

The Rt Hon Robert Buckland QC MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
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13 October 2020

Dear Lord Chancellor,

COVID-19 and prisons: the next phase

We are writing to you again in the light of the rapidly developing situation in prisons in relation to outbreaks of Covid-19.

In your letter to us of 6 July, you helpfully indicated that there was a desire for a more transparent approach from your department, and we welcome the fact that some steps have been taken towards that over the summer. We also recognise that the approach to managing the pandemic in prisons has shifted, to allow more local discretion in response to local circumstances, and that you have made clear that there are likely to be setbacks, particularly as winter approaches.

However, a flexible local approach will not be able to meet all the challenges that are now emerging, and there is an opportunity to approach some key national issues in a different and more effective way than in the spring of this year.

We would suggest that the first and most important change should be about transparency, so that prisoners and their families can understand the basis on which decisions are being taken. Specifically, it would be helpful if you could make clear the evidence you have and the advice you are receiving on:

- the risks of transmission of the virus in prisons;
- the different measures to contain transmission, and in particular:
 - the sustainability of cohorting strategies given the current and predicted numbers of people in prison, and the predicted availability of single cell accommodation
 - the availability and use of different forms of PPE for staff, prisoners and other people who need to go into prisons
 - testing of prisoners, especially on reception, transfer and discharge
 - testing of staff and other people needing access to prisons

We think there are some policy decisions which could and should be taken now to reassure prisoners and their families about the difficult months ahead. In particular, we would ask that you:

- take the advice of the Independent Advisory Panel on deaths in custody and devise a much simpler, more generous and therefore more effective scheme for the conditional early release of prisoners to make space within the estate to improve infection control;
- do the same for a simple system of conditional release in compassionate cases, including pregnant women, trusting governors to take decisions without multiple layers of approval from outside the prison;
- commit now to the continuation of additional phone credit, free video calls and access on compassionate grounds to communication through electronic means at the Governor's local discretion;
- commit to the prompt and detailed updating of the HMPPS website with prison by prison information so that the standard of communication by the best prisons during the pandemic is met by all prisons during the next phase. We suggest a weekly detailed public update, rather than the very limited bulletins that you are issuing at the moment;
- commit to the maintenance of daily provision of education and other purposeful activity for children in custody along the same lines as for children in schools in the community, and guarantee that there will be no return to children being locked in their rooms for the majority of the day;
- prioritise the provision of opportunities for progression for adult prisoners whose prospects of release on parole will otherwise be damaged and may result in additional years needlessly spent in prison.

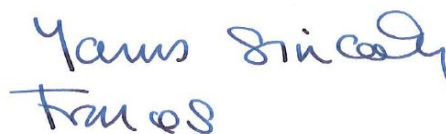
We recognise and applaud the effort that so many within the prison service have made to keep people safe from the virus over the last 6 months. But the fact remains that they are having to make that effort in a system which is needlessly overcrowded, denying prisons the physical and operational space which would otherwise allow for regimes that were both safe and humane. We are very concerned that even the modest relief afforded by the interruption to normal court activity will soon be eroded, and that you have no plan of which we are aware to deal with that predictable change. That is an issue which it is within your gift to solve, without jeopardising public protection, and we strongly urge you to do so.

Given the speed with which the situation in custody is evolving, we hope you will feel able to provide a prompt response to these concerns.

Yours sincerely,



Peter Dawson
Director
Prison Reform Trust



Frances Crook
Chief Executive
The Howard League for Penal Reform