

Prison Reform Trust submission on Covid-19 to the Justice Committee – 30 April 2020

Some progress...

It is a great relief to start with news of some small progress. More than three weeks after announcing the ECTR scheme, the government finally published a detailed description of the eligibility criteria and process. It also published its very restricted approach to applications for temporary release on compassionate grounds. Our contacts with prisoners show that this information is not necessarily getting to them, but at least families can now be given clear and detailed information.

Similarly, it was good to see the government publish a clear account of its most recent advice from PHE about infection control in prisons. This stands in stark contrast to the secrecy that surrounded the advice and recommendation it received on 24 March, which was much less optimistic and which it chose to reject. We hope the more recent approach represents a precedent for the future. The gulf between the government's stated commitment to transparency during this crisis and the MoJ's actual practice could scarcely have been any larger.

We've also picked up news of small steps taken to mitigate the awfulness of life inside prisons at the moment. Prisoners do now seem to be getting £5 a week PIN credit, and BT call charges have been reduced. We understand all public prisons are going to get an iPad to facilitate video calls in compassionate cases, though not all of those have arrived. It's impossible not to contrast that with what's happening in Northern Ireland, where video calls are apparently now being made available to all prisoners, but it's a start.

But a very long way to go

Of course, this all pales into insignificance for the prisoners and families who thought that the government's announcement of an early release scheme for which up to 4,000 prisoners might be eligible could be about to transform their daily and deep anxiety about the risk of infection in prison. It is now abundantly clear that the government has no intention of releasing significant numbers of prisoners. The detail of the scheme provides an extraordinarily long list of reasons for not releasing people who will be out in a maximum of two months in any event—and a bureaucratic process guaranteed to delay the release of the minority who may still qualify. It represents a bitter disappointment to the prisoners and families most affected, and a missed opportunity to ease the pressure on prisons which we believe the government will rapidly come to regret.

The dramatic change in the PHE's most recent advice about the current potential for deaths from Covid-19 in prison reflects a very welcome and unexpected interruption to the pattern of increase earlier in the month. But the advice could not be clearer about the risks that remain, and the reasons that infection in prisons is not currently worse than it is.

First, operating “headroom” is essential. Most of the headroom so far has been created by the natural decline in new receptions because of lockdown in the community. Almost none of it has been created by temporary release, and very little by new temporary accommodation. As lockdown in the community is relaxed, that will change, and indeed there may well be a surge in new receptions. The government’s thirst for more punitive approaches from before the pandemic has not gone away, and in the midst of the crisis and the collapse of the economy it has enacted measures that will increase the prison population in the longer term and effectively rule out any possibility of closing the dreadful overcrowded and outdated prisons which are so dangerous at the moment. The main and most critical plank in its coping strategy is under severe and imminent threat.

Second, the current strategy depends on an absolute minimum of inter-prison transfers. We have heard from prisons that appear to be virus free but are now being required to take prisoners from prisons that are not. In other sites, we hear about staff being cross deployed to shielding and reverse cohorting units, and about an absence of PPE. The system cannot operate without transfers as it is currently set up, and for longer term prisoners progression and their ultimate release depends very often on moving to a different prison.

Third, the way of life for almost all prisoners at the moment cannot be sustained for 12 months. That’s not only true in the overcrowded locals where the deprivation is most extreme. In longer term prisons, there is no constructive activity, and no progression. Even in the best managed prisons, where prisoners themselves have been very influential in containing the risk of infection, the pressure for some kind of relief will grow, especially as conditions in the community at large start to change. Just as in the community, people need to be trusted in a planning process to which they can contribute. More than ever, keeping prisons safe and ordered in the next 12 months is going to depend on the active consent of prisoners and using their ideas and wisdom to make life tolerable.

A change of mindset

The committee will know that we and the Howard League started and have now been able to discontinue a process of legal action concerning the government’s initial response to this crisis in prisons. We are pleased that our action eventually led to a detailed response, and in particular may have contributed to decisions to publish material that was being unaccountably kept secret. But it should not take the threat of legal action to make that happen.

If there is a change in mindset, we may receive fewer messages such as this:

“It will be interesting to see how, & when (or, in some cases, even if) prisons will deal with the additional prisoner releases that are now (again) eligible for ECTR. So far, my husband hasn’t yet been approached about this change; in his case it now remains to be seen which happens first out of ECTR & his actual release date in 9 days. Personally I suspect it’ll be the later, if so, that’ll be - looking at it relative to his case - a comparative waste of 41 days of potential action against the spread of Covid-19 in the prison system, particularly as, I would imagine, he is one of very many that could have left earlier to help address the chronic overcrowding throughout the whole prison estate.”

Peter Dawson
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