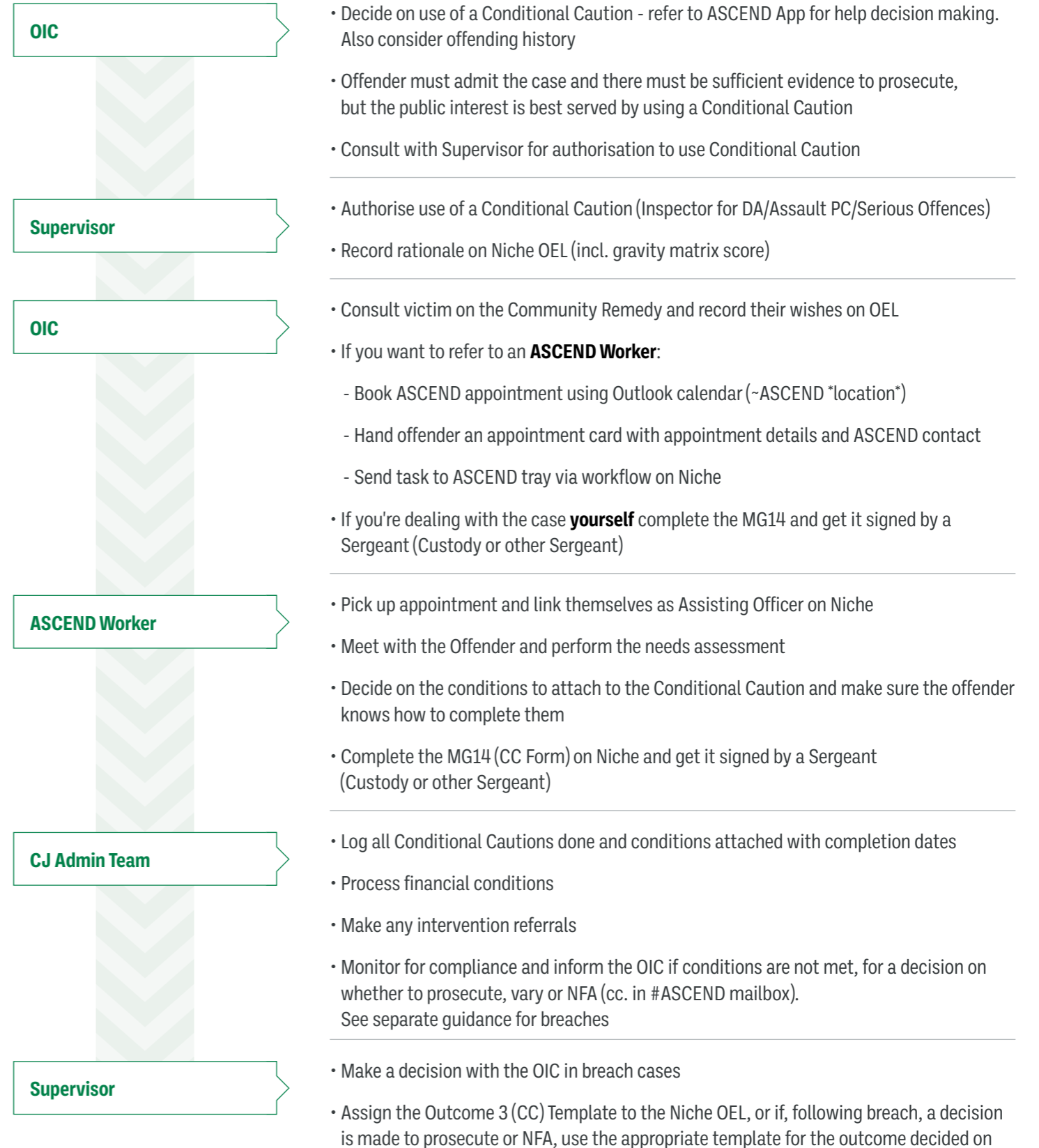
Conditional Cautions:

- If the offence is indictable only (IO) it requires CPS advice
- If it is one of the offences deemed exceptional circumstances in Annex A of the Director's Guidance on Adult Conditional Cautions it requires an Inspectors authority)

Figure 2: Outcome Score and Actions (NPCC, Charging and Out of Court Disposals - Gravity Matrix Two-Tier Framework. V1 - February 2019).

## OOCD (C)

### How to do a Conditional Caution at Avon and Somerset Constabulary.



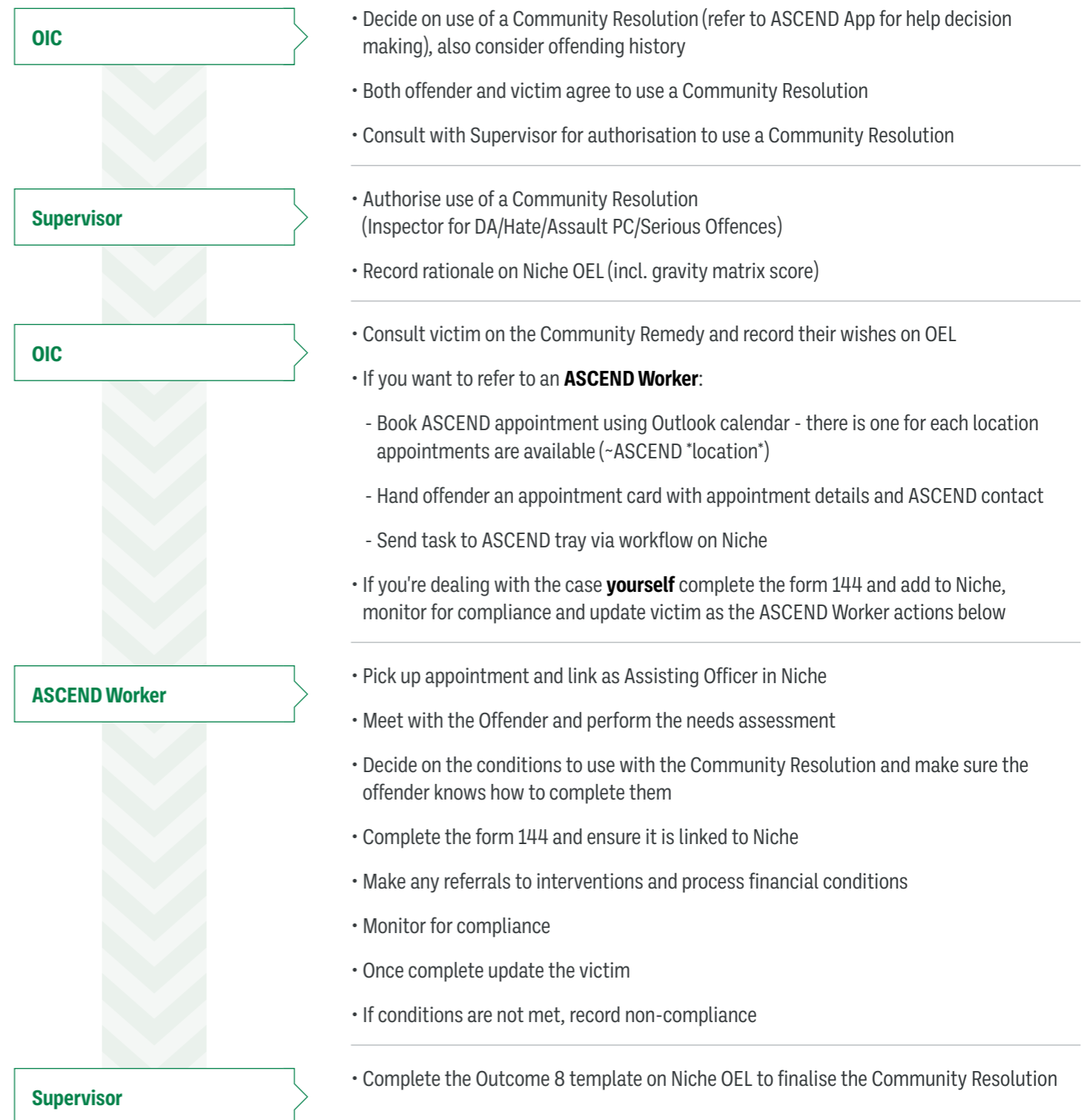
## OOCD (D)

### Available Conditions for Conditional Cautions

Condition	Description	Cost
<b>Victim Awareness Course</b>	A 3 hour, group based intervention which works on the suspect understanding the effects their behaviour has on the victim. Run by Victim Support charity and is a choice and consequences style course. Intended for Shoplifting, criminal damage, assault, public order and other low level offences.	<b>Offender pays £75</b>
<b>Drug awareness</b>	A 3 hour, group based intervention. Run by druglink and deals with suspects who have committed the offence whilst under the influence of drugs.	<b>Offender pays £65</b>
<b>Alcohol awareness</b>	A 3 hour, group based intervention Run by druglink and deals with suspects who have committed the offence whilst under the influence of alcohol.	<b>Offender pays £65</b>
<b>Keep It Calm (KIC) Facilitated by Rise</b>	A 4 hour, group based intervention Anger Management Course, dealing with suspects who have displayed anger issues and it looks to help manage and control their anger.	<b>Offender pays £85</b>
<b>Consider Course - Facilitated by Rise</b>	A 4 hour, group based intervention intended to address unwanted sexualised behaviour. "Low level" sexual assault, harassment and malicious communications offences that are sexually motivated.	<b>Offender pays £85</b>
<b>A.C.T - Always Choose To Tell - Facilitated by Rise</b>	A one-to-one delivery with the assistance of a workbook provided in advance for those that fail to notify, in breach of their notification requirements. Suitable for men and Women, facilitated via Zoom.	<b>Offender pays £110</b>
<b>CARA (Cautioning And Relationship Abuse)</b>	Two interventions staged approx. 4 weeks apart to address the behaviours attributed to DA and the specific offence Low level intimate partner domestic abuse, mandatory condition - <u>men only</u> .	<b>Free - Commissioned Service</b>
<b>Project SHE</b>	1:1 support from a designated SHE worker for Women only - Mandatory condition for female DA perpetrators. A holistic approach designed to tackle the cause of offending and can also be used for other offences where offending is linked to social issues such as drugs, sex work, alcohol abuse and accommodation issues.	<b>Free - Commissioned Service</b>
<b>Hate Crime (Launched 1 July 2021)</b>	Designed to deal with lower level hate crime offences, but the suspect has to admit the offence and show genuine remorse. Victim focussed: as victims for Hate Crime offences are reluctant to go to court.  A&S are one of only 3 forces nationally to have this intervention.	<b>Free - Commissioned Service</b>
<b>Assault on Emergency Workers (launching 2021)</b>	This is the first to be created nationally and will deal with low level assaults on Police Staff and Officers, as well as Fire, Ambulance and NHS staff etc.	<b>Free - Commissioned Service</b>

## OOCD (E)

### How to do a Community Resolution



**APPENDIX HR A:**

HR life-cycle data request to CJS partners:

<b>TIME PERIOD (By Financial Year):</b>	2017/18, 2018/19, 2019/20
<b>EMPLOYEE CYCLE</b>	
<b>Attract:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of those that apply for roles</li> </ul>
<b>Recruit:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of those that pass each of the different stages of your recruitment (e.g. Sift, assessment, vetting)</li> <li>• Breakdown by ethnicity of those that are successfully appointed</li> <li>• Breakdown by ethnicity of those that apply for graduate schemes (if applicable)</li> <li>• Breakdown by ethnicity of those that are successfully appointed to a graduate scheme (if applicable)</li> <li>• Breakdown by ethnicity of those that apply for apprentice schemes (if applicable)</li> <li>• Breakdown by ethnicity of those that are successfully appointed to an apprentice scheme (if applicable)</li> </ul>
<b>Development:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of those that apply for Positive Action / Talent /Future Leader schemes</li> <li>• Breakdown by ethnicity of those that are successfully enrolled for one of the above schemes</li> <li>• Breakdown by ethnicity of those that complete the above schemes</li> </ul>
<b>Promotion:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of those who applied for a promotion</li> <li>• Breakdown by ethnicity those who were successful in obtaining the promotion</li> <li>• Breakdown by ethnicity those who receive a Managed Appointment (i.e. are appointed into a higher role, rather than applying for one) - (if applicable)</li> </ul>
<b>Reward/Recognition:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of bonus schemes (e.g. performance related discretionary bonus)</li> <li>• or any other formal incentive scheme or retention scheme (pay adjustment)</li> </ul>
<b>Grievance/ disciplinary/ conduct:</b>	<ul style="list-style-type: none"> <li>• Breakdown by ethnicity of those who are required to formally attend a grievance/ disciplinary/conduct meeting</li> </ul>
<b>Exit:</b>	<ul style="list-style-type: none"> <li>• Number of leavers by ethnicity and reason for leaving (if available)</li> </ul>
<b>OTHER</b>	<ul style="list-style-type: none"> <li>• Length of time to recruit</li> </ul>

**APPENDIX HR B:**

**AVON AND SOMERSET CONSTABULARY DIVERSITY ACTION AND INITIATIVES**

**Representative Workforce Team (RWT)**

Aims of RWT

- Encourage people from all backgrounds to consider a career with the Police
- Ensure police processes do not unfairly disadvantage anyone, and
- Build a working environment that includes everyone and that encourages all staff to develop and make progress.

Key activity since 2017:

- Supporting Police Now Graduate Leadership programme at national level.
- Delivery of Police Service employability workshop to every FE/HE establishment in A&S offering a ‘blue light’ course
- Design of a wide-reaching and co-ordinated programme of work to support outreach activities, such as Recruitment Discovery Workshops, Police Officer Pre-Application Workshops, Police Officer Pre-SEARCH Assessment Centre Workshops, and PCSO Pre-Application Workshops.
- Supporting and signposting potential applicants to participate in the ‘Ride-along Scheme’.
- Development of the role of Diversity Champion in September 2017 offering 1-2-1 mentoring to prepare candidates through application to assessment centre

**ASC Diversity Champions**

There are currently 31 Diversity Champions across ASC in various departments and roles within the Constabulary, offering 1-2-1 mentoring to prepare candidates through application to assessment centre. 57% of the Diversity Champions are male and 43% are female. 27% are from a BAME background and 7% LGBT+.

Since 2018:

In response to feedback from community groups and candidates, ASC reviewed their current police officer recruitment process. As a result they have now removed two of the Online Assessments (e.g. Behavioural Styles Questionnaire and Situational Judgement Test) from this process.

ASC have also changed their SEARCH Assessment Centre Pass Mark, from 60%, bringing this in line with the National College of Policing pass mark, of 50%. As a result of these changes, the end to end length of the recruitment process has reduced.

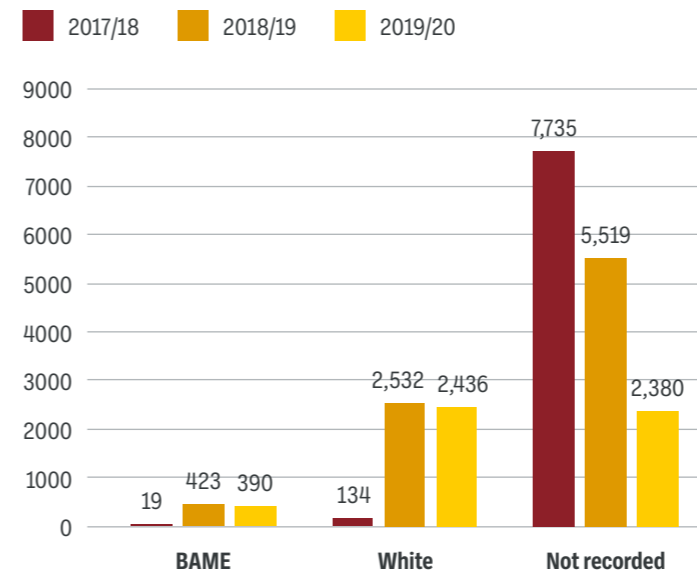
**Five Big Ideas: ASC Diversity and Inclusion Framework**

<b>1</b>	<p><b>External Accreditation for Diversity and Inclusion:</b> Working with partners who provide external accreditation in relation to diversity and inclusion looking at the whole organisation in terms of policies, processes, people and how to improve.</p>
<b>2</b>	<p><b>Three tier approach to embedding D&amp;I constabulary wide through learning:</b></p> <ul style="list-style-type: none"> <li>• <b>Tier-1:</b> Leaders and Senior Leaders,</li> <li>• <b>Tier-2:</b> Joint commissioning of training and learning intervention for operational police staff, PC &amp; Sgts</li> <li>• <b>Tier-3:</b> Police Degree Apprenticeship Programme to attract and retain candidates from diverse backgrounds to join the Police Degree Apprenticeship Programme.</li> </ul>
<b>3</b>	<p><b>Strengthening capability to attract diverse talent into the constabulary:</b> Recruitment of Diverse Workforce Outreach Workers to support and enhance this work further.</p>
<b>4</b>	<p><b>Recruiting for difference:</b> Ensure that recruitment teams and managers are trained to understand best practice regarding ensuring a sound methodology and approach to changing how staff think and act in the recruitment processes.</p>
<b>5</b>	<p><b>Mobilising the whole workforce:</b> Work with expert partners in behavioural change and communications, to build a communications and engagement plan that creates understanding and allows people to become involved in creating an inclusive workforce. Investment to support and build stronger staff support networks to build trust internally and to demonstrate externally ASC are committed to hearing the voices of those who work for the Constabulary and engaging with them in a meaningful way.</p>

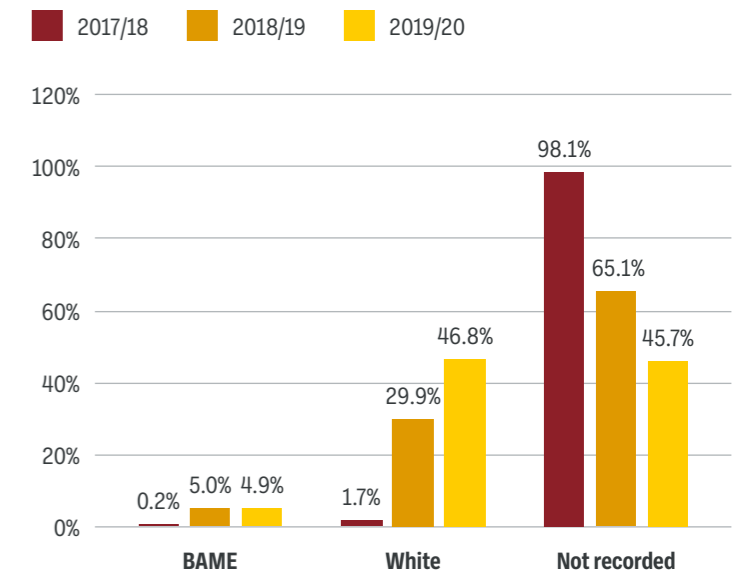
**APPENDIX HR C:**

**NATIONAL PRISON DATA: NEW JOINER DATA 2017-2020**

**New Joiner Volumes - National Data 2017-20**

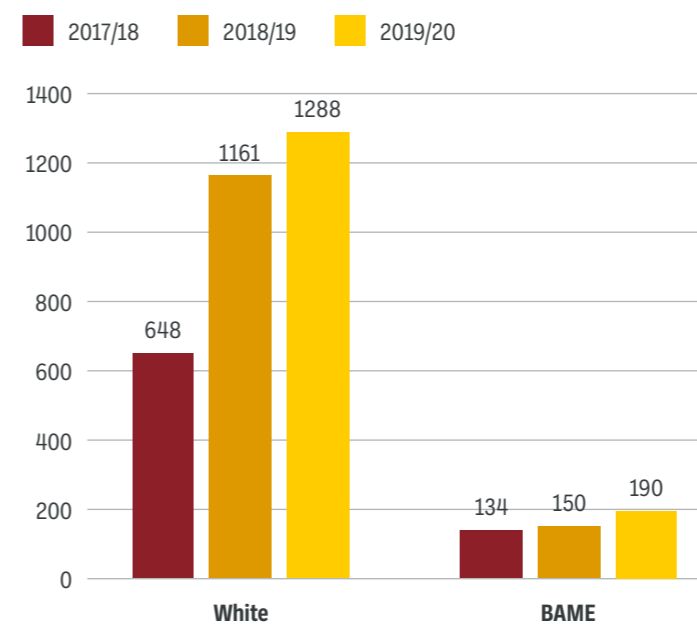


**New Joiner Percentages - National Data 2017-20**

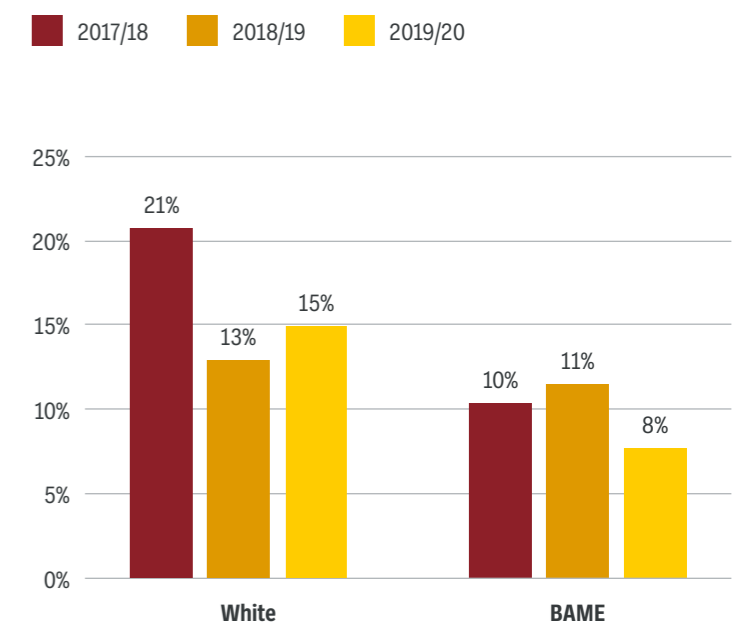


**NATIONAL PRISON DATA: GRADUATE DATA 2017-2020**

**Volume of Applicants to the Graduate Scheme**

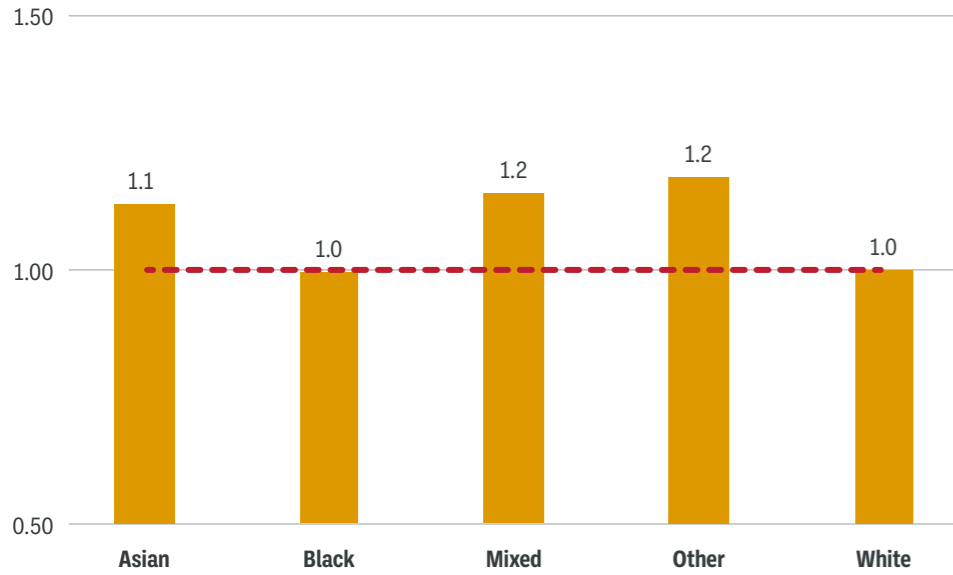


**Percentage of Applicants Offered a Position**



**NATIONAL PRISON DATA: LEAVER DATA 2017-2020**

RRI of Leaver Rates for Prison Staff (2017-2020) National Data



The Chart, to the left, compares the combined number of leavers as a proportion of the 'staff in post' from 2017 to 2020 for each ethnic group compared to the White group.

**DIVERSITY ACTIONS AND INITIATIVES**

Key Activity: Lammy Implementation Project

- **Recommendation 22** - Improved staff and offender ethnicity data.
- **Recommendation 28** - 14% Ethnicity recruitment target achieved in 2019.
- **Recommendation 29** - Six new SCS BAME members of staff appointed.

Equality Strategy Priorities Project

- **Service Delivery 2** - All Learning and Development packages have been assessed for D&I compliance
- **Service Delivery 4** - All Interventions have been assessed for D&I compliance
- **Staff Priority 1** - Staff protected characteristics declaration rates have improved from 50% in 2017 to 80% in 2020.
- Debiasing decision making
- Pre-sentence and Parole Report writing
- HMPPS Job Descriptions and SPDR Equality Related Objectives

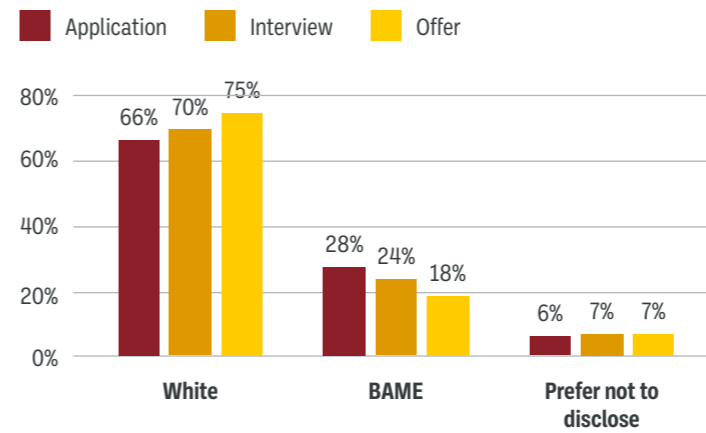
The outcomes of this activity will enable greater long-term benefits for HMPPS e.g. better-quality ethnicity data and the ability to drill down to more granular levels, providing a clearer picture of where action on racial disparity needs to be addressed. The Maturity Tool and the Choices & Changes Resource Pack will improve the identification of young adult offenders with low levels of maturity so that the right interventions are chosen to help their rehabilitation. Access to more accurate offender health data will enable HMPPS to improve the management of physical and/or mental health of those in their care.

The Lammy implementation project was dissolved in June 2021 - with the launch of the Race Action Programme which will take forward recommendations that have not been transitioned to Business As Usual.

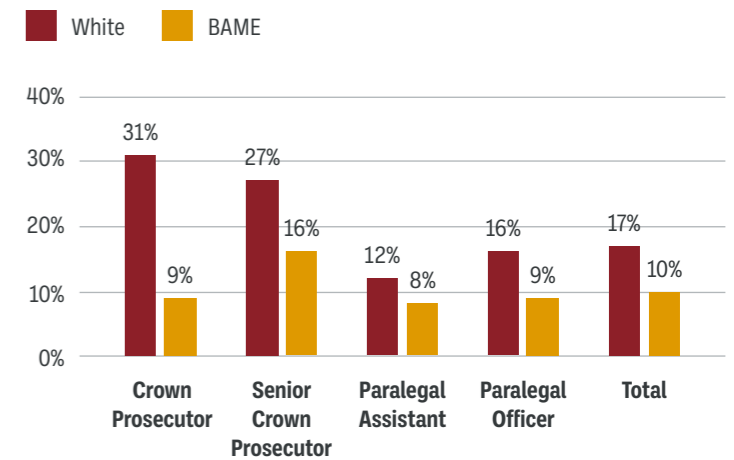
**APPENDIX HR D:**

**RECRUITMENT**

Percentage of New Joiners by Application Stage (2019/20)

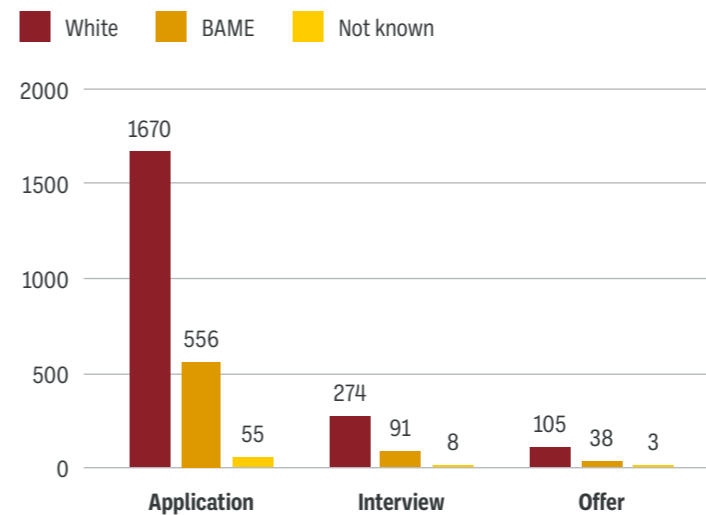


Percentage of Applicants Offered a Position - CPS National Data (2019/20)

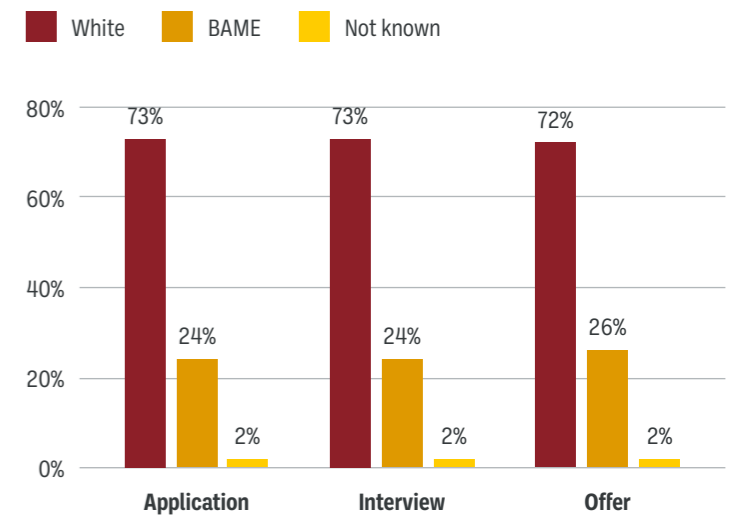


**Apprenticeship Data**

Number of Applicants to the National CPS Apprenticeship Scheme - 2020

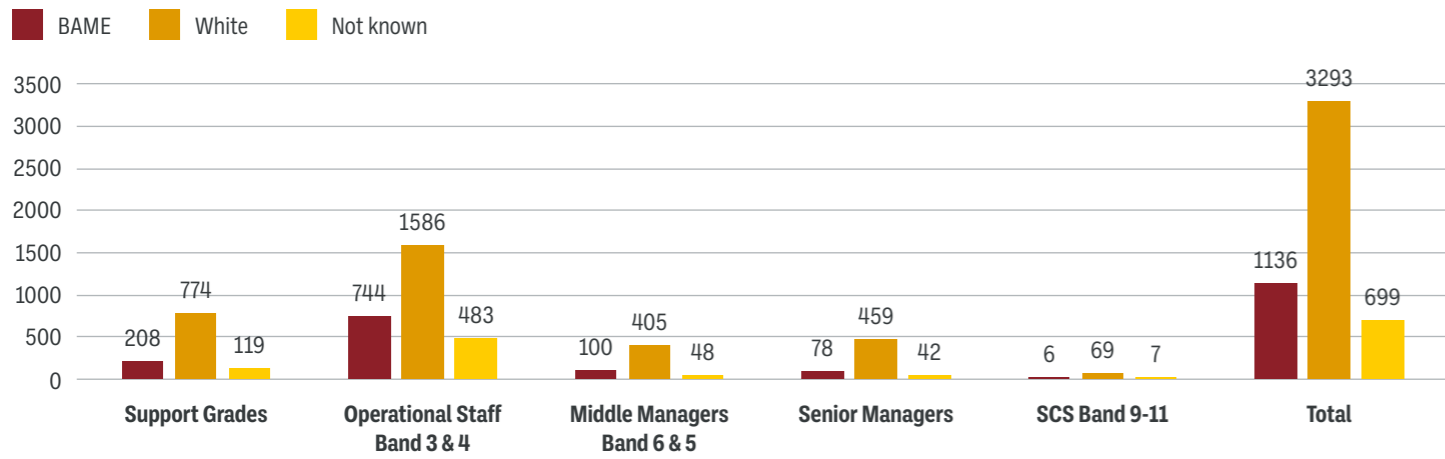


Percentage of Applicants to the National CPS Apprenticeship Scheme - 2020

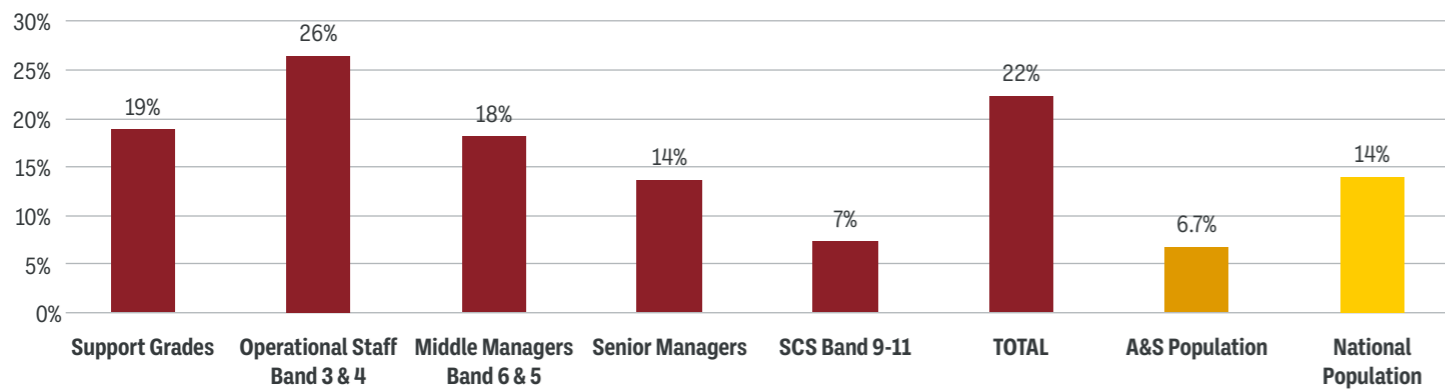


**STAFF IN POST**

Staff in Post Volumes - National CPS Data 2019/20

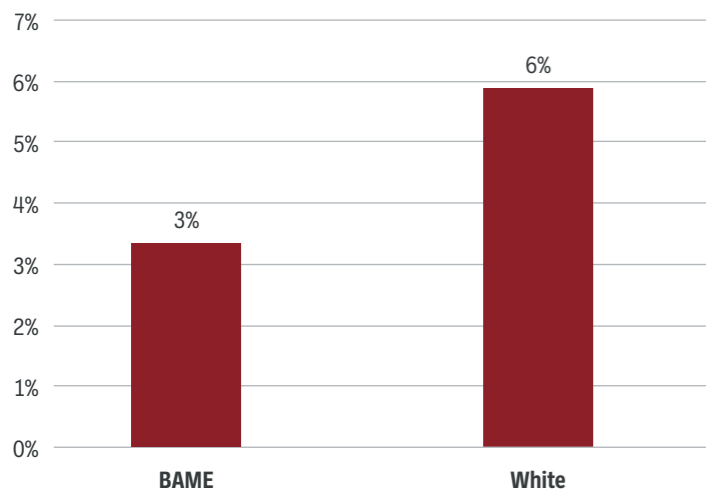


BAME Staff in Post as a % of all Staff in Post - National CPS Data 2019/20

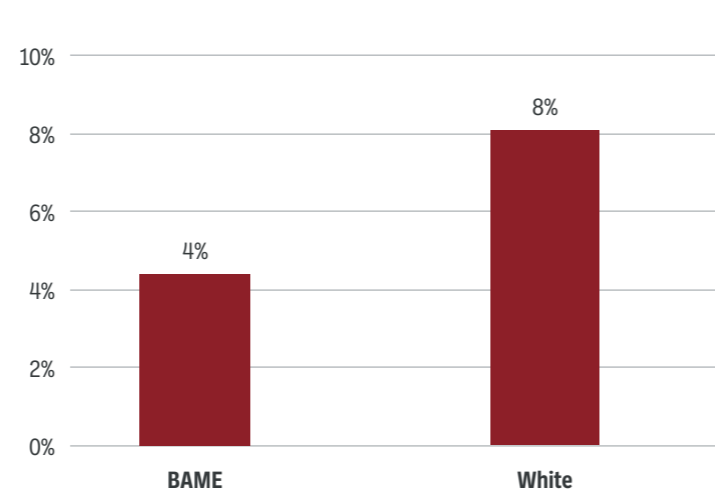


**PROMOTIONS**

% of Internal Promotions as a Proportion of SIP (2019/20) National Data



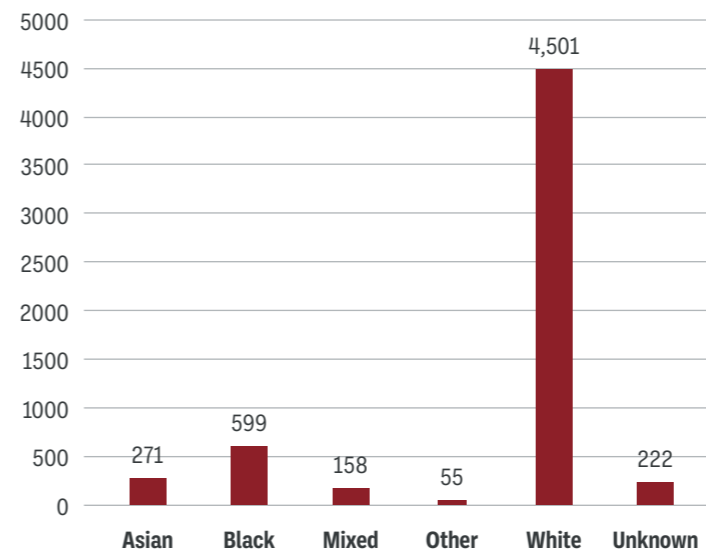
% of Temporary Promotions as a Proportion of SIP (2019/20) National Data



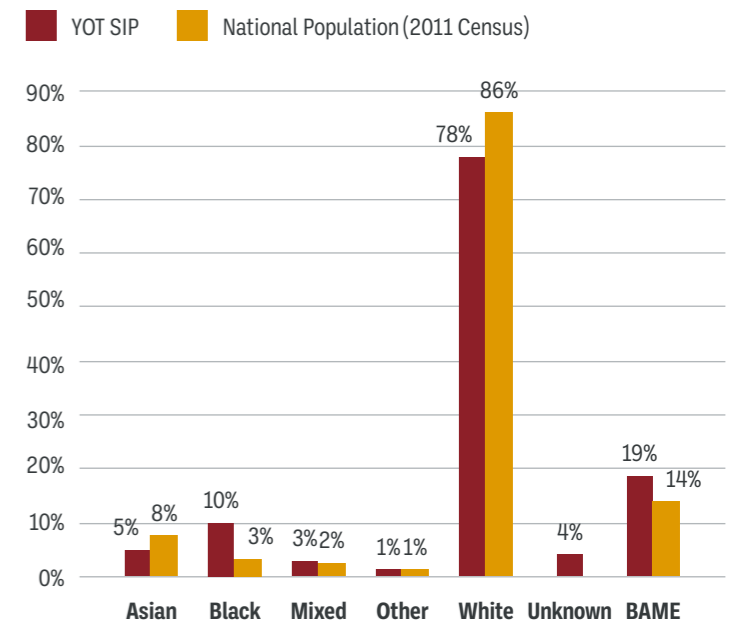
**APPENDIX HR E:**

**YOTS: STAFF IN POST**

Staff in Post Volumes - YOT National Data (2019)



% of Staff in Post: YOT National Data (2019)



Proportion of YOT Staff in each Grade by Ethnicity (2019) National Data







