



15 June 2020

Rt Hon Robert Buckland QC MP
Secretary of State and Lord Chancellor
Ministry of Justice
102 Petty France
London SW1H 9AJ

Cc: Lucy Frazer QC MP

Dear Robert Buckland,

Covid19 and prisons: the next phase

Thank you for your letter of 1 June 2020 in response to our letter of 6 May 2020.

Things have moved on considerably in the community since we last wrote to you but for the 80,000 men, women and children in prison, life has not changed significantly since you first imposed the lockdown regime on 24 March 2020, some 80 days ago.

Most people in prison are either in prolonged solitary confinement or in overcrowded conditions. Despite the additional resources that have been given to prisons to cope with the crisis, each and every report from the Inspectorate has painted a clear, bleak picture: prisons are devoid of purposeful activity and opportunities for people to make amends. The children in prison have had no education, rates of self-harm in women's prisons have increased and the entire estate has been starved of contact with the outside world. Open prisons no longer serve their function of preparing people for the community. Deaths in prison are rising.

This situation is inhumane and untenable. It is also unlawful. In 2015 the Supreme Court ruled that safeguards and external scrutiny are required under the prison rules where prisoners were removed from association, and made it clear that the rationale for this was not merely blind adherence to a rule but because of the risk of irreversible psychiatric harm that can be caused by solitary confinement. Yet since the lockdown began, the routine isolation of people in prison has not been subjected to these safeguards and there is a real risk that we will reap the consequences over the years to come in terms of the mental health of those affected.

Either you must release a substantial number of prisoners so that prisons are less overcrowded and the need for prolonged solitary confinement disappears, or you must take some other urgent step to initiate a humane and meaningful regime in our prisons. It is untenable in the medium or indeed short terms to continue to subject the entire prison population to conditions of what are, in effect, prolonged solitary confinement with no access to education or other meaningful activities.

It is clear that despite investing almost £4 million in electronic tagging to secure early releases and advising us on 28 April 2020 that you had approved releases of 200 people under the ECTR scheme, that system is effectively abandoned.

We urge you to reconsider that. As the Courts return to business, we will see an increase in the prison population and it will be impossible for prisons to implement the techniques it has been using to date to contain the virus and to simultaneously introduce a decent regime.

Regardless of whether or not you step up the release programme, we ask that you provide us with your plans to ensure that those who are effectively in solitary confinement are subject to the scrutiny and safeguards required by the Prison and YOI Rules. In particular we are concerned that the routine health checks that are critical ordinarily when prisons place prisoners in solitary confinement are not occurring. Your phased plan published on 2 June 2020 does not deal with this. It is essential that these safeguards are in place, especially as it is possible that even if the prison service reduces the restrictions, they could return at any time should the risks posed by the virus increase. The plan published on 2 June 2020 is wholly reliant on easing the lockdown in the community but plans must be put in place to run decent and humane prisons even when there is a lockdown. As a minimum, this must include:

- using the additional staffing resource to increase time in the fresh air,
- introducing routine testing for all staff and prisoners coming in and out of prisons, including transfers between prisons
- enabling people in open prisons to access the community safely again

We ask that you publish a plan which will deliver this minimum, regardless of the regime stage a prison has reached, and confirm that data on each prison's delivery of this minimum will be made available. We are encouraged to hear that each prison will have some autonomy in how it manages lifting the lockdown. There needs to be an accessible plan in place for each prison so that prisoners, their loved ones, prison staff and others affected know what is to be expected and what the situation is on the ground in each case.

We, prisoners and their families, and many other individuals and organisations who want to help you, look forward to your response.

*Yours sincerely
Frances*

Peter Dawson

Frances Crook
The Howard League for Penal Reform

Peter Dawson
Prison Reform Trust