



**commonweal**  **housing**  
Housing Solutions to Social Injustice

# Justice after release:

**Housing options for Miscarriage of Justice victims,  
A Call to Action**



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**Miscarriages of Justice victims are not only ill served by the justice system but further injustice starts at the point of release: a call to action.**



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This Call to Action is about what happens, or rather does not happen, to support innocent victims of miscarriages of justice once they have been released from prison. It challenges the fairness of our current system, where the state does not recognise or provide the same level of help as that needed by ex-offenders upon their release.

## Background – current systems and issues

The UK justice system is a model of checks and balances. Based on a long legal tradition of individual rights, it also follows the UN and European declarations concerning the processes and rights of a defendant to appeal against conviction.

Nevertheless, as is almost inevitable in any system of justice, mistakes do happen and innocent people are imprisoned – sometimes for many years.

This has devastating consequences for their lives, their families, their physical and mental health, and previous standing in the community. Concerns about these ‘miscarriages of justice’ led the UK to introduce, twenty years ago, a further level of review through a new Criminal Cases Review Commission. The Commission can reopen a case where there are grounds to believe that an injustice has been done, even after the full normal appeal process has been followed. Since it began its work, the Commission has helped to establish the belated innocence of almost 400 people.

What currently happens to these victims on release is a long list of further injustices. While they are very likely to suffer from a range of multiple, long term, and serious problems, they find that statutory and voluntary services do not stand ready to help them re-settle in the community and rebuild their shattered lives.

On the contrary, they are faced with denial of their vulnerability and unique needs, incomprehension about their situation of innocence, and unequal treatment in getting access to the support they both need and are entitled to. They find that the world has moved on, and they are released back into a very unfair and uneven playing field. The injustice is compounded, not mitigated.

12  Number of people who have their convictions quashed each year on average

400  Approximate number of people who's belated innocence has been established since the CCRC began its work

1 The number of services available to miscarriage of justice victims. The only service is the Miscarriage of Justice Support Service, provided by the Royal Courts of Justice CAB, who give advice and advocacy

## Recognition of vulnerability

One area where the importance of this vulnerability and the needs of those who are victims of miscarriages of justice have partly been recognised is in the Government commissioned review of the DWP's Work Capability Assessment. In it the independent reviewer, Prof Malcolm Harrington,<sup>1</sup> set out that miscarriage victims....can display a staggering range of psychiatric disorders: not only may they display enduring personality changes, but they also often have post-traumatic stress disorder, or depression or misuse of drugs, or a combination of these. Released from prison they are often estranged from family, friends and society in general.

The Review was in no doubt that these people did indeed deserve special consideration due to the impact of their wrongful imprisonment. We are seeking to ensure that there is equitable treatment across central and local government for such individuals. Specifically that their undoubted vulnerability, as a direct result of their miscarriage of justice experience, is taken in to consideration should any individual need to seek housing support as a homeless person in accordance with the current regulations reflecting the latest Supreme Court judgements<sup>2</sup> around vulnerability.

### Recommendations - what needs to happen:

- Recognition from multiple agencies that the 12 individuals a year who are released following successful appeal have profound and complex needs which require support.
- Since housing is one of the major factors in resettling these miscarriage victims in society, ensure that the opportunity to access good quality, affordable, appropriate housing is available, if, when and where they need it.
- Give victims an equal chance to get the support and local services they need to start rebuilding their lives.
- Extend the recognition of the vulnerability and real challenges faced by victims of miscarriages of justice which is already given in relation to the DWP's Work Capability Assessment.
- Ensure that a wide range of public, private and voluntary services stand ready to give a fair deal and an informed and understanding service to people whose problems have been caused by wrongful imprisonment.

<sup>1</sup> Professor Malcolm Harrington (2012) An Independent Review of the Work Capability Assessment – year three DWP (WCA Independent Review Team), London.

<sup>2</sup> Supreme Court ruling (2015) UKSC 30 in the cases of Hotak, Kanu and Johnson, May 13, 2015.

## The needs of miscarriage victims

The needs of victims of miscarriages of justice can be needs are complex, require knowledgeable local advocacy, and are not being met by current mainstream public and private service provision – a more tailored response is needed.

1. The first need is to find a bed for the night. They will be released immediately on the judgment being delivered, but no longer have a home to go to. In many cases family relations will have broken down, or will require time and careful management in order to be restored and rebuilt. In any case their home may be anywhere in the UK, and it would be impractical to get them there that day. Furthermore, they may have no money at all other than around £50 discharge grant, the same as a released ex-offender; previous bank accounts may be closed, they will have no current bank cards, no current identity documents, no means to buy food, never mind an expensive last minute train ticket.

Finding appropriate housing in the following months can be equally challenging. Apart from the immediate need, released victims very often need time to think, take stock, to re-establish their previous life or make a new start. This may mean, for example, moving for a trial period to somewhere near where they used to live, and trying to re-unite with their family. Or it may mean that they, and their family, need to move together to a new town, to make a new start. But the decision on what is best may take some time – months or years – to become clear. So there is a need for immediate housing, a temporary and more stable home for a period where they can take stock, and then eventually a permanent solution where a new life can be re-established.

2. The second need is for support within a stable environment, as above, to be able to come to terms with the impact of what has happened to them. There is clear expert medical evidence that in most cases the enduring effects of wrongful imprisonment include persistent and disabling personality changes. These can include a hostile or mistrustful attitude towards the world, social withdrawal, feelings of emptiness or hopelessness, chronic feelings of threat, and estrangement. As medical expert advisor Dr Adrian Grounds states:

“ **Substantial psychiatric morbidity and problems of psychological and social adjustment were evident in most cases. The difficulties of the wrongly convicted and their families were similar to those described in the clinical literature concerning other groups, such as war veterans, who have been exposed to chronic psychological trauma<sup>3</sup>** ”

3. The third need is for support and guidance in surviving in the new world they find themselves in – which will be utterly changed during the four, five, or more years they have been imprisoned. Their job skills will be at best rusty, and at worst obsolete. They will have limited experience of contemporary web based ways to find jobs and services, make and maintain contacts with friends via social media, or indeed claim benefits to which they are entitled online. Their life history will have a big gap for the period of imprisonment, which will raise inevitable concerns and questions from credit agencies, employers, landlords, banks, and other service providers. Their problems, particularly in terms of needing a period to rebuild their lives and deal with the trauma of wrongful imprisonment, are not catered for by a Jobcentre which demands 10 job applications online each week, or a housing department which provides a one offer of immediate accommodation, and little or no chance of moving on to a more appropriate next stage.

<sup>3</sup>Grounds A.T. (2005) Understanding the Effects of Wrongful Imprisonment Crime and Justice, Vol. 32 (2005), pp. 1-58. Dr Grounds is University Senior Lecturer in Forensic Psychiatry, Honorary Consultant Forensic Psychiatrist, Cambridgeshire & Peterborough Mental Health Partnership NHS Trust and Honorary Research Fellow at Darwin College, University of Cambridge.



## Current support available for victims of miscarriages

Faced with the above needs, yet still no specific statutory help is provided. The sole, and invaluable, offer is from the advice services of the Citizens Advice Service based in the Royal Courts of Justice. They have been assisting victims of miscarriage of justice since 1978, and since 2003 they have also provided the Miscarriages of Justice Support Service (MJSS). Of course any citizen can go to a CAB, who provide all kinds of specialist services. And the CAB advocates, but has no control over the delivery of services of the kind desperately needed by these victims.

In contrast, other ex-prisoners receive support from the probation service on release – now focused on rehabilitation and the reduction of future offending. Clearly the (innocent) victims of miscarriages of justice are not ex-offenders, and so don't need services aimed at reducing further offending. Victims almost always want to get as far away as possible from the prison and probation service, and other forms of institutional and penal structures. But from a public policy point of view, **it is a further and compounding injustice that the state does not provide wrongfully imprisoned miscarriage victims with at least the same level of support offered to ex-offenders.**

In terms of housing, local authority homelessness assessment teams may treat ex-prisoners as a priority need if they deem them vulnerable due to having served a custodial sentence, though evidence suggests this seldom happens. They would also need to pass the tests of residence (despite almost certainly being imprisoned far from where their previous home was, or where they may now wish to settle); and intentionality (where some ex-prisoners may be deemed to have contributed to their own homelessness, even if wrongfully imprisoned). In any case, victims may wish (and in our view deserve) to have a choice in where they live, and to have a home which is in good repair, have enough rooms to let children or partners visit where this is appropriate, and not be in a challenging neighbourhood that would compound their difficulties re-integrating to society – and this may not be part of the one offer they receive from a local authority.

It might be suggested that some victims can apply for compensation. This is correct, but the process is long (taking many months or years) and has no guarantee of success (particularly since the 2014 regulatory changes overturning previous and less stringent case law on eligible cases). But more to the point, such compensation comes much too late to address the immediate needs of released victims – which are urgent, continuing, and profound.

## Call to action: recommendations for the future

There are currently around 12 miscarriage of justice victims a year, from across the UK, who are released following successful appeal. A niche but wronged minority who should not be abandoned. To put in place action to give them an equal chance to get the support and local services they need, and to get their lives back, would bring enormous benefit to the victims at minimal cost to the statutory and voluntary services. It would also go a long way to allowing society to restore a fair deal and a just level of support to people whose problems have been caused by wrongful imprisonment. This paper concentrates mainly on what can be done in housing terms, since housing is a key factor in resettling victims in society; and addressing the lack of suitable house for vulnerable groups is the aim of Commonweal Housing.



## What is needed is a range of local support so that:

- **First**, the statutory services recognise and support the special needs of these victims and treat them fairly, equally, with understanding and without prejudice.
- **Second**, the wider voluntary sector does what it is good at, and provides complementary specialist and flexible housing opportunities – recognising that sometimes statutory provision may not actually meet victims' needs.
- **Thirdly**, that opportunities in the private sector should also be made available – private renting is a growing tenure, and there are already models of socially oriented lettings schemes.

The Royal Courts of Justice CAB has recently had its contract renewed. As part of the new contract it has made changes to the way it carries out its invaluable work supporting miscarriage of justice cases in order to enhance the support available to victims. This involves devolving the post-release case work to local CABs in the areas where the released miscarriage victim wishes to settle - temporarily or permanently. This includes RCJ Advice Bureau delivering a central point of support and guidance in London, to conduct the initial needs assessment and respond to emergencies and then link to the local CABs to use their local knowledge and contacts to provide advice and support to the victim. This increased emphasis on local support is important. But the local CABs will need aware, willing, and responsive local partners to work with on this issue.

## We therefore call on the following stakeholders to pledge action:

- **We call on** local authorities to accept their responsibilities towards this client group who are vulnerable and in priority need should they approach them as homeless.
- **We call on** government to strengthen their guidance to local authorities on miscarriage victims' vulnerability.
- **We call on** housing associations to sign up to a national and regional accord pledging to make available a small number of units on an 'as needed' basis, to provide appropriate housing and support to victims needing to settle in areas where they have suitable housing.
- **We call on** private landlords, perhaps through the emerging Private Rented Access schemes, to sign up to a similar accord to make some of their properties available on a priority basis when needed.
- **We call on** various housing aid and advice agencies including Crisis, Homeless Link, Shelter, and the National Association of Citizens Advice Bureau to support our case, and to take forward the drafting of training and guidance material to enable local advisors and advocates to recognise these cases when they arise, and know how to progress them.
- **We call on** the National Housing Federation and the Chartered Institute of Housing to support our campaign, and to press government to actively and publicly commit to the justice and importance of our case.
- **We call on** the Minister of Housing, to whom we are writing, to actively support our case.
- **And we call on** all interested parties to establish a fund, to be administered through the RCJCAB to provide small amounts of essential financial subsidy where this is needed to ensure successful rehousing and re-integration to the community. And to this end we, Commonwealth Housing, pledge matched funding to complement the first £20K which is committed by others.

## Case Study: **Peter's Story**

Peter was 22 when his conviction was quashed. He had served 4 years in prison up until that point.

After his release, Peter faced a range of housing issues but found a complete lack of clear housing advice for his situation and almost no support pathway. This lack of housing advice and support meant Peter experienced frequent moves and constantly had to rebuild new networks with various mainstream services.

As a young single man his vulnerability was not recognised by the local authority, Peter found himself sharing accommodation with people who made his assimilation back into the community difficult.

Commonweal Housing began a pilot project with the Miscarriages of Justice Support Service to provide Peter with accommodation in an area he felt safe in and where his outlook for his future could become more positive.

## Conclusion

**Victims of miscarriages of justice can wait for years for justice in the courts, paying with their freedom for the mistakes of the criminal justice system.**

**They should not have to wait years after their release to get fair and just recognition of their needs and be provided with the support they require.**

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Commonweal worked in partnership with the Miscarriages of Justice Support Service, Royal Courts of Justice CAB on the Pilot project that formed the basis for this report.



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