



CAPTIVE

Covid-19 Action Prisons Project: Tracking Innovation, Valuing Experience

How prisons are responding to Covid-19

Briefing #2

Regimes, reactions to the pandemic, and progression

About the Prison Reform Trust

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. For further information about the Prison Reform Trust, see www.prisonreformtrust.org.uk/

About the Prisoner Policy Network

The Prisoner Policy Network is a network of prisoners, ex-prisoners and supporting organisations. It is hosted by the Prison Reform Trust and will make sure prisoners' experiences are part of prison policy development nationally. Contact ppn@prisonreformtrust.org.uk or call 020 7251 5070 for more information.

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Introduction

Faced in March 2020 with the possibility of many thousands of deaths in prison from Covid-19, ministers took a decision to try to contain the spread of disease without the significant reduction in prisoner numbers that the government's health experts recommended. The fact that so few prisoners and staff have died from Covid-19 since March shows how everyone in prisons has risen to the challenge that decision created. It is not surprising that the outcome so far is hailed as a "success".

But this second briefing from Project CAPPTIVE shows some of the price of that success. It is a price that prisoners have been paying, and will continue to pay for months and years to come.

It is a price paid in the day to day misery of confinement to their cells for 23 hours or more, over a period of five months so far. No-one yet knows what the lasting damage to people's mental and physical health of that unprecedented regime will be. What we do know is that the loss of opportunities for progression and rehabilitation during this period means that prisons have not been delivering one of the core statutory purposes of sentencing. For many prisoners whose release is dependent on a risk assessment, that is likely to mean extra months or years spent in prison for a reason wholly beyond their control.

This briefing also describes some of the journey that relationships in prison have gone through. The early weeks of lockdown are characterised by an outbreak of empathy between prisoners and prison staff. Both prisoners and officers appear in their best light as they collaborate to make the best of a frightening situation. The gratitude from prisoners for kindnesses shown is genuine and near universal.

As time passes, cracks start to show in some places. For some staff, habits of informal punishment and favouritism re-emerge, and the idea that prisons might be better places to work if prisoners are more often "behind their door" gains currency.

So this briefing illustrates the challenge of leadership the prison service now faces. Strong, empathic relationships between prisoners and staff appear to make possible the seemingly impossible. A little kindness goes a long way. But those relationships will not withstand confinement that is excessive or needlessly prolonged. And some staff may simply not be interested in committing to that way of working in the first place.

Insisting on the right attitudes and the right relationships cannot be negotiable, but is not enough in itself. The purposes of prison include working to ensure that the person emerges less likely to reoffend than when they went in; and that depends on opportunities for meaningful activities that develop skills as well as self-esteem. So long as the 'regime' for any prisoner consists of 23 hour days in-cell, the public are being short-changed on their investment in prisons. The prison service has committed to a "rehabilitative culture". Now is the time to double down on that commitment.

Peter Dawson
Director
Prison Reform Trust

CAPPTIVE, a collaborative project by the Prison Reform Trust and our Prisoner Policy Network, aims to describe life in prison under the pandemic.

CAPPTIVE depends on insights from prisoners about their experience. Right now, during the Covid-19 pandemic, when every aspect of prison life has been affected, it is vital that prisoners are heard. Through CAPPTIVE, prisoners' voices have brought to light conditions in prison in the time of Covid-19, including how they spend their time, the impact on relationships, and what has happened to key processes such as release on temporary licence and offending behaviour programmes.

PRT launched CAPPTIVE with an appeal in *Inside Time* and *Converse* – prison newspapers – and National Prison Radio. We asked people to tell us how their prisons were managing under Covid-19. In addition to serving prisoners, we gathered information from families, prison staff, the Independent Monitoring Boards, voluntary sector agencies and social media. We also drew on the short scrutiny visits (SSVs) by HM Inspectorate of Prisons (HMIP).

CAPPTIVE plans a series of briefings to provide timely updates on the experience of living in prison under Covid-19 restrictions. The themes are:

- Families
- Communications
- Regimes
- Progression
- Health
- Innovation.

The first briefing covered families and communication, and is available here:

http://www.prisonreformtrust.org.uk/Portals/0/Documents/CAPPTIVE_families_webfinal.pdf

This second briefing focuses on three themes: Regimes, Reactions and Progression.

1. Background

Preserving life and meeting needs in response to a pandemic

On 24 March 2020, ministers were told by Public Health England that as many as 2,500 to 3,500 prisoners might die as a result of Covid-19 in prisons. They were advised “to move quickly to a significant population reduction enabling single cell accommodation across the prison estate in England.” That would have required a reduction in the prison population of around 12,000.

They chose not to follow that advice. But they did take other radical measures.

In late March, Dr Jo Farrar, Chief Executive of HMPPS, told the Justice Select Committee:

... we have moved today to an exceptional delivery model in prisons.... From today, they [prisoners] will spend more time in their cells, but we will be making sure that people come out for meals, to make phone calls to family or other people that they need to phone, and to have their health attended to and to take showers. We will also be making arrangements for people to exercise in the open air with proper social distancing.¹

The measures taken to prevent the spread of disease involved:

- Minimising contacts among prisoners (closing classrooms, workshops, gyms and libraries in prison)
- Separating prisoners by their health risks (“compartmentalising”)
- Stopping visits and (most) prison transfers.

On 4 April, the government announced an early release scheme for which about 4,000 people then in prison would be eligible, with pregnant women and mothers of young children a particular priority.² But as we discuss in this CAPPTIVE briefing, the early release scheme has led to fewer than 300 releases and has now been suspended.

The failure to make use of early release to help prisons manage the extraordinary challenges they have faced should not detract from the prison service’s wider achievement in preserving lives of people in custody. According to the government’s Covid-19 updates, as of the 7th August, 23 prisoners had died where Covid-19 was the suspected cause.³ At the time of writing, since the end of May there have been no deaths in prison custody due to Covid-19. This offers no consolation for families of prison staff or prisoners who have died from Covid-19, but the evidence strongly suggests that the steps taken by the prison service have prevented many deaths.

¹ House of Commons Justice Committee (2020) Oral evidence: The work of the Lord Chancellor, HC 225, available at <https://committees.parliament.uk/oralevidence/248/pdf/>

² House of Commons Justice Committee (2020) Oral evidence: Coronavirus (Covid-19) Impact on prison, probation and court system, HC 299, available at <https://committees.parliament.uk/oralevidence/283/pdf/>

³ Ministry of Justice (2020) HM Prison and Probation Service COVID-19 Official Statistics: Data to 31 July 2020, London: Ministry of Justice

That success in preserving life has come at a cost, however. The restrictions placed on people living in prison have been exceptional and exceptionally prolonged, even taking into account the restrictions that people throughout the community outside prisons have faced. The medium- and long-term consequences of those restrictions remain unknown.

This CAPPTIVE briefing discusses the regimes in prisons, activities currently provided, how prisoners and prison staff have responded, cultural aspects of the regime, progression, re-categorisation, parole reviews, and release on temporary licence. For this briefing, the CAPPTIVE team drew on evidence submitted by 118 prisoners and 26 families; inspections of 26 prisons; and, in total, information covering 93 prisons.

2. Regimes

- The “quarantine regime”
- Meaningful activities

2.1 The quarantine regime

The “exceptional regime management plan”, introduced in all prisons on 24 March, can be described as follows:

- family and legal visits stopped
- classrooms and workshops closed
- gyms and libraries shut
- association curtailed
- offending behaviour programmes and sentence planning placed on hold
- people confined to cells for 23 hours per day (sometimes more).

What remained were: meals, phone calls, showers (although not necessarily every day), some time in the open air (variable, but rarely more than 30 minutes), and medication and medical care.

The mission statement of the prison service is:

We keep those sentenced to prison in custody, helping them lead law-abiding and useful lives, both while they are in prison and after they are released.

The importance of rehabilitation in helping people to lead law-abiding and useful lives is highlighted in Rule 4 of the Nelson Mandela Rules:

Prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.⁴

The exceptional regime made no pretence that it could deliver this core aspect of the prison service’s mission, nor the rehabilitative purpose of sentencing as set out in statute.

Both international and domestic standards are designed to prevent solitary confinement in all but exceptional circumstances, and prolonged solitary confinement in all circumstances. 23 hours or more in a cell exceeds the 22 hours by which the United Nations defines solitary confinement. The United Nations defines prolonged solitary confinement as lasting 15 days or more.⁵ At the time this briefing was written, prisoners in England and Wales had been confined to their cells for 23 hours or more every day for almost five months.

⁴ United Nations Office on Drugs and Crime (2015) The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules), Vienna: UNODC, available at https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

⁵ Ibid.

The label, “exceptional regime management plan”, does not adequately describe the reality of what life in prison has been like since March. The extent to which any regime lasting five months can be called “exceptional” is questionable, but the term also implies that something close to a normal prison day has been delivered. It plainly has not. The very extended periods in cell have negated one of the key purposes of imprisonment and risked widespread and enduring mental health problems. To mark this distinction, we refer to the 23-hour per day in a cell as the “quarantine regime”.

The quarantine regime has turned prisons into human warehouses, largely devoid of constructive activity. Prior to Covid-19, the prisons inspectorate regularly found prisons that failed to provide the 10 hours out of cell that they expect as a minimum. Indeed, their latest annual report states that almost a quarter of prisoners spent 22 hours or more in their cells on a weekday. HMIP noted, “prisoners spent far too long locked up ... leading to frustration, boredom, greater use of illicit substances and often deteriorating physical and mental health”.⁶ The quarantine regime has extended these effects to virtually the entire prison population.

23 hours per day in a cell for months on end

As late as mid-June, multiple prisoners praised their establishments for responding quickly to the threat of Covid-19:

I think I should start by saying on the whole [this prison has] done well to protect people from the start. We went into lockdown 24/03, the regime was quickly changed to stop movement from wing to wing or prisoners, stop transfers in and out, stop work/gym/visits, etc.

(CAPPTIVE respondent, young male prison, 8 June)

Governor started lockdown before Boris. This is good as no cases of Covid.

(CAPPTIVE respondent, adult male prison, 21 June)

As an inmate who interacts with many people in prison, I can confirm we understand limits must be in place to protect everyone. This experience is new for everyone. So, we are not expecting the prison system to get everything right from the start.

(CAPPTIVE respondent, high security prison, 23 June)

But prisoners writing to us also described extremely long periods of time locked behind their door:

To be honest the main problem for me over the last couple of months is having nothing of any meaning or consequence to do; i.e., the usual feelings experienced in prison but taken to the extreme.

(CAPPTIVE respondent, PPN, adult male prison 6 June)

Currently we are locked up for most of the day apart from the mornings, when we have 20 minutes in the exercise yard and then a further 20 minutes to have a shower and or mop out our cells and associate with others on our floor.

(CAPPTIVE respondent, PPN, adult male prison, 12 June)

⁶ HM Chief Inspector of Prisons (2019) Annual Report 2018–2019, London: HMIP

It can be slightly misleading to think about time out of cell per 24 hours. One family member wrote to PRT's advice and information (A&I) service to explain that the prisoner was regularly let out of their cell at 8am one day and then not until 2pm the following day.

A prisoner described going without exercise for more than 24 hours:

I am allowed exercise every 2 days for 20 minutes and I am only allowed to shower on day 8.
(CAPPTIVE respondent, PPN, women's prison, 9 July)

The lack of activities was also a concern for family members:

Inmates are locked behind doors 23 hours a day and have 1 hour of social interaction where they can go outside or call family/shower; no other stimulation apart from their cell mates; no other methods have been allocated to help prisoners mental health.
(Family member, email to PRT A&I, 6 April)

They need something to get up for every day. Right now they have nothing. No gym, no courses to help them progress.
(Family member, email to PPN, adult male prison, 12 June)

Changes over time

A family member of a prisoner at a local prison suggested that the limited regime there had become more restrictive during April:

The officers are just letting them out for half hr morning or afternoon and in that half hr they have a short amount of time outside and fit a shower in that time as well. In the beginning they were giving them half hr in morning and half hr in afternoon, but they have taken that away now. As you can understand he, among others, are suffering mentally and that's a huge concern.
(Family member, email, PRT A&I, adult male prison, 23 April)

The prisons inspectorate's short scrutiny visits to three women's prisons, published on the 19th May, noted some improvements to the regime over time. At HMP Bronzefield:

... the regime was more limited to start with, though this had recently improved to ensure all prisoners received 30 minutes in the open air each day. In addition, prisoners were unlocked for half an hour to take a shower and use the electronic kiosk to make applications, although this time was reduced where prisoners had in-cell showers.
(HMIP, SSV prisons holding women, 19 May)

Beginning in June, CAPPTIVE heard from some people who were anticipating more time out of cell:

The general population have half hour unlocks for calls, showers and exercise. The regime is being reviewed this week to offer more exercise.
(CAPPTIVE respondent, adult male prison, 4 June)

We received news verbally from an officer today that we have a new regime for exercise increased to 1 hour from Monday.

(CAPPTIVE respondent, women's prison, phone call, 18 July)

Tweets from some prisons seemed to confirm that more time out of cell was being delivered:

We have been able to increase time out of room this week, which has been appreciated by the young people.

(HMYOI Werrington, Twitter, 9 May)

We know time out of cell is really important to our men, so we are pleased to have been able to slightly increase access to showers & exercise this week. We look forward to increasing our regime when it's safe to do so, in line with HMPPS Medium term recovery plan & PHE guidance.

(HMYOI Moorland, Twitter, 12 June)

Today we extended time for the guys outside for exercise by extending landing "family" groups by another 10 men. This means only 4 lots of exercise need facilitating instead of 6. It's our first step to moving towards #recovery. More changes planned for Monday.

(HMP Woodhill, Twitter, 29 June)

Inconsistency between prisons

PRT's advice and information service has received several phone calls from prisoners enquiring whether the extremely restricted regimes they have been subject to in their own establishments are comparable to those in other prisons. Prisons, too, have been comparing the regimes they are offering. On 12 May, HMP Nottingham posted on Twitter:

The vast majority [of prisoners] are getting about 90 minutes. A few workers much more but 90 is the figure for the majority. Worse than some, better than others and about average amongst our peers.

It is clear from the prisons inspectorate's short scrutiny visits that time out of cell has varied between establishments.

While a reduction in time unlocked was inevitable, the variation between establishments was a concern and raised the question of the need for, and therefore the proportionality of, the most restrictive regimes ... children at Parc received over three hours out of their cell each day, compared with just 40 minutes at Cookham Wood.

(HMIP, SSV YOIs holding children, 21 April)

There was some variation in the regimes offered; the regime was most limited at Foston Hall where most prisoners only received 30 minutes of exercise each day. Those at Bronzefield received an hour as did the majority of prisoners at Eastwood Park. However around 20% of prisoners at Eastwood Park received two hours out of their cell each day.

(HMIP, SSV prisons holding women, 19 May)

Likewise, the IMB have noted “considerable inconsistency in relation to time out of cell, which does not appear explicable by the function or lay-out of the prison”

(Independent Monitoring Board [IMB] findings, 3 June).

Additional time out of cell for some prisoners

Some respondents noted that “key workers” had considerably more time out of cell:

On the whole, 16 key prison workers – cleaners, hot plate, PIDs, Listeners – are out most of the day and the general population have half hour unlocks for calls, showers and exercise.

(CAPPTIVE respondent, adult male prison, 4 June)

The wing cleaners, servery workers, laundry and MQPL guy are out mainly but the rest locked up.

(CAPPTIVE respondent, adult male prison, 7 June)

Other prisoners had more time out of cell, and not for work:

At Eastwood Park ... around 20% of the population, living on units 7 and 10 (the semi-open unit and the psychologically informed physical environment) received two hours for exercise.

(HMIP, SSV prisons holding women, 19 May)

In the open unit...we can be outdoors in the garden as much as we want. ... There are plenty of activities the prison provides for us.

(CAPPTIVE respondent, women’s prison, 5 June)

The extreme deprivations imposed by the quarantine regime inevitably raised sensitivity to the possible misuse of discretion by officers.

People they seem to favour are out all the time.

(CAPPTIVE respondent, male prison, 14 April)

We go out for exercise from 25 to 55 minutes and up to one hour on the unit for domestics (shower, phone calls, etc.) [However ...] There’s about 20 residents who’s not been banged up once.

(CAPPTIVE respondent, adult male prison, 10 June)

2.2 Meaningful activity

The first section described the quarantine regime. While effective in preventing the transmission of Covid-19, the social isolation and lack of activity have largely halted constructive, rehabilitative processes in prisons. As one respondent described it:

Because of the lockdown, most of the prisoners I share my accommodation with spend their days playing video games and doing drugs ... It seems reasonable that to let people get high is a good compensation for the restrictions imposed upon them and helps to keep them quiet. However, what is the point of this all?

(CAPPTIVE respondent, male prison, 15 June)

Prior to the pandemic, rehabilitative culture had become a key priority within HMPPS. Prisons focused on “giving people the opportunity to change; addressing the reasons why they commit crime and helping them have a better way of living through thinking and acting differently.”⁷

Despite the quarantine regime, there are aspects of rehabilitative culture that can continue. For example, staff can prioritise reward and recognition over punishment, encourage prisoners to make good decisions and understand other peoples’ perspectives, use language that reduces the disconnection between prison and the community, and follow the principles of procedural justice. They can still make every contact with prisoners matter – when staff members use rehabilitative skills in their conversations with prisoners, “even very short interactions of this nature have been found to make a difference.”⁸ Staff and prisoners alike can still speak to each other courteously and provide some degree of mutual support.

While there are far fewer rehabilitative programmes, interventions and activities, CAPPTIVE received input from prisoners and their families to describe activities that people found meaningful and which made their time more bearable. Prisons have been able to provide (to greater and lesser degrees): in-cell pastimes, physical activity, social contact, education, work and opportunities for peer support. Some establishments have embraced the limited technology available to them to enhance their provision.

Distraction/activity materials

Prior to the pandemic, “distraction packs” were often used for prisoners deemed at risk of harming themselves. Typically, they comprised puzzles, colouring pages, word searches, crosswords, sudokus and mazes. The prisons inspectorate noted the ubiquitous use of activity packs under the quarantine regime:

At all sites there had been very good attention to providing materials for in-cell activity. At Elmley, a full-time activities team had been established, and a wide range of packs and workbooks were freely available on all wings, with weekly competitions across a range of in-cell activities. Similar arrangements were in place at the other sites.

(HMIP, SSV local prisons, 28 April)

Some prisoners appreciated these activities; however, others found them insufficiently challenging or suggested that supplies had not continued throughout lockdown:

We get given distraction packs which could be useful, they’re not everyone’s cup of tea! However I like the positive quotes to colour in and the puzzles!

(CAPPTIVE respondent, women’s prison, 6 June)

Regarding distraction packs, they are designed for low-level educational understanding, which is frustrating for people who have qualifications NVQ2 and above.

(CAPPTIVE respondent, women’s prison, 10 June)

⁷ Mann, R., Fitzalan Howard, F. & Tew, J. (2018) ‘What is a rehabilitative prison culture?’, Prison Service Journal, 235: 3-9, Gloucester: HMP Leyhill

⁸ Ibid.

For other respondents, the things that allowed them to make good use of time in their cells related to their personal interests and skills. One respondent wrote that the governor had asked them to play their violin on the exercise yard. Another said:

The one thing that I've been doing religiously is playing guitar and writing music/poems. It has been a life-saver.

(CAPPTIVE respondent, PPN, male local prison, 17 June)

However, some prisoners struggled to find what was needed to pursue their hobbies:

Ordering materials here, particularly art materials, which help me a great deal, seems to take a ridiculous amount of time.

(CAPPTIVE respondent, PPN, high security prison, 16 June)

Many voluntary sector agencies were prevented from working with prisoners, due to the pandemic precautions. However, some have provided resources for prisoners to keep busy in productive ways. For example, more than half of prisons have downloaded handouts for meditation and yoga from The Prison Phoenix Trust.⁹

Books

Reading is a constructive pastime for many in prison. The quarantine regime shut libraries, and prisons had differing responses to books sent in by family members; books were sometimes returned to them or subject to long delays.

Because we're under huge staffing pressure at the moment and are providing "distraction packs" for our prisoners for free we would rather people didn't send magazines and books. We are maintaining a book exchange.

(High security prison, Twitter, 1 April)

During Covid 19 we are allowing books to be purchased from Amazon and delivered direct to the establishment.

(Young male prison, Twitter, 16 April)

Any books sent in for residents are checked by the security team for everyone's safety. We can't accept Amazon packages though.

(Local male prison, Twitter, 12 May)

Several prisons tweeted about their library provisions:

Boredom is a serious issue to wellbeing. To help with this, all @SercoGroup prisons are running a request & delivery service for books, audio books, DVDs & magazines from their libraries.

(HMP Lowdham Grange, Twitter, 3 April)

⁹ Quakers in Criminal Justice input to CAPPTIVE. 22 July 2020

Our Safer Custody team have set up a fantastic area for the men to borrow books and DVDs during this difficult time. These resources have been donated by staff and the public!
(HMP & YOI Chelmsford, Twitter, 3 June)

Some prisoners reported less positive experiences:

They even tried to stop books being sent in despite the library not being available. Now changed – books and hair clippers allowed to be posted. Mobile library now operational going to wings.

(CAPPTIVE respondent, adult male Category C prison, 9 June)

Our library is closed and we have had no newspapers since lockdown began in March as they are all sat in the library waiting to be delivered to wings.

(CAPPTIVE respondent, young male prison, 12 June)

Physical activity

Before Covid-19, gym sessions were an important part of many prisoners' weekly routines, providing a means of improving their physical and mental wellbeing, and an outlet for frustration and pent-up energy. Several respondents noted a lack of opportunities to exercise:

There are no activities for inmates to do. I have offered to run fitness classes on the yard, but no one has got back to me. I have written many cell workouts to help inmates keep fit; I have also designed some for officers. But I feel more can be done. I have asked Security to consider resistance bands, which are cheap but highly effective. But no response.

(CAPPTIVE respondent, high security prison, 23 June)

Each landing ... has been given 45 minutes each week on the sports field to walk or run. The excellent PE staff would like to do more but apparently are limited by guidelines from above. I think this is a missed opportunity as it would have had a beneficial effect on both physical and mental health.

(CAPPTIVE respondent, adult male prison, 6 June)

Other people wrote to us describing good access to physical activities, which they greatly appreciated:

The gym staff are amazing. We have running and exercise classes running all through the week and weekends. I feel keeping fit and healthy has helped me get through lockdown.

(CAPPTIVE respondent, email, women's prison, 15 June)

From my perspective the best thing they have done here is that the exercise sessions are well staffed which means the gym staff can run classes.

(CAPPTIVE respondent, PPN, male open prison, 9 July)

Some establishments have found innovative ways to offer regular opportunities for exercise. For example, Coldingley created temporary exercise yards (HMIP, SSV Category C, 5 May). At HMP

Ranby, prisoners received activity packs containing in-cell workouts (HMIP, SSV Category C, 5 May). CAPPTIVE respondents reported new TV channels in some prisons that aired fitness workouts for prisoners to complete in their cells. A prison tweeted:

We've been running socially distanced outdoor activities for prisoners to keep spirits up; PE circuits every day, rap battles, and an Olympic games. All have been really well received and have helped to keep everyone going.

(HMP Isis, Twitter, 2 June)

Another establishment set ambitious physical challenges for prisoners:

The Stocken community have been working hard towards their common goal of walking to Niagara Falls for the local care homes! This week we've had men doing marathons and half marathons trying to get their wing to the top of the leader board! This weekend we had the inter-wing 100m race final ... a huge well done to all involved and especially to our brilliant PEI team who work hard every day motivating the men to look after their bodies and their minds.

(HMP Stocken, Establishment newsletter, 5 June)

The community walk enabled people to give their time to benefit others, boosting their mood and self-esteem. It is a model illustration of rehabilitative culture under the quarantine regime.

Social contact

For prisoners effectively living in a state of solitary confinement, meaningful social contact is essential for maintaining wellbeing, whether it be in the form of contact with other prisoners and staff, or voice and video calls.

Prisoners valued the opportunity to socialise with their peers but often considered the time to do so insufficient:

I hugely appreciate the 30 minutes I get with other inmates in the yard!

(CAPPTIVE respondent, adult male prison, 9 June)

Why no association? Those not going to work (not through choice) should be allowed to socialise with others for the benefit of social welfare.

(CAPPTIVE respondent, adult male prison, 9 June)

CAPPTIVE feedback indicates that, as regimes begin to ease, contact with other prisoners is improving:

New regime experiments are being planned that might allow for some form of association and socialising in limited numbers.

(CAPPTIVE respondent, high security prison, 10 June)

Today we extended time for the guys outside for exercise by extending landing "family" groups by another 10 men.

(HMP Woodhill, Twitter, 29 June)

Similarly to charitable activities, peer support can boost self-worth and provide a sense that time in prison has some meaning. Some establishments have used peer-support workers to ensure that vulnerable prisoners can speak with somebody:

I also volunteer within our chaplaincy team so, as I am mental health first aid trained, I go around the prison making sure other inmates are ok and have someone to talk to.

(CAPPTIVE respondent, adult male prison, 19 June)

Insight I gained working as a wellbeing navigator. We were asked to go from cell to cell, whilst wings were locked down to talk to people through the doors/observation hatch and see how they were coping and to ensure officers hadn't missed anyone struggling to cope.

(CAPPTIVE respondent, PPN, male local prison, 15 June)

Some establishments have enhanced contact between prisoners and their family:

At Portland the chaplaincy worked with Barnardo's to distribute packs to help prisoners keep in contact with their children and families.

(HMCIP, SSV Category C, 5 May)

Good quality family contact, a core component of rehabilitative culture, was discussed in detail in our first briefing.

Education

At the start of lockdown, education classes were suspended, and education providers withdrew from prisons. However, HMIP notes that education continued, in some prisons, through in-cell work packs:

These covered a wide range of subjects and offered some structured progression routes. At Portland and Coldingley these books were not marked ... Ranby had a system in place to provide feedback and, in some cases, certificates. However, the tracking of workbooks which were being completed in cell was not robust enough to ensure this was available to every prisoner.

(HMIP, SSV Category C prisons, 5 May)

In-person education had ceased at all three sites. However, at Bronzefield education staff had remained on site and continued initial assessments for English and maths ... Some limited one-to-one teaching support was given at cell doors and prisoners still worked towards qualifications. At the other two sites the education provider was off site but still providing workbooks ... Prisoners at Eastwood Park had been able to continue with their distance learning ... restricted to in-cell study. Changes were made just before our visit, allowing a small number of prisoners engaged in distance learning to access the computer resources they needed.

(HMIP, SSV prisons holding women, 19 May)

Most people find a severely restricted regimes difficult to cope with, even for a short time. But the impact is likely to be more harmful for children. HMYOI Parc continued to offer out-of-cell education for children, as well as in-cell workbooks:

After a week of running a more limited regime, managers planned, risk-assessed and started delivering two hours of face-to-face education activity every weekday. This included carpentry, cookery, PE and three classroom-based pathways. Only Parc was able to plan and deliver limited face-to-face education that complied with social distancing requirements...
(HMIP, SSV YOIs holding children, 21 April)

Some prisoners questioned why similar provisions could not have been made in their establishments.

I feel that there was a national prison service knee-jerk reaction and no thought was given to alternatives. Some activities could have continued with smaller groups to maintain social distancing. As it is we have empty classrooms, workshops and association rooms.
(CAPPTIVE respondent, adult male prison, 10 June)

The IMB described prison education provision during the restricted regime as “at best patchy”:

Many providers now appear to be providing some service, though in some cases it is very limited, sporadic and often generic, designed to provide distraction rather than formal education geared to individual learning plans and qualifications. However, a few Boards have reported that prisoners have individualised course material that is marked and feedback is being provided.
(IMB Findings, 3 June)

Some prisoners were also able to access informal, non-specific educational materials via television programmes and in-cell laptops.

During the quarantine regime, people might have been able to give full attention to their distance learning. At the very time when it was most needed, however, prisoners and their families lamented that it had stopped:

Some areas of activity have been reduced – such as access to distance learning, at a time when interest has peaked.
(CAPPTIVE respondent, high security prison, 10 June)

This has been a cause of deep frustration and disappointment as [The Open University] have effectively abandoned their students in secure environments ... Education left – without even saying they were leaving and there has been no sign of any attempt to continue to carry out their jobs remotely.
(Family member, PPN letter, adult male prison, 7 June)

Work

Since the quarantine regime was imposed, the vast majority of prisoners have been unable to work – a cause of frustration for many:

Newsletter last Friday said there would be changes to work. Nothing this week yet now three months in.

(CAPPTIVE respondent, adult male prison, 9 June)

Some people were able to maintain their prison jobs, and some prisons have created new positions related to Covid-19. In at least two prisons, the textile workshops turned to producing PPE for NHS workers.

One respondent described their role as asking others about problems they were facing as a result of the regime and reporting regularly to the governor. Others wrote:

I am one of the lucky inmates as I work in the gardens and have worked throughout the whole pandemic.

(CAPPTIVE respondent, adult male prison, 19 June)

I am also part of the covid committee – which we attend a weekly meeting with the deputy governor about covid, staff and regime. I have come here to do a course, but nothing is happening.

(CAPPTIVE respondent, PPN, high security prison, 29 June)

Entrusting people with the responsibility to help develop and implement ideas for improving the prison they live in can foster hope and a sense of being treated fairly, believed in and capable of working for the good of others – all important aspects of a rehabilitative culture.¹⁰

Technology

CAPPTIVE evidence describes how prisons are using technology to enhance their provision of physical activity, social contact, in-cell activities and education. Personal laptops or tablets would foster a rehabilitative culture and independence, enabling a smooth transition to life in the community.¹¹ However, the vast majority of prisoners do not have access to in-cell laptops.¹²

The education department send me work to do in my cell...The situation could be improved by giving prisoners access to in-cell laptops.

(CAPPTIVE respondent, adult male prison, 10 June)

¹⁰ Mann, R., Fitzalan Howard, F. & Tew, J. (2018) 'What is a rehabilitative prison culture?', Prison Service Journal, 235: 3-9, Gloucester: HMP Leyhill

¹¹ HM Chief Inspector of Prisons (2019) Annual Report 2018–2019, London: HMIP

¹² At a time of rapid expansion, the precise number of establishments that have in-cell laptops is subject to change. In 2018, there were two, according to an evaluation of digital technology conducted by the University of Leicester and published by the Ministry of Justice in 2020. However, a response to a Freedom Information request in May 2019 stated that three prisons had in-cell technology: Berwyn, Thameside, and Wayland.

Palmer, E. J., Hatcher, R. M., Tonkin, M. J. (2020) Evaluation of digital technology in prisons, London: Ministry of Justice; and Ministry of Justice (2019) Freedom of Information request 190501002, London: Ministry of Justice, available at

<https://www.whatdotheyknow.com/request/572239/response/1371636/attach/html/3/FOI%20190501002%20Mark%20Leech.pdf.html>

HMP Berwyn, one of the few prisons that have in-cell laptops, tweeted about their diverse educational benefits:

We set up the “don’t judge a book” project where residents select a genre and get issued a random book from our newly formed mobile library delivery service #DailyDigital during lockdown more books have been issued by AL than the previous three years. We then encouraged the men to write book reviews which an amazing number did. #InCellLearning #LearningSkills Using our digital platform to provide essential services during this strange time.

With lockdown it became a struggle to deliver @Shannon_Trust to the residents, AM, our Digital/Comms person from the #Digital team created a video version of the reading material to be used on the TVs and Laptops to help assist with reading skills. #InCellLearning Also worth noting each digital book has been read by the residents for the residents. Peer led reading support.

(HMP Berwyn, Twitter)

Several prisoners noted that a lack of technology limited their ability to study:

Those studying distance learning have been writing essays by hand, yet we have ten classrooms not being used. “Picta” instructors have been seen pushing trolleys around the prison when they could have people learning CISCO systems (the classroom is big enough!)¹³

(CAPPTIVE respondent, adult male prison, 9 June)

Beyond improving access to education, technology has provided an important source of entertainment and information for prisoners who have spent months confined to their cells for almost 24 hours a day. Some prisons added channels that prisoners could watch. Some of these were created by the prison itself, providing a variety of content:

The prison recently launched a new prison tv channel ... The channel has been filled with educational content, fitness workouts, led worship, and even our own in-house talent show, showcasing residents’ talents.

(CAPPTIVE respondent, PPN, adult male prison, 10 June)

Phone and video calls are another essential form of technology for prisoners, especially during restricted regimes. The IMB noted the importance of in-cell telephony in enabling prisoners to engage in significant activities:

Prisons with in-cell phones have been able to provide ... access to psychology and probation for progression and parole hearings, and greater access to legal advice, Samaritans, IMBs, families and friends.

(IMB Findings, 3 June)

Such innovation was especially important because the quarantine regime had stopped most voluntary sector organisations from entering prisons.

¹³ Picta refers to ‘Prisons Information Communication Technology Academy’ – an IT training project. Cisco is an IT company, that can provide prisoners with accredited qualifications.

2.3 Specialist regimes

Acting on advice from Public Health England, the prison service radically changed the way it allocated people in custody at the end of March. The new policy, “compartmentalisation”, recognised that the usual processes, including transfers between prisons, increased the risks of transmitting Covid-19.

The strategy created three settings with special roles:

- Reverse cohorting units
- Shielding units
- Protective isolation units.

Reverse cohorting units (extended induction) hold people arriving at the prison for 14 days to ensure they are not infectious prior to going to a wing and mixing with other prisoners. Shielding units are intended for people whose medical conditions would make them more susceptible to the virus. Protective isolation is for people who have Covid-19 symptoms or a positive diagnosis.

By 21 April, Public Health England estimated that half of all prisons had set up shielding units, over a third had extended induction, and a quarter of prisons had fully implemented all three types of unit.¹⁴ Prisons minister Lucy Frazer QC reported that, as of 8 June, five prisons had yet to implement compartmentalisation.¹⁵

Extended induction

The CAPPTIVE evidence about the regimes on extended induction included letters from prisoners and families. One respondent volunteered to work as an orderly on an induction unit.

Between us, we cover several roles: Induction orderly; prisoner information desk orderly; substance misuse peer supporter; Listener; bio-hazard cleaner; and others, which means we can deliver at least 90% of the establishment's normal induction process and ensure all the support needs of new arrivals are met.

(CAPPTIVE respondent, adult male prison, 9 June)

The prisons inspectorate's SSVs identified a range of problems with induction units:

- Even less time out of cell than other prisoners received
- Too many prisoners, complicating the task of keeping people separate by the time they had spent there
- Increased isolation for those arriving on days when receptions were low
- Double-celling, subjecting many prisoners to higher risk of infection.

¹⁴ O'Moore, É. (2020) Briefing paper-interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England, London: Public Health England

¹⁵ House of Commons written question 57145, 15 June 2020, available at <https://questions-statements.parliament.uk/written-questions/detail/2020-06-09/57145>

For example, an SSV to women's prisons found that one such unit held 60 women. There could be over a dozen distinct "cohorts" and all officers would need to know who could be out of cell with whom. In another prison, inspectors observed officers taking women who had arrived on different days to exercise together – including one due to move to normal location among a group who had just arrived – thus defeating the purpose of the unit.¹⁶ By the end of June, at least one local prison had to open a second extended induction unit, on top of double occupancy in single cells.¹⁷

The inspectorate's first SSV to YOIs holding children reported that:

... newly arrived children could only see and speak with others who had arrived on the same day. For those arriving by themselves, this meant no face-to-face interaction with other children for 14 days.

Shielding units

Responding to concerns raised by the Howard League for Penal Reform and PRT, Robert Buckland QC, the Secretary of State for Justice, made clear that people who needed to shield would not be subject to worse treatment:

*Prisoners must receive the same entitlements irrespective of which regime group they are in, even those prisoners who are shielding or in reverse cohorting.*¹⁸

An equitable regime is important because otherwise prisoners would need to choose between a decent regime and protecting their health. Not all prisons met this standard. Shielding regimes presented examples of good practice and inconsistency – sometimes in the same prison.

The prisons inspectorate found shielding units where people were denied showers – sometimes for more than a week (SSV Category C, 5 May). One SSV to local prisons found that prisoners on the shielding wing had even less time out of cell than on normal location, a finding that was supported by CAPPTIVE respondents.

Hence, there were people who chose not to go to a shielding unit:

Some prisoners in each prison who met the criteria for shielding had declined to move to the shielding units. For example, in Wandsworth 20 prisoners had declined to be shielded, against medical advice. In Elmley, their safety was being supported through separate regime provision, but in the others, they came out of their cells along with others in their cohort.
(HMIP, SSV local prisons, 28 April)

PRT's A&I service received requests from people who had been told they were vulnerable and wanted to know if they could choose to stay on normal location. A few CAPPTIVE respondents described attempts by staff to coerce people onto a shielded wing.

¹⁶ HM Inspectorate of Prisons (2020) Report on short scrutiny visits to prisons holding women, London: HMIP

¹⁷ HM Inspectorate of Prisons (2020) Report on short scrutiny visits to local prisons, London: HMIP

¹⁸ Buckland, R. (2020) Letter from the Secretary of State for Justice to Frances Crook and Peter Dawson, 6 July, available at <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/888>

One person said her partner had resisted going onto a shielding wing before staff reacted with threats:

... prison staff told him he has to move and if he refuses he will be dragged from his cell to another and also on 24 hour bang up.

(Family member, email to PRT A&I, adult male prison, 12 April)

A prisoner wrote to PRT's A&I service, claiming that officers informed him that if he chose to remain on normal location, he would not be allowed out of his cell, not even for phone calls or showers.

In contrast, another prisoner reported that all vulnerable prisoners were given a choice:

We have been notified that shielding was now designated to one wing – a shielding unit – and prisoners offered the option to stay or move wings.

(CAPPTIVE respondent, adult male prison, 17 June)

The main incentive for going onto a shielding regime was to be protected from the risk of transmission. CAPPTIVE's evidence suggested variation across prisons. Some people saw precautions being taken, while others felt betrayed:

“Shielded” and “vulnerable” inmates were kept on one wing with only a small group of officers allowed access. I think this prompt action saved a lot of grief.

(CAPPTIVE respondent, adult male prison, 12 June)

I received a letter stating that I was a vulnerable prisoner and now to be in isolated lockdown for protection against the virus.... This remained for the first 6 to 8 weeks. When the door to the cell was opened, we had to move to the rear of the cell and put on a face mask (provided regularly for us). Also at this stage staff wore masks and gloves sometimes with plastic aprons.... Initially a member of staff checked weekly if you're okay or needed healthcare or mental health support.... Around week 8, we were unlocked for outside exercise, phone calls, et cetera, seven prisoners at a time, 30 minutes, three times a week. This was later increased to 1 hour at a time. At all times, face masks were worn and two meter distancing observed.... I think we are safe and being well looked after even though the isolation gets a bit boring at times. Generally however I am coping well but certainly looking forward to a gradual relaxation of the regime here.

(CAPPTIVE respondent, adult male prison, 17 June)

However, on some shielding units, officers were cross-deployed from other wings, without using PPE, which increased the risk to the prisoners. CAPPTIVE respondents reported a lack of attention to the new hygiene requirements:

We have many elderly prisoners who due to limited mobility and requiring “buddies” to assist are even more limited in access to facilities. PPE is available but very limited and social distancing is near impossible due to the layout of the prison.

(CAPPTIVE respondent, adult male prison, 15 June)

And one person reported good and poor practice on the same wing:

I am the orderly [for this wing] which is now the shielding wing. We make sure we carry out all procedures put into place by staff and as a result we have had no confirmed cases.... That is testament to the way staff are giving us the PPE required and also the relevant information on how to carry out our duties. That being said, we still have incidents of subcontractors and visitors coming onto the wing without PPE. This has a detrimental effect on our mind set as we are doing all we can to stop infection and protect the vulnerable.

(CAPPTIVE respondent, adult male prison, 16 June)

As on other wings, the mood of a shielded wing largely depended on how it was run by staff. Health considerations mean that continuity of staff would help to minimise the risks of transmission. The officers' approach to the task of caring for vulnerable people could determine whether people felt cared for or stigmatised and punished. One prisoner wrote:

I'd like to take this opportunity to thank the staff who work on the shielding unit, they are always polite, helpful and professional in these hard difficult times. Thank you very much.

(CAPPTIVE respondent, adult male prison, 1 July)

Protective isolation units

In late April and early May, the prisons inspectorate described extreme, restrictive regimes on units holding patients who were ill with Covid-19:

In one prison, a small number of symptomatic prisoners had been isolated in their cells without any opportunity to come out for a shower or exercise for up to 14 days. A prisoner who had been subject to such restrictions described to us the impact on his mental health and well-being.

(HMIP, SSV local prisons, 28 April)

We had significant concerns about how symptomatic prisoners were treated at Portland and Ranby. At both sites prisoners were not let out of their cells for exercise and while at Ranby prisoners could shower every three days, at Portland prisoners had no access to showers during their isolation. Isolation periods were at least seven days or longer if the symptoms persisted. At Portland, one prisoner had been subjected to this regime for 14 days. This regime was too limited and was not ensuring decent treatment of prisoners.

(HMIP, SSV Category C prisons, 5 May)

The inspectorate commented that such impoverished regimes were likely to discourage people who had symptoms from reporting them.

The Independent Advisory Panel on Deaths in Custody, reporting in May, quoted a prisoner who felt their health needs were neglected on the protective unit:

Just to tell you I've come down with the corona virus, I'm not being treated very well in here, just on lockdown. They're not giving us the chance to see any nurses or given any medication.

It's a proper disgrace. I've had a proper fever like shaking, lying in bed sweating, proper sore throat and a banging headache. It's appalling the way the staff are dealing with it. You don't get to see a doctor or anything.¹⁹

The CAPPTIVE consultation provided little direct evidence about units holding people who had Covid-19. But while some people expressed appreciation for their care, others felt neglected. This suggests that the isolation required to prevent transmission needed to be supplemented consistently with practical and emotional support for symptomatic prisoners.

I was glad that the prison went into an immediate lockdown. I was experiencing the symptoms and had they not responded like this then it would've been worse for me. All vulnerable and inmates with underlying health conditions were moved to a separate wing and where staff maintained minimal contact to ensure the regime was sufficiently operative.
(CAPPTIVE respondent, adult male prison, 4 June)

Anyone who felt ill especially with typical symptoms was immediately isolated in their cell for 14 days. I was one of those and I can honestly say since being in prison this was undoubtedly my worst time. I felt weak, afraid, vulnerable, and alone. Meals were brought to my door and left on a stool for me to pick up. There was little if no check to see how I was.
(CAPPTIVE respondent, adult male prison, 17 June)

2.4 Food and canteen

In its “Covid-19 operational guidance”, released on 3 April, the prison service provided detailed guidance about food, taking into account the health requirements in view of Covid-19 and the uncertain staffing levels. This was also a time when many supermarkets experienced shoppers panic buying.

The guidance suggested that prisons should provide additional tea, breakfast and snack packs. It also recommended that prisons train staff and prisoners who lacked kitchen experience in health and safety.²⁰

The vast majority of CAPPTIVE respondents who mentioned food noted that they were receiving more than usual. Several prisoners described receiving additional food packs:

We receive a courtesy pack (crisps, cereal bar, coffee, biscuits, juice) on top of our meals.
(CAPPTIVE respondent, adult male prison, 9 June)

¹⁹ Independent Advisory Panel on Deaths in Custody (2020) “Keep talking, stay safe”: A rapid review of prisoners’ experience under Covid-19, London: IAP, available at <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5ee115af9592717e002903f8/1591809460419/200601+IAP+rapid+review+of+prisoner+experiences+under+Covid-19+-+FINAL+CLEAN.pdf>

²⁰ HM Prison & Probation Service (2020) COVID-19 Operational Guidance – Exceptional Regime & Service Delivery, London: HMPPS, available at https://howardleague.org/wp-content/uploads/2020/05/1.-Exceptional-regime-and-service-delivery-27.03.20_Redacted.pdf

Extra crisps, drinks and biscuits ... to “keep us sweet”.

(CAPPTIVE respondent, adult male prison, 10 June)

The prisons inspectorate noted this practice at three Category C prisons, which they said prisoners appreciated (HMIP, SSV Category C prisons, 5 May).

Additional packs of refreshments are particularly important when prisoners have to wait long periods of time between meals. HMIP criticised long gaps between meals at young offender institutions, including one of 16 hours between the evening meal and breakfast at HMP YOI Cookham Wood (HMIP, SSV YOIs holding children, 21 April). It is fair to say that long gaps between meals was a common problem in prisons before Covid-19.²¹

Food in prison is often of poor nutritional quality, which can negatively affect physical and mental wellbeing and behaviour.²² During the quarantine regime, some prisoners felt that food was worse than usual:

They are giving people potatoes every day. Whilst being locked down its unhealthy and other alternatives should be put into place, like salads, noodle packs, cup a soups, couscous, light meals as it is healthy option and it will increase morale.

(CAPPTIVE respondent, adult male prison, 9 June)

Our diet has gone to pot, living off fizzy pop, crisps, biscuits, noodles, and locked up 23½ hours a day, is a very poor mix ... Food is well below standard.

(CAPPTIVE respondent, male local prison, 9 June)

One person noted that there was less choice under the quarantine regime:

Meals remain more than acceptable, although some choice removed due to staffing.

(CAPPTIVE respondent, adult male prison, 4 July)

The prison service advised that prisons with reduced catering staff should operate a limited menu, “with a minimum of two choices that meet all dietary and religious needs.”²³

Under the quarantine regime, the opportunity to collect meals at the servery is particularly important as it means time out of cell. The prisons inspectorate noted:

At Portland and Ranby prisoners left their cells to collect their lunchtime and evening meals from serveries. Prisoners told us they appreciated this additional time out of their cell.... In contrast, all meals were delivered to cell doors at Coldingley.

(HMIP, SSV Category C prisons, 5 May)

²¹ HM Inspectorate of Prisons (2016) Life in prison: Food, London: HMIP

²² Ibid.

²³ HM Prison & Probation Service (2020) COVID-19 Operational Guidance – Exceptional Regime & Service Delivery, London: HMPPS

CAPPTIVE received mixed evidence about toasters, wing kettles, and microwave ovens. These were widely available, prior to Covid-19, to provide a degree of self-catering. One participant in a Category C establishment noted that prisoners could continue to cook for themselves during their daily hour out of cell (Young male prison, 8 June). However, several people in other prisons reported that self-catering facilities had been closed:

We have had our cooking facilities on the wings removed. No microwaves and no toasters.
(CAPPTIVE respondent, adult male prison, 3 June)

Locking up the use of the kitchen was a bit stressful for people like me who do not eat much prison food.
(CAPPTIVE respondent, adult male prison, 9 June)

Canteen

Prisoners can buy approved products from the “canteen”. Each prison selects 375 products from a national list of approximately 1,000 items. The prison service’s operational guidance for Covid-19 stated that they had “had to introduce some caps on the number of items available to purchase on some lines.”²⁴ During the Covid-19 pandemic, prisoners have reported that there are fewer items available:

Canteen reduced to 1 page.
(CAPPTIVE respondent, adult male prison, 21 June)

In particular, prisoners were concerned about a lack of cleaning products:

Very little disinfectant was initially available for cleaning of quarantined cells, and soap, paracetamol and cleaning materials disappeared off the canteen list.
(CAPPTIVE respondent, PPN, adult male prison, 12 June)

No soap available on canteen for 4 months and lots of other products removed. They are adding the products back on but people are stock buying due to fear of second wave.
(CAPPTIVE respondent, PPN, high security prison, 25 June)

CAPPTIVE respondents also noticed a reduction in food items available from the canteen:

Once in lockdown the fresh fruit and veg were taken off the canteen sheet.
(CAPPTIVE respondent, PPN, high security prison, 12 June)

While the guidance noted that during the week commencing 29 March canteen orders would not include fruit or items that need refrigerating or freezing, it promised that “a good selection of fruit items” would recommence the following week.²⁵

²⁴ Ibid.

²⁵ Ibid.

Before the quarantine regime, the prisons inspectorate described most of the food items available to purchase from the canteen as “unhealthy sweets or snack items high in fat, salt and sugar”.²⁶ Prisoners have long been dissatisfied at the lack of healthy food available to purchase,²⁷ and of course good nutrition might be considered particularly important during the Covid-19 pandemic:

Some chilled and fresh items have been unavailable in the canteen ... not good for our physical health or mood and I don't understand the justification unless there is a national shortage of cheese that I wasn't aware of.

(CAPPTIVE respondent, PPN, adult male prison, 6 June)

We would like ... healthy canteen options, vitamins.

(CAPPTIVE respondent, PPN, adult male prison, 8 June)

Canteen prices are comparable to those in supermarkets; however, very low wages mean that prisoners often struggle to afford canteen items.²⁸ One prisoner said that prices had gone up during Covid-19:

Prices on canteen have gone up. For people who can't afford it or have money sent in how are they supposed to feel human if they can't get their basics?

(Prisoner, Letter to *Inside Time*, women's prison, 6 June)

This was not a common theme, and the price increase might not have been a direct consequence of the Covid-19 pandemic – canteen prices can change on a monthly basis under normal circumstances.²⁹

Some prisons provided an additional £5 to spend each week on canteen purchases:

The additional £5 is given weekly to every person in custody ... Ours opted for PIN credit, others may opt for different ways such as additional spends on Canteen or savings.

(HMP Liverpool, Twitter, 9 April)

Our incentives have been increased so that residents who have no money sent into them can spend/order more canteen or an additional phone call if they need one.

(C Mason, HMP Northumberland, *Inside Time*, “On the Thank You Wire”, 1 May)

²⁶ HM Inspectorate of Prisons (2016) *Life in prison: Food*, London: HMIP

²⁷ HM Inspectorate of Prisons (2016) *Life in prison: Earning and spending money*, London: HMIP .

²⁸ *Ibid.*

²⁹ *Ibid*

Regimes: Key Findings

Helpful to regimes

- Attempts in some prisons to maximise time out of cell.
- Keeping prisoners informed about Covid-19 and the regime.
- Activities that prisoners found meaningful and helped them to cope: helping other prisoners, playing music, creative writing, and education.
- Innovative ways to make prisoners feel connected to each other: quizzes, competitions and talent shows aired on the prison's tv channel.
- Gym staff keeping prisoners motivated and physically active.
- Peer support and active citizenship opportunities, including wellbeing reps and Covid-19 committees.

Problems with regimes

- Severe drop in rehabilitative work.
- Reluctance to adopt imaginative ideas as circumstances started to change.
- Inconsistency in following precautions, with prisoners witnessing officers who are failing to observe social distancing.

3. Reactions to the pandemic

The profound changes in the regime in every prison had a huge impact on relationships, both among prisoners and between them and staff. The evidence received by CAPPTIVE shed light on:

- Responses to the pandemic: prisoners and staff
- Cultural and racial dimensions
- Special units: induction, shielding, isolation.

3.1 Prisoners' responses to the quarantine regime

CAPPTIVE evidence suggests that:

- Prisoners were compliant because they understood the reasons for the lockdown (communication was important)
- Prisoners worried about Covid-19 (and the potential risk to families)
- Prisoners' emotional response to increased time in cell varied
- The loss of activities was accepted but, over time, people wanted to get back to full regime.

The evidence we received indicated that the transition to the quarantine regime caused some concern initially, which was resolved in most prisons through improved communication:

At the end of February, start of March we was locked down due to the Covid pandemic. At first we was all frustrated because a lot of people did not understand why we was locked down, but once people was informed ... they was more than happy to comply and stopped complaining about the regime.

(CAPPTIVE respondent, male prison, 10 June)

Another factor in March and April was the lack of knowledge about the disease. Rising numbers of people falling ill outside increased prisoners' anxieties, particularly for their families. As a male prisoner wrote to us on 5 June, "COVID has put everybody in an unprecedented position, one of uncertainty and worry."

Respondents from different prisons commented on the motivations that led people in prison to accept the restrictions:

Obviously things are pretty unstable with the Covid epidemic but here it's ok. Many of the prisoners understand that we have to do it for our country but most of all for our families; so, on that side of things bang up is not so bad. ...

(CAPPTIVE respondent, male prison, 8 June)

I was surprised to find a majority of the men accepted the lockdown as a necessary precaution and shared the "all pulling together" mentality as their families on the out.

(CAPPTIVE respondent, male prison, 15 June)

Like the general public, individuals in prison reacted in different ways to the pandemic and quarantine regime, as these two responses illustrate:

The extraverts can shout out of the windows while the introverts can indulge in reading etc. ... The anxious, less confident and bullied inmates have enjoyed a welcome break; a rest that will enable repair and a lighter mood.

(CAPPTIVE respondent, 10 June)

Straight to the point: different aspects of the lockdown are impacting inmates in different ways. As for myself, and with the anxiety of catching the virus, I find it difficult not to be able to receive social visits.

(CAPPTIVE respondent, 16 June)

One person emphasised a very positive side to the quarantine regime:

Personally, if a person really wants to change direction of ways that led to being in prison, now is the time to do some soul searching and ask, "Where did I go wrong? How can I make it better?"

(CAPPTIVE respondent, male local prison, 19 June)

In addition to anxiety, respondents highlighted a range of negative effects that the quarantine regime had on their emotional wellbeing. The impact on mental health will be analysed more fully in the third CAPPTIVE briefing, but two examples will illustrate the harmful combination of isolation, inactivity, and fear of Covid-19 under the quarantine regime:

Regards mental health, life seems a bit hopeless to be honest given this unpredictable situation – an unknown quantity.

(CAPPTIVE Respondent, male prison, 7 June)

It's very hard in terms of socialising. For 23 hours a day we are alone with a couple of phone calls and a tv. No matter how much you fill your time, at one point you feel alone and lonely.

(CAPPTIVE Respondent, male prison, 9 June)

In early June, two contributors reported that the culture had seen positive effects:

Overall everyone has understood the need for restrictions, appreciated the steps that have been taken to keep us informed, occupied, and kept happy.... The place is surprisingly calm, which is due to the understanding of the staff and the compliant attitude of the vast majority of inmates.

(CAPPTIVE respondent, male prison, 6 June)

Most staff and most worker prisoners are doing a great job. There is a calmness and politeness about the prison. People are respecting each other, and the situation.

(CAPPTIVE respondent, male prison, 5 June)

But other prisoners were becoming increasingly frustrated at spending extremely long periods of time confined to their cells without knowing when the regime will become more relaxed:

The feeling among many now is that even though things are beginning to open up outside, inside, no change is in sight.

(CAPPTIVE respondent, young male prison, 8 June)

The biggest concern at the moment is not knowing when lockdown is going to end. Rumour's going round it could be April next year!

(CAPPTIVE respondent, adult male prison, 9 June)

Regime and activities: What regime?... We're told we're three weeks behind outside yet our restrictions aren't being lifted.

(CAPPTIVE respondent, adult male prison, 10 June)

Three factors led prisoners to question how long the quarantine regime was maintained. First, some prisons had no reported cases of Covid-19; second, staff posed a greater risk than prisoners of introducing Covid-19 onto wings; third, there was a growing suspicion that some staff preferred to keep people in cells.

The rationale for the quarantine regime was that it minimised the risk of transmission. But this became less persuasive where there were no known cases of Covid-19:

Weekly newsletter on Friday 05/06/20 stated, "53 days Covid-19 free". Yet the vast majority of inmates are locked up 23 hours a day.

(CAPPTIVE respondent, adult male prison, 8 June)

Now we are in a situation where nobody wants to make a decision and it is easier to make no decision than to put in place procedures that let life continue.

(CAPPTIVE respondent, open prison, 9 July)

A sense that some officers were careless (not wearing PPE, or not social distancing) undermined prisoners' trust that prisons were taking Covid-19 seriously:

Adherence to distancing was inconsistent at all prisons and some staff and prisoners were clearly not following guidance. For example, we saw staff needlessly crowded together in some offices and administration areas.

(Prisons inspectorate, SSV, Local prisons, 28 April)

Here prisoners are in groups of 20, sharing washing facilities and in and out of each other's rooms. Despite strict prisoner segregation, staff move between wings. A totally confused and contradictory response.

(CAPPTIVE respondent, PPN, adult male prison, 10 June)

Let me start with the two metre rule. This is the main thing you hear from the officers all day, every day. The funny thing is that they don't comply with this rule themselves but they give out IEP's like sweets for anyone slightly falling within this distance. They wear no kind of PPE yet they are the ones that would be bringing it in from the outside world. Surely this should be mandatory now.

(CAPPTIVE respondent, adult male prison, 14 June)

From our correspondence with prisoners, there was a clear sense of concern that some staff were becoming accustomed to, and even fond of, running a very restricted regime:

We understand that there is a serious situation that needs attention, but this is just an easy way out for governors to just lock us up.

(CAPPTIVE respondent, male open prison, 9 June)

Some of us feel the system prefers this way now.

(CAPPTIVE respondent, adult male prison, 10 June)

The concern is that it has become the norm to keep inmates locked up for 23 hours a day.

(CAPPTIVE respondent, adult male prison, 14 June)

As time passed, the loss of constructive activity appeared to some prisoners to be less and less proportionate to the risk of transmission. CAPPTIVE respondents felt that on settled wings (where no one had had Covid-19) full regimes would be possible with minimal risk. A number of them observed that transmission was most likely from prison officers, as prisoners themselves did not have contact with the community outside. They suggested that, as long as officers were tested, staff could maintain the two metre rule while they opened cell doors and monitored the regime.

The inmates on the wing can then interact, as what is the point of us social distancing, we are not in society. We do not need to be 2m apart, we can't catch it from each other, as no one has it. We can only catch it from staff.

(CAPPTIVE respondent, PPN, adult male prison, 5 June)

A second respondent suggested that wings could be considered as “family units” for the purpose of providing activities:

As a closed community, with control of everyone who comes in, and (I believe) monitoring the health of staff, I do not see the reason for shutting down all activities within the prison that did not involve people from outside.... With more thought, either whole wings (80 people) ... or even the whole prison, could be seen as a family, allowing more contact and activities.

(CAPPTIVE respondent, PPN, adult male prison, 6 June)

The prison service’s national framework for easing regimes indicates a possibility of making better use of testing to support the process of opening up regimes:

Testing and clinical observation: testing is already available for symptomatic staff, but to support capacity and maintain effective public health measures a greater testing capability will be needed – for example, consideration is being given to testing and clinical oversight of new receptions and symptomatic prisoners, plus contact tracing where outbreaks occur.³⁰

³⁰ HM Prison & Probation Service (2020) COVID-19: National Framework for Prison Regimes and Services, London: Ministry of Justice, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889689/prisons-national-framework.pdf

This suggests that testing could provide the reassurance needed to open regimes on wings, so that prisoners have many more hours out of cell. As one correspondent wrote to CAPPTIVE:

I believe restrictions were put in place as a reaction to the potential for infection, which was understandable, but that little further creative thought has taken place since, and there has been very little opportunity for prisoner consultation or input.... It has also been disappointing that it hasn't been possible to arrange activities within the prison that would not encourage the spread of any infection. Definitely a case of overkill and the lack of informed risk assessment.
(CAPPTIVE respondent, adult male prison, 6 June)

3.2 How officers responded to Covid-19

CAPPTIVE received input about how prison staff responded to the quarantine regime. However, in discussing their role, it is important to bear in mind the limitations of our evidence, as the vast majority of respondents were serving prisoners. We also drew on some letters from family members, as well as observations by prison inspectors and members of Independent Monitoring Boards. But we do not have representations from the perspective of prison staff themselves, and we appreciate the serious demands placed upon them in managing wings in an extremely difficult context.

On 24 March, 4,000 staff were in self-isolation; the number of staff off work had doubled by 1 April.

From the evidence provided to CAPPTIVE, the varied responses of prison staff were characterised as follows:

- Sensitive and supportive, ready to meet needs
- Many staff went beyond their formal duties
- Some “enjoyed” locking people behind doors
- Some evidence of favouritism/informal punishments
- Not taking precautions.

In their interactions with prisoners, it was important that all staff should convey consistent information about the current situation, the restrictions in that prison, and the steps taken to compensate for deprivations. They should also have been able to help prisoners with practical concerns as wide-ranging as advice about progression, supplying materials for cell cleaning, or rules about what might be sent in. Finally, and perhaps most importantly, officers needed to be attuned to the emotional wellbeing of people in their cells, being mindful of the danger that social isolation poses to mental health.

Many prisoners praised officers for their empathy and sensitivity:

The officers are maintaining their professionalism but also showing compassion for our situation. We are, after all, in this together: welcome to a new world, a new prison system!
(CAPPTIVE respondent, male prison, 12 June)

Staff are amazing looking after everyone. Safer custody rings directly in our cells for wellbeing checks and if we need puzzles, or colouring or origami or any other thing they bring it over the same day.

(CAPPTIVE respondent, male prison, 9 June)

Since the lockdown it's been an abundance of solitary confinement, but a lot of the staff members have managed to show empathy towards myself and other inmates' situations and concerns to the best of their ability. Taking the time to talk to inmates after stressful phone calls, encouraging distraction techniques as well as encouraging keeping a high hygiene standard so I personally commend all the [staff].

(CAPPTIVE respondent, male high security prison, 12 June)

Similarly, the prisons inspectorate witnessed the caring behaviour of prison staff working in youth custody:

Across all three sites managers and staff were well aware of the potentially negative impact of children spending so much time in their cells. We saw staff interacting with children in a caring, patient and professional way.

(HMIP, SSV YOIs holding children, 21 April)

The CAPPTIVE feedback also recognised the extra efforts made by particular roles, though here there was mixed evidence. One person wrote:

Chaplaincy – (never very visible on the wings anyway) are almost entirely absent. This is a massive missed opportunity.

(CAPPTIVE respondent, adult male prison, date unknown)

From another prison, we heard:

Chaplaincy was excellent visiting those interested and providing weekly readings and prayers.

(CAPPTIVE respondent, adult male prison, 17 June)

Gym staff were singled out for particular recognition:

The gym staff are great with us and are working hard to get everyone out in groups of 8 at a time. They do 5 separate sessions a day and all through their tiredness, still keep up the enthusiasm.

(CAPPTIVE respondent, female prison, 19 June)

CAPPTIVE evidence raised three concerns about the responses of some uniformed staff:

- A feeling that some officers enforced the regime in a punitive way
- Favouritism and informal punishments
- A failure to take Covid-19 precautions seriously, endangering prisoners' health.

Officers had a duty to ensure that people adhered to the restricted time out of cell. It would be unfair to criticise staff for applying the policy. However, a few prisoners maintained that some officers deliberately went beyond the policy:

Most staff are reasonable. Some are actually making an effort to ease our discomfort. But certain staff – the usual suspects – are using Covid-19 as a punishment. They rush to bang us up. We are unlocked for a shower and ½ hour’s exercise and to collect our food. 23 hours behind our doors. The usual suspects shout at us and stop us talking to friends through their doors.... There is no trust – we get punished collectively.

(CAPPTIVE respondent, male prison, 5 June)

Some officers have almost gone out of their way to make things difficult in an already stressful situation. We were supposed to have 30 minutes exercise in the morning and 10 minutes kiosk in the afternoon to break the day up. This should be swapped daily to mix up the routine. However, our staff tended to rush us through our regime so we would get 20 minutes exercise ... and they could go and sit in the office all day. This would differ from wing to wing and also depend on what staff you have.

(CAPPTIVE respondent, male prison, 19 June)

When their total time out of cell was meant to be 40 minutes a day, the loss of ten minutes was more than an irritant. In contrast, a prison tweeted that officers gave up their weekend time to increase prisoners’ time out of cell:

We were finding the weekend regime a little tight which was impacting on our men having less time to shower, make calls and get fresh air, thank you to all our staff that have extended their working hours to give the men extra time “It’s the People that make Swinfen Hall”.

(HMP Swinfen Hall, Twitter, 4 April)

In the first section, we discussed feedback about staff showing favouritism. CAPPTIVE also received allegations of misuse of discretion by some officers in meting out informal punishments. One prisoner wrote to say that officers on his wing were depriving some of their half-hour’s exercise. The claim was supported by an SSV of local prisons by HMIP:

We observed some staff punishing poor behaviour by withdrawing an individual’s access to a shower for a day or more. This would always be unacceptable but was especially inappropriate because of the hot weather during the week of our visit.

(HMIP, SSV local prisons, 23 June)

Concerns about how staff reacted may show that some prisons responded better than others to the challenges of Covid-19. But there is a deeper implication: namely, that because the pandemic has so radically changed prisons, staff need better supervision and support.

The criticisms of staff behaviour should not detract from the majority view: that officers had risen to the challenges posed by the pandemic and the quarantine regime to build caring and supportive relationships that maintained calm and decency:

Things here are generally ok. The staff have been amazing and I think the whole situation has brought staff and residents closer, something that has been mentioned during council meetings.

(CAPPTIVE respondent, adult male prison, 16 June)

Although it was not universal, the peaceful relationships and the calmness of the prisons was seen as due to both the professionalism and caring attitude of officers, and the understanding and commitment of prisoners:

In a prison where we often see unpalatable scenes of bullying and violence everyone has behaved much better than expected, principally due to the fact that we can all see that it is the whole country – indeed, the whole world – that is suffering, too. We support each other and spirits are surprisingly high.

(CAPPTIVE respondent, male prison, 12 June)

Finally, although I don't know the full picture, I hope prisoners' tolerance and co-operation throughout this is fully recognised and flexibility shown in Cat A/parole reps.

(CAPPTIVE respondent, high security prison, 10 June)

3.3 Cultural and racial factors

In mid-June, Matt Hancock, Secretary of State for Health and Social Care, stated that people from Black, Asian and minority ethnic backgrounds were dying of Covid-19 at disproportionate rates. Separate analyses, by the Office for National Statistics and by Public Health England, confirmed the disparity. The ONS study found that:

- Black people were 1.9 times more likely than white people to die of Covid-19
- Bangladeshis and Pakistanis were 1.8 times more likely to die
- Indians were 1.5 times more likely.

Public Health England found disproportionate rates in both infections and deaths.³¹

Updates on Covid-19 in prison by the Ministry of Justice provide no ethnic breakdown of positive tests or deaths.³² However, an answer to a parliamentary question states that on 12 May, there were 404 confirmed cases of Covid-19 among prisoners, 90 of whom were from a BAME background.³³ This does not appear to be disproportionate.

³¹ Butcher, B. and Massey, J. (2020) BBC News, 'Why are more people from BAME backgrounds dying from coronavirus?', available at <https://www.bbc.co.uk/news/uk-52219070>

³² Ministry of Justice (2020) HM Prison and Probation Service COVID-19 Official Statistics: Data to 31 July 2020, London: Ministry of Justice

³³ House of Commons written question 42884, 13 May 2020, available at <https://questions-statements.parliament.uk/written-questions/detail/2020-05-04/42884>

In addition to risks to health, the radical changes to the regime had the potential to affect groups with protected characteristics in different ways, to the disadvantage of some. For this reason, the pandemic was a test of the commitment of prisons to equality. CAPPTIVE's relevant evidence was limited, but it highlighted some areas in which equality may have been neglected.

As the quarantine regime took shape, some prisons made use of Twitter to celebrate what they were doing to recognise religious needs.

We've had a number of socially distanced celebrations within the community recently. Over 140 men observed Ramadan at Stocken, and the whole community were given the opportunity to learn more about this religious festival and to celebrate Eid- staff also got involved and enjoyed a feast. We're raising awareness and educating our community this month for LGBTQ pride month and Gypsy, Roma and Traveller History month with various in-cell activities designed to educate and bring our community together whilst apart.

(HMP Stocken, Twitter, 5 June)

Another prison reported:

Our Imam and his amazing Chaplaincy team have visited all 135 Muslim men giving out gifts and cards.

At the end of June, HMP Berwyn tweeted that their prison TV provided slots for LGBTQ+ and Black Lives Matter.

Correspondence from prisoners, however, brought to light disadvantages which the quarantine regime meant for their protected characteristic. A respondent with a disability told CAPPTIVE that there was no access for them to the exercise yard. Another pointed out that the £5 phone credit was not being applied to overseas telephone calls for foreign nationals, though we have not been able to verify whether this was national policy or a practice at that particular jail.

One respondent described how the regime interfered with Ramadan for Muslim prisoners:

Where it hasn't really worked is for the individuals who are Muslims that had been up at early hours of the morning praying for their sunrise prayers then putting their heads on the pillow at nearly 6 am especially in the first two weeks of them observing the holy month of Ramadan. Then their doors being unlocked at 8:30 am for exercise which was almost impossible for them. Then they would get their heads down again for maybe another 45 minutes then expected to be up and utilise their 30 minutes to shower and clean their cells. And if they missed that slot – which many did ... then they would have to go without a shower.

(CAPPTIVE respondent, adult male prison, 14 June)

In the previous section, we explained that when regimes are so limited, prisoners could be more sensitive than usual to favouritism. The following feedback contains serious allegations, but is presented here because such informal preferential treatment can have racial elements:

I've also reported racism on our wing as certain staff treat BAME prisoners less favourably. By this I mean they give the wing jobs and servery to predominantly white inmates and also they have their doors left open most of the day. They are currently looking into this, which I hope gets sorted. My only issue is since I reported it, I was threatened by a wing manager to be moved off the wing.

(CAPPTIVE respondent, adult male prison, 19 June)

On 11 June, as the lockdown outside was easing, the prison service produced a national framework for managing the gradual re-opening of regimes, including social visits and prison transfers.³⁴ The national framework constitutes a major policy statement, containing detailed guidance about the practical steps that should be taken and principles that must be followed as the quarantine regime is gradually opened up. For example, it explicitly states that easing restrictions cannot proceed at the same pace as outside, because there are limits to what prisons can do with social distancing or other precautions.

The framework also lists the data that governors/directors will be required to report on, including: the regime restrictions, levels of infection and death, staff levels, testing capacity, available supplies of PPE, and stability of the prison.

The higher rates of infection and death from Covid-19 among BAME people – and the potential differential impact of the quarantine regime on women, people with disabilities, or LGBTQ+ prisoners – require the framework to provide guidance on maintaining equality. But there is no reference to equalities, to BAME prisoners, or any other protected characteristic. Equality is not mentioned in the basic principles, nor in the list of required data collection and reporting.

Accordingly, the Prison Reform Trust submitted an FOI request for an equality analysis of the national framework, as is required for any new policy. The prison service replied on 6 August:

The National Framework for Prison Regimes and Services sets out the high-level principles around how we will take decisions on easing restrictions in prisons and gives an overview of what regimes could look like in future. It includes the principle that we will adapt the way we work to the specific local population and circumstances and run, for example, a different regime in a children's establishment compared to an adult prison because of their different needs. The National Framework itself, however, has no direct consequences in terms of the impact on anyone with any of the protected characteristics, because it is only the framework by which we will take further decisions. There is therefore no Equalities Analysis that accompanies it.³⁵

³⁴ HM Prison & Probation Service (2020) COVID-19: National Framework for Prison Regimes and Services, London: Ministry of Justice

³⁵ Ministry of Justice (2020) Freedom of Information request 200709002, available at <http://www.prisonreformtrust.org.uk/portals/0/documents/FOI%20200709002%20-%20Alex%20Hewson%20-%20Response.pdf>

It is simply not credible that the framework “has no direct consequences” for anyone with protected characteristics. The FOI response shows a serious gap in leadership. As the framework is implemented, it is vital that prisons clearly understand the importance of equality and how to prevent discrimination.

Reactions to the Pandemic: Key Findings

Helpful responses to the pandemic

- Most prisoners believed that officers were professional and empathetic.
- Prisoners commented on staff showing care by checking on their welfare.
- Some officers adjusted their work schedules to ensure prisoners received the full regime.

Problems with responses to the pandemic

- Some prisoners felt that some officers preferred the quarantine regime and did not allow the full time out of cell.
- Disproportionate impact of restrictions on protected characteristics.
- Some staff applying informal punishment, for example by limiting access to exercise or showers.

4. Progression

4.1 Introduction

As the quarantine regime has continued over six months, impacts with potential for long term effects have become clearer. They include:

- A failure to reduce the number of people in prison overall, hampering the ability of overcrowded prisons to deliver a more humane and constructive regime
- A loss of access to offending behaviour programmes
- A lack of communication with offender managers, leading to delays in sentence planning
- Cessation of oral parole hearings
- Initially no inter-prison transfers, and then very few.

These changes mean that, through no fault of their own, prisoners cannot make progress on their sentence plans and risk being refused parole or transfer to a lower security prison as a result.

4.2 Early release

Prison overcrowding predates the coronavirus pandemic.³⁶ The prison service estimated that to implement compartmentalisation it would need to find an additional 5,500 places (through a combination of releases and new cells). In early April, the government announced the End of Custody Temporary Release scheme for which about 4,000 people then in prison would be eligible.³⁷

The End of Custody Temporary Release scheme aimed to “enable risk-assessed prisoners, who are within two months of their release date, to be temporarily released from custody, as part of the national approach to managing public services during this challenging period.”³⁸ The Ministry of Justice explained that it would “allow for more space to shield and isolate vulnerable prisoners and new entrants to custody.”³⁹

The scheme specified that individuals who were deemed “extremely vulnerable to Covid-19”, such as pregnant women or those with existing respiratory conditions, could be eligible for compassionate temporary release.

The Prison Governors Association (PGA) raised concerns about the estimate of 4,000, arguing that it “was not achievable given the strict criteria set out; it estimated that about 2,000 would be released and this was nowhere near enough to free up the spaces necessary.”⁴⁰

The early release of people, which was an urgent necessity to preserve life, has fallen very far short of the expectations raised, as the PGA predicted. By mid-August, only 275 prisoners had been

³⁶ House of Commons Justice Committee (2020) Coronavirus (Covid-19): The impact on prisons, London: HMSO

³⁷ Ibid.

³⁸ HM Prison & Probation Service (2020) End of Custody Temporary Release, London: Ministry of Justice, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881061/end-custody-temporary-release.pdf

³⁹ Ibid.

⁴⁰ House of Commons Justice Committee (2020) Coronavirus (Covid-19): The impact on prisons, London: HMSO

released under the scheme.⁴¹ While CAPPTIVE cannot assess where responsibility for its failure lies, there is evidence that the highly restrictive criteria and bureaucratic process made the scheme unworkable from the start.

The inspectorate of prisons judged that the End of Custody Temporary Release scheme “had proven ineffective in relieving population pressures” (HMIP SSV, 16 June) as “only a small number of prisoners had been released” (HMIP SSV, 9 June). The scheme proved to be time-consuming and inefficient.

There had been significant work from managers who had tried to release prisoners, despite six revisions of the scheme since its inception in April 2020. At the time of our visits around 120 prisoners had been reviewed as potential candidates for early release, but only two had been released. Local managers were rightly frustrated by the large abstraction of staff time to achieve such a minimal impact on the population.

(HMIP, SSV prisons holding women, 19 May)

Since March 2020, the prison population has reduced by 4,400.⁴² However, the bulk of this reduction is due to the disruption in courts caused by the pandemic (with fewer people sent to prison). This point was stressed in June by Angus Mulready-Jones, Lead for Children and Young Adults at Her Majesty’s Inspectorate of Prisons:

I do not think that anybody could sensibly say it [End of Custody Temporary Release scheme] has been a success in reducing the prison population. Obviously, normal releases have been happening throughout this time. A slowdown in court activity has meant that the population has slightly reduced, although this is likely to be a temporary reduction.

(Oral evidence to the Justice Committee, 2 June)

Of particular concern was the lack of action regarding the early release of pregnant women. In March, Secretary of State for Justice Robert Buckland QC promised the early release of expectant mothers and women housed on mother and baby units to protect them from Covid-19:

We have already taken extraordinary measures to protect prisoners and the public over the last few weeks, but it’s clear now that we must temporarily release pregnant woman and those with small babies with them inside prison. Governors can now temporarily release pregnant prisoners so that they can stay at home and reduce social contact like all other expectant mothers have been advised to do.⁴³

While the government did not put an exact figure on the number of women who would be eligible, the Justice Committee estimated that approximately 70 women would fall within this high-risk category (*Inside Time*, 6 April). But at the end of June, Lucy Frazer QC, prisons minister, told the Joint Human Rights Committee that six pregnant women and 16 women housed on mother and baby units had been released (Human Rights Committee, 29 June).

⁴¹ Ministry of Justice (2020) HM Prison and Probation Service COVID-19 Official Statistics: Data to 31 July 2020, London: Ministry of Justice

⁴² Ministry of Justice (2020) HM Prison and Probation Service COVID-19 Official Statistics: Data to 17 July 2020, London: Ministry of Justice

⁴³ Ministry of Justice (2020) ‘Pregnant prisoners to be temporarily released from custody’, available at <https://www.gov.uk/government/news/pregnant-prisoners-to-be-temporarily-released-from-custody>

The scale of the failure is unclear because, as the Joint Committee on Human Rights (JCHR) observed, the government was unable to produce “reliable quantitative data on the number of mothers in prison, the number of children whose mothers are in prison and the number of women who are pregnant and give birth in prison” (JCHR, 29 June). The fact that HMPPS and the prisons minister have been unable to provide this information demonstrates that these women and their children, who represent a highly vulnerable population, are hidden from public view.

4.3 Access to programmes

Prior to Covid-19, there were over 5,000 offending behaviour programmes completed annually.⁴⁴ The quarantine regime stopped these, resulting in the disruption of sentence progression for many.

Evidence from prisoners indicated that the loss of programmes was a serious concern. According to the inspectorate of prisons, the lack of meaningful sentence planning had left prisoners “frustrated that their progress had stalled” (HMIP, SSV, 16 June). Prisoners wrote to CAPPTIVE, expressing their concern:

There are some problems with progression in rehabilitation. Some prisoners in here including myself are serving EDS [Extended Determinate Sentences] sentences and have had our paroles refused due to non-completion of programmes, myself it's BBR [Building Better Relationships] but it is not possible to complete them due to the lockdown, social distancing and no programmes being available.

(CAPPTIVE respondent, adult male prison, 9 June)

With no job, no courses, I worry about my sentence planning, the impact that this will have on my parole hearing.

(CAPPTIVE respondent, letter, women's prison, 29 June)

For myself it's brought more uncertainty within uncertainty, because I am serving a short tariff IPP I had not long been on an offender behaviour course before lockdown (KAIZEN), and I was due for parole sometime after September, I was told but I never had a date which was eating away at my mental health and now I'm sure that I probably won't see a parole board this year without completing this objective.

(CAPPTIVE respondent, adult male prison, 9 June)

Spending 23 hours or more in their cells, prisoners feel powerless to pursue rehabilitation and improve their future prospects. This highlights the potential long-term consequences of the quarantine regime, with individuals facing the prospect of serving longer in prison as a direct result.

He is doing anything he can to keep himself occupied for the hours on end that he is stuck in a cell. More is needed for prisoners especially at this moment in time where they are locked up for so long. Access to more books, access to courses through coursework. Anything to keep them occupied. They need something to get up for every day. Right now they have nothing. No gym, no courses to help them progress.

(Family member, PPN email, 12 June)

⁴⁴ Ministry of Justice (2020) Her Majesty's Prison and Probation Service: Offender Equalities Annual Report 2018/19, London: Ministry of Justice

Simon Creighton, of Bhatt Murphy Solicitors, described the profound impact of the cessation of offender behaviour programmes, drawing on a case study. A client who had been recalled was required to do an offending behaviour programme. After the quarantine regime was imposed, he tried to complete the work in his cell. But, with his hearing approaching, his probation officer wrote that he would have to remain in custody for another nine months so he could complete the programme. Simon commented:

So, we're talking about a six-week course which is effectively going to cost this young man another year of his life in prison.

(CAPPTIVE interview, 13 July)

Mr Creighton added that this was having a serious impact on people's mental health and ability to plan for their future:

The immediate concern for people will be the points in which they are expecting to be engaging in rehabilitative measures on their sentences, they are in fact being locked three to a cell for 23 hours a day doing nothing. There is big impact on them in terms of their immediate quality of life in custody and the additional stress it is causing them because they know this is likely to mess up their parole prospects. You are combining what is already one of the most stressful point of a prisoner's life with making the conditions appalling and knowing that they're not making any progress. That is having a really serious effect on people's mental health.

(CAPPTIVE interview, 13 July)

The Parole Board have attempted to recognise that delays have been outside prisoners' control. Martin Jones, the Parole Board's CEO, asked his members to take into account that prisoners will have had limited access to courses, and in turn that there may be gaps in their completed sentence plan (Martin Jones CAPPTIVE interview, 20 July). Clearly, the Parole Board has tried to take the pandemic into account and recognise the impact of the quarantine regime in its hearings. Further exploration will be needed to determine whether knockbacks are occurring for these reasons and how prisoners are being supported as a result.

4.4 Contact with offender managers

Meaningful contact with offender supervisors is integral to successful progression and resettlement. But contact with offender managers was severely restricted by the quarantine regime. The prisons inspectorate reported that some prisoners "had not had any contact with their offender supervisor for the last couple of months and many felt their sentence plan targets and their progression were being neglected during the restricted regime" (HMIP, SSV, 9 June). Prisoners were well aware that the loss of contact could have long-term repercussions for them.

The Offender Management Units (OMU) are essential to re-categorisations, parole hearings, ROTL applications and completion of sentence plans. Losing this contact increased anxieties among prisoners that their progression would be delayed and their preparation for parole or release disrupted.

The main weakness was the lack of face-to-face contact with individual prisoners by offender managers and resettlement staff. This position required review to ensure that the restrictions were still proportionate. Many prisoners we spoke to felt frustrated at the lack of contact and some who were due for release said they had still not had any direct discussions with either their prison or community offender managers.

(HMIP, SSV, 26 May)

The prisons inspectorate recognised that prison OMUs were attempting to complete some “core processes” related to progression, including ROTL risk assessments, parole reports and HDC assessments. However, these processes were being completed without face-to-face contact; hence plans and assessments were based on written records as opposed to in-depth interviews (HMIP, SSV, 9 June). While prisons attempt to be responsive to the current climate by completing more work remotely, prisoners may be receiving unfair or inadequate treatment because they have lost meaningful face-to-face contact. This change in process may lead prisoners to feel left out of the decisions that could bring about significant changes to their lives.

This lack of contact has been exacerbated for some by a lack of knowledge and communication from wing staff about progression. As civilian staff have not been working on-site, prisoners have turned to officers for help or guidance, often with little success. Prisoners have reported that wing staff have been dismissive or unsure about their important questions regarding progression, leaving them disappointed, distressed and frustrated.

Due to the Covid-19 virus I am told all enquiries on the kiosk would not be answered, all key worker roles have stopped and when asking officers they do not seem to know the answer to my questions, which are when can I have my review? And how can I contact OMU? This is important to me due to the fact that I have spent nearly 9 years in custody and time is shortening and I feel I will not get the opportunity to integrate myself on to the community and also the other opportunities D-cat has to offer.

(CAPPTIVE respondent, adult male prison, date unknown)

Talking to other women and from my own experience to date involvement in prisoners' progression is next to zero. But together with the lockdown and OMUs' current hands-off status it has significantly increased suffering and pushed me into despair.

(CAPPTIVE respondent, women's prison, 22 June)

Helpful to progression

- The Parole Board advised its members to take into account prisoners' limited avenues for progression under the quarantine regime.

Problems with progression

- The suspension of offending behaviour programmes disrupted sentence plans and hampered prospects of release, causing significant stress.
- The end of custody temporary release scheme proved time-consuming and ineffective.
- A lack of contact with offender managers made decisions about progression dependent on written records rather than in-depth interviews.
- Without access to civilian staff, prisoners have been frustrated by the lack of knowledge and guidance from wing staff about progression.

4.5 Parole

The evidence from prisoners about progression focused mainly on how the quarantine regime was affecting the parole process. Many prisoners were systematically working through their sentence plan in preparation for parole hearings that may not now take place for some time.

A number of prisoners who provided evidence to CAPPTIVE were concerned that they might be unfairly held back from having their case heard. In March, media reports indicated that up to 2,000 prisoners may have their parole hearings delayed as a direct result of the Covid-19 pandemic.⁴⁵ A prisoner wrote to CAPPTIVE to say there has been a lack of communication from the prison about the likelihood of hearings going ahead. One prisoner stated, "there have been some that haven't heard nothing about their parole hearing" (CAPPTIVE prisoner letter, Category C training prison, 4 June).

According to the Parole Board, "no parole case has been forgotten or overlooked amid the pandemic" (Martin Jones, Inside Time, 31 May). The Parole Board "continue to list a huge number of hearings, with no signs of a backlog, despite ongoing restrictions and have returned to pre-Covid

⁴⁵ Hymas, C. (2020) The Telegraph, 'Parole Board warns 2,000 of Britain's most serious criminals they face longer in prison', available at <https://www.telegraph.co.uk/news/2020/03/28/parole-board-warns-2000-britains-serious-criminals-face-longer/>

levels” (Parole Board, Twitter, 1 July), with the number of cases waiting for a hearing date having reduced by 46%.⁴⁶ Approximately 90% of hearings are now taking place remotely, with 75-80% of cases that would have otherwise been heard face-to-face being rescheduled as remote hearings (Martin Jones CAPPTIVE interview, 20 July).

However, in practice, access to remote hearings has been varied. It seems that once again there is a postcode lottery for prisoners – parole hearings for those held in prisons with working video-calling facilities, but delays for others. In some CAPPTIVE evidence, prisoners and families reported that they believed video-calling had been under-used for parole hearings. A prisoner rang PRT’s A&I line in April to report that his review was five months overdue and that prison did not offer video links for parole hearings.

It is important to note that the cases currently being listed relate to parole dossiers which were filed at the beginning of the year. These cases will not have been subject to delays in relation to contact with probation and obtaining sign-off from OMU. People preparing or submitting their dossiers now may experience more widespread delays in ensuring all documentation is signed and ready to be put forward in a timely manner. That means that the true impact of delays caused by the pandemic will not be known until much later in the year.

Another factor in parole hearings is timely access to legal representation. While some prisons were working hard to ensure lawyers were able to maintain contact with their clients, this was uneven. Simon Creighton experienced both efficiency and neglect:

One thing the system has worked quite well at is facilitating contact with our clients and the remote parole process. At least after an initial few weeks when everyone was working out what to do, I have to say that in terms of legal advisors’ ability to represent their clients, that’s the one area that the system has been most effective in trying to keep some semblance of normality. [However] it is patchy. Some prisons have set up cloud video booking systems individually which are incredibly helpful; some prisons have got very, very helpful offender supervisors who will get people and stick them on the phone to you; with other prisons it’s like banging your head against the wall.

(Simon Creighton CAPPTIVE interview, 13 July)

The European Committee for the Prevention of Torture published principles on the treatment of prisoners during the pandemic, one of which stated:

Fundamental safeguards against the ill-treatment of persons in the custody of law enforcement officials (access to a lawyer, access to a doctor, notification of custody) must be fully respected in all circumstances and at all times.⁴⁷

The loss of face-to-face parole hearings could seriously affect prisoners with vulnerabilities or special needs. Martin Jones estimated that remote hearings would not be suitable for between 200 and 300 people who have learning difficulties or may struggle to understand over the phone (Martin

⁴⁶ Jones, M. (2020) ‘Chief Executive’s blog - Parole Board Covid-19 recovery plan’, available at <https://www.gov.uk/government/news/chief-executives-blog-parole-board-covid-19-recovery-plan>

⁴⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2020) Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, Strasbourg: Council of Europe, available at <https://rm.coe.int/16809cfa4b>

Jones CAPPTIVE interview, 20 July). The Board are currently in discussion with HMPPS to explore how socially distanced oral hearings could take place. This demonstrates how the Parole Board is working to prioritise cases appropriately, to prevent vulnerable prisoners from experiencing delays, which could add to their stress and confusion.

The recent Parole Board Annual Report highlighted that “most of the impact will be on operations in the following business year.”⁴⁸ Research will be needed to explore the impact of Covid-19 on parole, particularly regarding whether the increased use of remote and paper hearings affects prisoners’ experiences and perceptions of the process.

For prisoners (and their families) already frustrated by the painstaking bureaucracy and knockbacks associated with the parole process, the prospect of parole hearings being cancelled or delayed caused additional anxiety. Coming on top of the huge and uncertain consequences of Covid-19, the delays in progression and uncertainty about their future had profound implications. These prisoners felt that the efforts they had made to progress had been overlooked by prison management.

I hope things change for the better as it feels like we have been forgotten.

(CAPPTIVE respondent, 23 June)

A prisoner who believed his parole had been delayed by Covid-19 rang the Prison Reform Trust A&I line in April to say that they had gone on a hunger strike in protest. Other calls to the advice line reported that:

- A prisoner whose review had been delayed in January was now uncertain when it would be scheduled.
- A family member worried that delaying the prisoner’s parole subjected them to unnecessary risk of catching Covid-19.

The Parole Board recently published its “Covid-19 recovery plan” which highlights the steps that will be taken to “scale up video hearings” and expand the use of remote hearings. Undeniably, the board is demonstrating flexibility and innovation in ensuring that as many hearings as possible still go ahead. Martin Jones has stated that he has “personally written to nearly 50 prison governors to seek their continued support for parole business, including supporting instructions to legal representatives, and ensuring the required IT facilities are in place to carry out hearings remotely.”⁴⁹

While this is encouraging, it again highlights the variations between establishments in regard to these services. Two positive developments are the acceptance in principle that prisoners’ progression may have been delayed through no fault of their own, and the efficient move to video links to ensure that parole hearings continue. However, the implementation at the local level shows variation in access to remote parole hearings, which could potentially leave room for unequal or unfair treatment.

⁴⁸ Parole Board (2020) Parole Board for England and Wales Annual Report & Accounts 2019/20, London: Parole Board

⁴⁹ Jones, M. (2020) Russell Webster, ‘How the Parole Board is adapting to Covid-19’, available at <http://www.russellwebster.com/coronaresponse6/>

Parole: Key Findings

Helpful to parole

- Remote hearings ensured that the number of parole hearings taking place quickly returned to pre-Covid levels (thus far).
- Some prisons facilitated good access to lawyers, over the phone and via IT facilities.

Problems with parole

- A lack of communication as to whether parole hearings would take place as planned has caused much anxiety
- Parole hearings have been delayed in establishments without adequate video-calling facilities.

4.6 Release on temporary licence (ROTL)

Overview

Release on temporary licence (ROTL) performs vital roles for the successful return of people to the community after serving a prison sentence. Its benefits are spelled out in the ROTL framework introduced by the prison service in May 2019. There are four types:

- Resettlement Day Release
- Resettlement Overnight Release
- Childcare Resettlement Licence
- Special Purpose Licence.

Day release, the most often used, facilitates day time, off-site access to education, training or employment. Overnight release allows the person to stay at the accommodation they will go to on release. Childcare release provides a chance for parents or carers to spend time with children. Special purposes include compassionate, legal and medical reasons.

Since May 2019, the number of people in prison released on temporary licence had steadily increased, from 97,352 incidences of release in January to March 2019, to 119,069 for October to December 2019.⁵⁰

The benefits of ROTL for prisoners, their families, outside agencies and employers, and the wider criminal justice system are very significant. Many people will begin to work towards their ROTL from their first days of imprisonment. ROTL is intrinsically linked to the individual's sentence plan, as the Prison Service Instruction states:

All resettlement ROTL must have a clear, recorded link to objectives identified in the individual sentence plan and/or resettlement goals.⁵¹

It supports pathways to education, routes to employment and financial independence, as the same instruction acknowledges:

Undertaking paid and unpaid work whilst the offender remains in custody can help to enhance the offender's prospects of returning productively to the community and thereby reduce re-offending. The use of suitable, available work/placements is therefore strongly encouraged.

ROTL gives people opportunities to find accommodation. Most importantly, for many in prison, ROTL supports release for spending time with loved ones and for rebuilding relationships with partners and children. For those serving long and/or indeterminate terms, ROTL helps with the gradual adjustment to being outside in a world that might have changed significantly during their period in prison. It also enables prisoners to demonstrate they can comply with licence conditions, adhering to similar restrictions that will apply on release.

On 24 March 2020, with the implementation of the exceptional regime management plan, this vital element of resettlement was abruptly halted. For most of this period, temporary release licences have only been issued in a limited number of compassionate cases and for "essential" workers, although there are some signs of positive change. The curtailment of ROTL brought heavy costs for people across the prison estate. Some of the major concerns have been voiced by those at the latter stages of long, often indeterminate, prison sentences. Not having access to ROTL deprived many of the chance to fulfil certain requirements of their sentence plans. Anxieties centred on losing chances to be "tested" in the community: their ability to comply with ROTL conditions can demonstrate that they have reduced their risk and can successfully resettle in the community. Several CAPPTIVE correspondents expressed fears this will negatively affect their parole application and they will spend longer in prison as a result.

I'm not going to be able to do my home leaves, done 6 x ROTLs but didn't get home leaves. My parole is Oct 2020 and this will probably stop my release through no fault of mine ... I do feel I have been robbed and that Cat D is now pointless.

(CAPPTIVE respondent, PPN, Category D Prison, 10 June)

⁵⁰ Table 3.5, Ministry of Justice (2020) Offender management statistics quarterly: January to March 2020, London: Ministry of Justice

⁵¹ HM Prison & Probation Service (2020) Release on Temporary Licence (ROTL) Policy Framework, London: Ministry of Justice, available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863600/rotl-pf.pdf

... generally, there has been a lot of concern for the IPP sentenced prisoners and their families due to the impact on their upcoming parole boards, no ROTLs has obviously meant no way to reassess risk levels.”

(Partners of Prisoners – Family Support Lead, 7 August)

As highlighted in the previous section, the Parole Board has adapted well to challenges posed by pandemic. They recognise the difficulties people in prison face under Covid-19 when trying to meet sentence plan requirements. However, the long-term impact of the quarantine regime on resettlement and parole outcomes will not be known for some time. For those in prison, the disappointment of losing out on the many benefits of ROTL that they have spent years working towards, and the added prospect of spending longer in prison as result, is having a severe impact. Multiple sources report severe stress, anxiety and a profoundly negative impact on mental health.

... a man is serving an IPP sentence and has been unable to have his ROTLs to an Approved Premises hostel which has caused him some anxiety and may impact on the timescale for his eventual release.

(Quakers in Criminal Justice input to CAPPTIVE, 22 July)

In the week prior to our visit three prisoners had been placed on an ACCT, which was more than usual. The lack of access to ROTL was a factor in two of these.

(HMIP, SSV open prisons, 9 June)

Family/Child Contact

The withdrawal of contact with children is another aspect of the reduction of ROTL that is causing enormous distress to prisoners, their children and their families, as discussed in CAPPTIVE’s first briefing.

Unfortunately, my ROTL board was cancelled because of Covid-19 ... The most difficult part of that I haven’t seen my son since nearly 11 weeks!!! Not even video call.

(CAPPTIVE respondent, PPN, women’s prison, 4 June)

... a family have a nearly two-year-old. Due to dad being in custody throughout the little boy’s life, ROTLs were really helping them to form a bond with each other ...

(Partners of Prisoners – Family Support Lead, 7 August)

Stopping childcare resettlement licences has disproportionately affected women and their children. From October to December 2019, 451 childcare resettlement licences were issued to women, compared to 34 to men. These numbers do not include the other forms of ROTL that support family ties. From October 2019 to March 2020, for both men and women, there were over 20,000 incidences of resettlement day releases for “maintaining family ties”. Similarly, for the same period, more than 15,500 resettlement overnight licences were issued, many of which will have included residing in the family home.⁵²

⁵² Table 3.5, Ministry of Justice (2020) Offender management statistics quarterly: January to March 2020, London: Ministry of Justice

Figures from April to June 2020 are not yet available, but the almost complete blocking of ROTL will have harmed hundreds of children who would otherwise have enjoyed valuable contact with their parents and carers. A support worker for Partners of Prisoners explained how one young person has again lost contact with her father:

This teenage daughter is a dancer so she is missing those things that he had just started being able to attend.

(Partners of Prisoners – Family Support Lead, 7 August)

Likewise, the abrupt withdrawal of ROTL has been traumatic for the many people who have spent years (sometimes decades) working towards temporary release as a chance to be with their children and families. Many families, who had been counting down the days to their loved one's ROTL, talk about profound loss of having this taken away. This partner of a man in jail, who was just starting to experience having him back home on temporary release, captures the pains of this loss:

It's been so difficult for me and the children to go from having him home for the day getting back to some kind of normal. We were due to start the overnights from May 20. This is the part you really wait for which has been 3 and half years and to think we have now missed out on 4 home leaves is so hard to come to terms with. For once we were able to plan and look forward to small things like waking up having breakfast together, the school run and many more as you can imagine. We are finding it even harder the fact we have no end date of when he will get to come home again.

(Family member, POPS, 6 August)

On top of the impact that it had on her and their children, she was worried about how her partner was coping while isolated in prison.

It's much more ... difficult for my partner as he been so used to having a routine with work, gym, visits and day releases. These are the main key things that help you through your sentence and keep a strong mentality.... when I speak to him his mood is low because there's no end date in sight and nothing to look forward to. He misses his children so much.

(Family member, CAPPTIVE response, 6 August)

This resettlement-focused part of the sentences is what keeps prisoners, parents and carers going through some of the most difficult periods in prison. To have this taken away through no fault of their own has been hugely challenging and will continue to be so until prisoners are informed of plans to reinstate ROTL.

Employment

The most frequent use of ROTL is for employment, training or education. Between October and December 2019, before Covid-19, 80,636 work related day release licences were issued.⁵³

The lockdown on 24 March led to the closure of most outside workplaces and the introduction of restricted regimes across the prison estate. Only prisoners deemed “essential” workers were released to outside employment. What constitutes essential workers was interpreted in different ways by governors, resulting in significant variations in the number of essential workers released, as noted by the prison inspectorate’s SSV to open prisons in June:

The three prisons had inconsistent criteria for what constituted essential work, which was hard to explain.

(HMIP, SSV open prisons, 9 June)

In one of the establishments inspected, no prisoners had been designated essential workers, while another went from having 97 men working outside in key worker roles at the height of the pandemic, to just 35 at the time of inspection. Just weeks into lockdown, another open prison shared on Twitter their success in ROTL for essential key worker roles.

... Hatfield is now sending 41 men out on #ROTL each day as key workers in a variety of roles with several employers.

(HMP Hatfield, Twitter, 6 April)

These numbers are a tiny fraction of the releases that were happening pre-Covid. In the months since lockdown, thousands of prisoners have missed out on the resettlement benefits of ROTL. A vital element of outside, paid employment is that it gives prisoners financial autonomy which means they are less reliant on family members and are able to plan for release. In some instances, outside paid employment permits prisoners to send funds to their children or struggling partners. Employment also allows those coming to the end of their sentence to save for housing (often deposits) and other much-needed essentials on release. Workplace ROTL contributes to enabling more financial stability and independence on release and has been shown to reduce the risk of reoffending.⁵⁴

People denied ROTL have lost months of income and/or the prospect of taking up paid outside employment. A possible solution was the government’s furlough scheme, but this, too, was inconsistently applied, as highlighted below:

As soon as the prison stopped us from work (not deemed essential) at the end of March our company said they would furlough us ... The CM [custodial manager] then came back and said we have done some checks ... you are not eligible for furlough (You have a Memorandum of Understanding not an Employee contract) and we have told your employer not to claim for your furlough.

(CAPPTIVE respondent, PPN, male open prison, 27 July)

⁵³ Ibid.

⁵⁴ Hillier, J. and Mews, A. (2018) The reoffending impact of increased release of prisoners on Temporary Licence, London: Ministry of Justice

The blanket approach to prisoners not being entitled to furlough arrangements was changed after the Howard League successfully challenged HMPPS.⁵⁵ But many prisoners had already lost out due to confusion, inconsistent information and a lack of knowledge from employers, prisons and prisoners. The man quoted above said he was able to get a prison job. He added that unemployment was a big concern in that prison.

CAPPTIVE also received reports that even when essential “key worker” roles were secured for prisoners, long delays in completing workplace security clearance and safety checks (due to Covid-19) led to the loss of these opportunities. A group of women were successful in their interviews for supermarket keyworker roles, but their start dates were delayed by the prison several times. Eventually, after the failure to get the women cleared and out of the prison, the job offers were withdrawn. This was a very difficult setback for the women, with one noting:

I have served 15 years and am so close to parole, my future is looking so grim and I am going to be released on benefits after all the hard work through my sentence.

(CAPPTIVE respondent, women’s prison, 1 July)

Preparing for release

Five months into the quarantine regime, the pains of imprisonment for prisoners and their families have been sustained and profoundly amplified. Many of those already qualifying for ROTL were assessed as a low enough risk to be working outside daily and/or to spend time at their residence or family home. Following the government’s early promises to preserve life by reducing prison numbers, many might well have been deemed appropriate for early release.

At the time of writing, signs of a slow and careful increase in the use of ROTL are emerging. Regarding ROTL for employment, the prison must first be satisfied that the Public Health England guidance is being followed at the workplace, including social distancing and appropriate use of personal protective equipment (PPE). This, of course, will be a gradual process as many employers are feeling the economic pressures of Covid-19 and may not require as many employees (or have space for them). Staff at an open prison told CAPPTIVE that up to half of the outside work placements had been lost. There are, however, some encouraging accounts of prisons working to secure new employment and get people back out to work. East Sutton Park recently tweeted this update to their followers:

A lot of hard work and patience but following the reintroduction of work Rotl we have 7 ladies starting their new paid employment placements this week. #resettlement #afairchance.

(HMP East Sutton Park, Twitter, 3 August)

There are also encouraging reports from the Open Category D male prisons about non-essential workers gradually getting back into the workplace, albeit in low numbers. The frequent, successful use of ROTL before Covid-19 should be recognised, and built upon. Returning to pre-Covid rates of release is likely to be a long process, but no doubt there are many prison staff, prisoners and employers with the will to get the system fully moving when conditions allow.

⁵⁵ Crook, F. (2020) Howard League for Penal Reform, ‘Employed prisoners can be furloughed’, available at <https://howardleague.org/blog/employed-prisoners-can-be-furloughed>

Release for family ties and childcare is much more complicated. At the time of writing there is no guidance on how to re-start this vital form of ROTL. But, as with social visits, it will be painfully slow and turbulent depending on regional Covid-19 spikes. Delays in getting this important aspect of progression reinstated may lead many prisoners and their families to question how workplace placements are deemed less risky and more vital than contact with children, seeing partners and more general family ties.

ROTL: Key Findings

Helpful to ROTL

- Some prisons have worked hard in difficult conditions to secure new employment for prisoners in the community.
- Some prisons have found prison jobs for a few who had previously been working outside under ROTL.

Problems with ROTL

- Cancelling ROTL has prevented prisoners from being able to demonstrate a reduction in risk, meaning they are likely to spend longer in custody.
- A loss of work opportunities undermined employment prospects and financial stability.
- Opportunities for family contact have been severely curtailed, with a disproportionate impact on women and their children.

5. List of frequently cited sources

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to young offender institutions holding children, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to local prisons: 28 April, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to Category C training prisons, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to prisons holding women: 19 May, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to Long-term and High Security Prisons, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to Category D open prisons, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to Category C prisons, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to local prisons: 23 June, London: HMIP

HM Inspectorate of Prisons (2020) Report on short scrutiny visits to prisons holding women: 30 June, London: HMIP

The first six months of the Covid-19 pandemic has brought about radical changes to our daily lives. Nowhere more so than in prison, where the majority of the population has spent around 23 hours a day locked in their cells. While undoubtedly the drastic move towards almost universal lockdown has helped prevent the large loss of life originally predicted, it has meant that around 80,000 people have been living under conditions that, according to United Nations definitions, amount to prolonged solitary confinement and torture.

The loss of opportunity for progression and rehabilitation during this period means that prisons have not been delivering one of the core statutory purposes of sentencing. For many prisoners whose release is dependent on a risk assessment, and the completion of courses that are not currently available, the likelihood is that many will spend longer in prison than necessary, for reasons wholly beyond their control.

This briefing outlines some of the costs that an almost universal lockdown has imposed on our prison population, through the words of prisoners and their families. With the general public considering ways in which they can return to some form of normal life, prisoners watch developments outside unfold while inside prison there seems little hope that things will change for the better. The future for them looks bleak, with rumours of a continuation of these conditions well into the new year rife amongst those we spoke to. The prison service now faces the tough challenge of managing the unique risks that Covid-19 presents, while reducing and mitigating the isolation, distress and frustration their responses to date have caused.

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