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Chief Executive
The Howard League for Penal Reform

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Peter Dawson
Director
Prison Reform Trust

11 November 2020

Dear Frances and Peter,

COVID-19 AND PRISONS: THE NEXT PHASE

Thank you for your letter of 13 October regarding the developing situation in prisons in relation to outbreaks of Covid-19. In this response, I hope to:

- Set out the context of the public health advice we are acting on, and our strategy for responding to Covid-19 in prisons.
- Address your policy suggestions, indicating how we plan to take these forward to reassure prisoners and their families during the winter months.

Strategy for responding to Covid-19 in prisons

Guided by public health advice, we took immediate and unprecedented action to implement a suite of measures to respond to the pandemic. Our decisions have been based on three core objectives:

- **Preservation of life:** to continue to protect our staff, the public, and those in our care by minimising deaths and hospitalisations, ensuring continued access to healthcare, and protecting the NHS from explosive outbreaks.
- **Maintain security, stability and safety:** to ensure the ongoing stability and safety of the estate, including risks of disorder, self-harm, and sufficient staff confidence to deliver regimes and rehabilitative activities as intended.
- **Providing sufficient capacity:** to ensure that we have enough space to receive from the courts and sufficient capacity to meet overall demand, as well as sufficient staffing and resources to run establishments.

The pandemic has presented a unique set of challenges that we continue to address to maintain services in custody. We continue to work very closely with public health authorities and experts at every level of decision-making (national, regional and local) to ensure our approach is based on the best scientific advice available whilst balancing the operational challenges the pandemic has presented.

As closed environments with a vulnerable population, the Public Health England (PHE) Health & Justice team perceive prisons as analogous to social care settings where there are risks of 'explosive outbreaks' during a pandemic. Currently the incidence of infection is rising exponentially in the community which means the threat level to prisons is escalating and already high in many parts of the country.

As you know, in March we introduced cohorting strategies, including the 'compartmentalisation strategy' across the estate, to isolate the sick, shield the vulnerable and quarantine new arrivals, based on advice from PHE. As part of the wider strategy, we also significantly reduced transfers between prisons and the cross-deployment of staff. Reducing movements between prisons has mitigated against the risk of importation and onward transmission in custodial settings.

In order to create the headroom needed to allow us to fully implement the compartmentalisation strategy, we undertook a number of additional measures. Alongside the careful release of offenders, as part of the End of Custody Temporary Release (ECTR) and Compassionate Release on Temporary License (ROTL) schemes, we have been working to expedite remand cases, accelerate the Home Detention Curfew process and expand the estate.

All prisons now have effective cohorting measures in place. We have plans in place to manage against potential short-term growth in the prison population. In the event of a sustained and substantial rise in the prison population these arrangements may come under pressure, but we have plans in place to manage this. We are continually improving the efficiency of the cohorting measures, and additional temporary units are providing further flexibility.

Testing is another crucial part of our plan to guard against outbreaks in custody, enable us to maintain regimes, and support capacity pressures by reducing time spent in cohorting units. We are currently rolling out our testing strategy, developed in collaboration with PHE. This includes testing prisoners on reception and those prisoners being transferred from prisons in areas with high levels of the virus, which will help to minimise the risk of prisoners transmitting the virus into and between prisons. We are also rolling out regular testing of prison staff this month to help prevent asymptomatic individuals accidentally bringing the virus into custody.

PPE is also critical to protect staff and those in our care. Medical-grade PPE is specified for staff, and prisoners conducting particular roles, in line with public health advice and risk assessments. Where staff are not directly employed, or are visiting professionals, we make sure that appropriate PPE has been provided and is worn in the appropriate areas. Face coverings have also been introduced in some circumstances for prisoners, as an additional measure alongside effective social distancing and hygiene to reduce transmission. At present there is sufficient supply of PPE and face coverings in place to meet forecast demand and we are keeping this under constant review.

The restrictions and measures implemented as part of our initial strategy were necessary to save lives. However, we are fully aware that these restrictions have had consequences for the wellbeing of prisoners and their families. HMPPS is continually working with public health colleagues to balance the risk of infection against the negative impact on the mental and physical wellbeing of those in our care.

Managing the response in the prison estate throughout winter

As you will be aware, the Prime Minister recently announced a period of further restrictions in England, which commenced on 5th November, to slow the spread of Covid-19 in the community.

Across our services we have taken every opportunity to refine our strategy and operations to limit the spread of the virus since March. As we enter this new phase of the pandemic, we have swiftly assessed our operational plans and applied the learning we have from our experiences to date. As I set out above, we now have additional mitigations in place which were not available in March and put us in a stronger position to limit the impact of any outbreak.

Our National Framework for Prison Regimes and Services sets out how we will take decisions about easing and re-imposing coronavirus-related restrictions in prisons. For the period of these national restrictions, we are limiting all prisons in England to Stage 3 of the Framework and pausing any further

easing as part of moves to Stage 2. We have had to temporarily pause most face-to-face social visits, but exemptions apply in compassionate circumstances and we will continue to offer video visits. In other areas of the regime we are continuing to facilitate rehabilitative activities including exercise and work, as well as key working arrangements. We recognise children in custody have particular needs, which is why we are continuing to offer face-to-face visits in the youth estate, and maintaining face-to-face education and advocacy.

I would now like to address the policy decisions you have touched upon in your letter and provide an update on progress we have made:

We are continuing to consider the use of the early release schemes to support our efforts to reduce Covid-19 impacts on prisoners. Although ECTR releases are currently paused, it remains as a contingency measure that we have available. As you rightly point out, it is important that we ensure the scheme is as effective as possible should it need to be reintroduced. We are therefore considering what lessons we can draw from how it has operated so far. We will consider the specific points raised by you and the Independent Advisory Panel (IAP) as part of that exercise. At present, however, there are no plans to re-start releases.

The compassionate ROTL scheme continues to operate, through which we have carried out a number of temporary releases of pregnant women, mothers and babies, and the clinically extremely vulnerable. Public protection remains a critical consideration, but assessments continue to be made through the agreed processes, on an individual basis and within reasonable timescales.

We recognise that the restrictions we have needed to impose for public health reasons have had consequences for the wellbeing of those in our care. Therefore, in parallel with the National Framework, and as you mentioned, we have introduced a package of support to help prisoners maintain contact with loved ones while the restricted regimes are in place. This includes additional phone credit, secure mobile PIN phones where in-cell telephony is unavailable, free video calls and access to iPads on compassionate grounds. All of these measures continue to be available in custody. We are considering future options for these measures and will communicate our plans to staff and prisoners in the event of any changes.

Regarding video calling, as my colleague Lucy Frazer QC MP said to you in her letter in September, we have made good progress in implementing the current temporary service across the estate and, as part of our wider digital strategy, we are looking at how this could be delivered in the long term.

As part of our intention to remain transparent in our response to Covid-19 in prisons, we regularly update the gov.uk site. The site provides details of every prison in England and Wales to ensure it has the most up to date information about the Covid restrictions in place nationally across the estate and importantly, the availability of and procedure for family or social visits at each prison:

<https://www.gov.uk/government/collections/prisons-in-england-and-wales>. Although the nature of the pandemic means the situation in an individual establishment can change very rapidly, we are working to keep this as up-to-date as possible. We also currently release a monthly publication of key Covid-19 statistics in custody, which we intend to move to a weekly publication to improve transparency. We remain one of a handful of public services where inspections, monitoring and scrutiny are still being conducted, with HMIP continuing to publish their findings.

The youth estate has continued to strive to increase regime delivery and 'time out of room' in a way that is safe and sustainable for children and staff. Education remains a particular priority, as the YCS seeks to mirror the position taken in the community with regard to education as much as it is possible to do so.

It is the strong desire of the YCS to continue to provide face-to-face classroom education and other key services including advocacy and social visits, notwithstanding local variations and the impact of potential

outbreaks amongst staff or children. In the limited circumstances where this may not be possible due to public health guidance, we have ensured that all children are provided with in-room phones and a supplementary phone credit that includes free phone access to a number of charities and advocacy services. We have also ensured that children have access to video calls, such as Purple Visits, to allow them to keep in contact with family and friends.

The YCS has also commissioned a piece of academic research to identify lessons learned during the period of Covid-19. This includes feedback from children and young people, staff and key stakeholders. Findings will be used to inform both covid-19 recovery/winter planning and the ongoing transformation of the children and young people's secure estate.

Despite the constraints imposed by the pandemic, we are continuing to work to deliver quality prison regimes, involving prisoners taking part in purposeful activity. We have also put in place services to make the time that prisoners (in the adult estate) spend in their cell more purposeful. We have worked collaboratively with our Prison Education Framework and Dynamic Purchasing System providers to develop and provide learning materials, in cell activity packs and learning packs for as many prisoners as possible. Provisional data from the beginning of April 2020 shows that the education providers have worked with HMPPS to distribute approximately 871,000 learning packs.

HMPPS prioritises opportunities for those whose prospect of release on parole is dependent on demonstrating risk reduction. This needs to be balanced against the need to reduce the risk of determinate prisoners approaching imminent release. Offending behaviour programmes continue to be delivered, despite the pandemic, and places are prioritised based on risk and proximity to release or tariff dates. We are talking to the Parole Board and probation colleagues about the impact of the reduction in offending behaviour programme places and we are exploring alternative ways to address risk, including virtual delivery of programmes.

I am grateful for the ongoing challenge and support you have both provided during this time in order to help protect lives and look forward to working with you going forward.

Yours ever

A handwritten signature in black ink that reads "Robert Buckland". The signature is written in a cursive, slightly informal style.

RT HON ROBERT BUCKLAND QC MP