



Ministry
of Justice

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Dear Frances and Peter

COVID-19 AND PRISONS: THE NEXT PHASE

Thank you for your letter of 15 June regarding the next phase of our Covid-19 response in prisons. I note the concerns that you raise, but can again assure you that we are doing all that we can to protect the safety of those in our care in the broadest sense, considering infection control as well as the impact on mental health, physical health and risks of disorder. At the same time, we also have a duty to maintain public confidence in the Criminal Justice System.

Regime restrictions

At the start of the pandemic, regime restrictions were introduced to protect prisoners against the risks to life and health posed by Covid-19 and we have, of course, been concerned to mitigate the impact of the restrictions on those in our care. In a significant number of establishments, we have improved prisoners' in-cell experience with in cell telephony and mobile handsets where in-cell telephony is not available. All prisoners have been provided with additional pin credit to maintain family ties and lifted restrictions on access to in-cell TVs. We have introduced weekly distraction packs with consideration given to the particular needs of those with learning disabilities or for whom English is a foreign language. Bespoke material has been created for the women's estate and youth estate. We have used mediums such as prison radio, via which I and senior operational leaders have spoken directly to those in our care, and a weekly newsletter to communicate with and reassure prisoners. We have begun to roll out video calling facilities, and as of 15 June, over 2200 calls have been made using this new technology. We have continued to provide initiatives such as letter writing resources; 'Bedtime Stories', which allow prisoners to record themselves reading a story for their children; and opportunities for those in our care to make and send their children items.

In the youth estate, we adapted the regime for the safety of the children and young people in our care and have maintained a child-centred, trauma-informed approach. We prioritised the continuance of education wherever possible, in-room rather than face to face, and access to fresh air in small 'family' units. We

have maintained essential activities such as regular phone calls (with allocation of free phone credits), workouts, and entertainment in 'family' units. Our integrated framework of care, developed jointly with NHS England and NHS Improvement, has adopted an approach that underlines the importance of connectivity.

Prisoner Safety and Welfare was one of the four priority regime packages that was established as part of the Exceptional Regime Management Plans developed in prisons. Though most activities were paused, interactions with prisoners have been maintained as a priority with a number of sites maintaining key worker activities. Staff have been briefed on the importance of checking on the welfare of those in their care, taking any opportunity to communicate information about the Covid-19 situation, checking the individual has contact with family and friends, and allowing the individual to raise any concerns, as well as using the opportunity to identify any change in appearance or behaviour that gives rise to concerns about raised risk of self-harm or suicide. In adherence with our national strategy on restricting regimes in prisons, all establishments were required to ensure the continued and consistent delivery of four regime priority packages during Covid-19. Prisoner welfare was one of the four key regime priorities prisons were required to maintain. Operational guidance, which is available on the Covid-19 intranet page and is also disseminated directly to prisons via our Covid-19 communication channels, has recommended that establishments should consider a system whereby staff maintain regular interaction with prisoners to ensure their wellbeing. The specifics of this have been left to local design to ensure strategies are practicable.

Each prison faces its own challenges in terms of responding to the Covid-19 outbreak, for example in terms of the risk profile of prisoners and the impact of the outbreak on staffing levels. Prison staff recognise the need to facilitate access to open air for those in their care and work continually to enable this wherever possible. The majority of prisons are operating house holding and regime group arrangements similar to households and social bubbles in the community. Prisoners in these cohorts take time in the open air together, use the telephones, access medications, showers and are unlocked for meals. Prisoners must receive the same entitlements irrespective of which regime group they are in, even those prisoners who are shielding or in reverse cohorting. The only prisoners who do not (on a temporary basis) receive the same level of regime may be those prisoners who are currently symptomatic. These prisoners must still receive a decent level of regime, as close to other groups as possible, but this must be delivered safely in order to maintain effective barrier control and prevent transmission.

I absolutely do not accept that the regime in place is akin to the imposition of solitary confinement, or in any way unlawful, in particular having regard to the matters referred to above. We are, however, acutely aware of the strain that the current restrictions will have placed on prisoners' mental and physical wellbeing. We continue to work closely with the Samaritans and have provided guidance to Governors to facilitate the operation of the Listener scheme during this period and on the importance of promoting access to the Samaritans' phone service where infection control measures make operation of the scheme impossible. We have introduced The Wellbeing Plan, a self-help tool created with input from mental health charity Mind and prisoner focus groups. It includes a safety plan and can be used by prisoners to reflect on triggers and coping strategies, as well as actions for them to take to look after themselves at difficult times. It also provides ideas for in-cell activities aimed at improving wellbeing. The HMI Prisons Short Scrutiny Report on the Long-Term and High Security Estate (15 June) commended the additional support for vulnerable prisoners at HMPs Belmarsh, Manchester and Woodhill during the Covid-19 period.

As is always the case, we are closely monitoring self-harm across the estate and have a package of measures to protect those in our care. We have produced a range of guidance to assist staff in continuing to support people at risk of self-harm and suicide in the context of challenges presented by Covid-19. This includes guidance on the Assessment Care in Custody and Teamwork (ACCT) process and the continuation of multi-disciplinary working whilst practicing safe social distancing. This is a prisoner-owned

self-help tool that can be used by prisoners to reflect on their triggers and coping strategies, as well as actions they can take to improve their mood and look after themselves at difficult times. It also provides ideas for in-cell activities aimed at improving wellbeing (including mindfulness exercises and physical exercises). For those with severe mental health issues, we are doing everything we can to ensure that the process for transfer to hospital continues as normal. Most Group Safety Leads have remained in place during the pandemic and have continued to support establishments. All the guidance documents produced are circulated to Group Safety Leads for dissemination to their establishments, as well as being available on the Covid-19 intranet page and our normal Covid-19 communication channels. The central Safety Team has maintained regular meetings with the Group Safety Leads and provides updates on new guidance at these meetings.

Recovery

We recognise that these restrictions brought in to control the spread of infection must be proportionate, and we will continue to keep this under review. As you have noted, on 2 June we published our National Framework for Prison Regimes and Services, setting out a conditional roadmap for easing of restrictions. This sets out a staged approach to re-opening prisons, and will be accompanied by Exceptional Delivery Models (EDMs) for individual areas of the prison regime. EDMs are being developed in consultation with public health authorities to ensure that we can reintroduce certain aspects of the regime without compromising the safety of our staff and prisoners. And in Wales, we shall of course do so with reference to the devolved Government's pace of recovery. Over the coming weeks, we will look to restart aspects of daily prison life, such as social visits, education and employment – with adaptations where necessary to ensure safety. We recognise the crucial importance of family visits in improving prisoners' wellbeing and chances of rehabilitation, and so these will be prioritised as restrictions are eased. ROTL for those in the open estate, Key Work, Offender Behaviour Programmes, education, and Physical Education are among the activities that will be prioritised, with adaptations such as 1:1 work and small group activities introduced as necessary. However, Public Health England (PHE) have made clear that the threat from Covid-19 has not gone away and we are still identifying new infections. Progress will need to be slow and incremental, and restrictions may need to be re-imposed in the event of local outbreaks.

As you note, Governors will have some autonomy to manage recovery based on the needs and risks within their establishments. Each establishment will be developing a Regime Recovery Management Plan based on the EDMs developed centrally for each aspect of the prison regime. Though we are keen to restart regimes as soon as possible, we cannot provide target dates for when each establishment will be reintroducing different elements of the regime. These decisions must be based on rigorous assessment of the data and evidence about what is appropriate, and will be signed off through our national command structure at HMPPS HQ. Any changes to the regime will be communicated locally with all stakeholders, most notably prisoners, families and staff members. Prison finder (available on GOV.UK) will also be updated with social visit information.

In terms of the suggestion you raise on testing, we have been working closely with our health partners to extend the testing regime. Over the summer we will be providing access to universal testing (all consenting prisoners and staff) across 28 prisons, providing prevalence and incidence rates of infection in closed settings. We are also examining what additional testing capacity we might obtain in order to further support our understanding of the importation of infection into prisons, and the spread within them, including the testing of asymptomatic new receptions. We are watching closely the development of antibody testing (a blood test which confirms if you have had Covid-19) and the understanding of immunity. In terms of Test and Trace, we have an agreed contact trace process with PHE and are working with health protection teams to identify contacts of confirmed cases and providing clear supporting guidance to staff.

As part of our recovery work, we are also aware of the need to develop sustainable solutions for managing headroom as community restrictions lift and court inflows increase. Since Covid-19 began, the custodial population has reduced significantly and we have moved some 4000 prisoners from shared accommodation into single cells. In accordance with the most recent Cohorting Guidance, this has enabled 98% (as at 19/06/20) of prisons to fully implement compartmentalisation. Good progress has also been made with the installation of temporary accommodation units. As at 24/06/20, 896 temporary accommodation cells have been delivered (collectively) to 26 HMPPS sites (of 1,049 that have been allocated to 29 prisons). 487 units have been installed and are ready for occupation; 329 units are currently in use. However, it is difficult to estimate precisely what we will need to maintain compartmentalisation across the estate given the range of external factors which affect this, and the changing understanding and progression of the virus. Our estimates are therefore likely to continue to develop as understanding of the virus increases, and through our ongoing work to learn from best practice and deliver it in the most efficient manner possible.

This is being carefully considered as part of our onward planning. While we are conscious of the need to manage prison population pressures, public protection is paramount and we must balance risks to the public with our responsibility to protect the health and safety of those in our care. As I have noted in my previous correspondence, early releases, though just one element of our strategy, remains an important one. From 26 June, we will publish weekly statistics on Covid-19, including latest figures on prisoners who have been released from custody under Covid-19 early release schemes. In all decisions that we make, we have a duty to protect the public and we work closely with our partner agencies to ensure every individual is ready for release into the community. Whilst we are continuing to make use of the End of Custody Temporary Release scheme, we are also continuing to progress with releases through the accelerated Home Detention Curfew process, and expediting sentencing hearings for remand prisoners where possible. We also remain ambitious about community-based justice. We announced new sentencing legislation in the Queen's speech and will continue to look at tougher community sentences to offer courts effective alternatives to custody which provide an appropriate level of punishment, while tackling the underlying drivers of offending such as drug or alcohol dependence. Despite the challenges imposed upon us by the pandemic, we remain determined to work to continue to strengthen our services and rehabilitate those in our care and under our supervision.

Scrutiny and transparency

I am most grateful to the Prisons and Probation Ombudsman and to the Independent Monitoring Board (IMB) for the continued scrutiny they have provided during this period. Dame Anne Owers, as National Chair of the IMB, provides a fortnightly report of IMB findings to the Minister for Prisons and Probation and we review its content carefully. In addition, I welcome and greatly value the ongoing scrutiny provided by Her Majesty's Inspectorate of Prisons (HMI Prisons) through short scrutiny visits, and will continue to support the Chief Inspector in carrying out these duties. As is always the case, we reflect carefully on the findings and retain a commitment to learning from them. Recent reports published by HMI Prisons have highlighted positive practice in several areas including staff-prisoner relationships, despite the challenging circumstances. The Chief Inspector's statement (1 June) also recognises that swift action by the prison service appears to have prevented widespread transmission of the virus. As we move into the next stage of the pandemic, HMI Prisons will be developing an enhanced short scrutiny visit model guided by considerations of whether the restrictions in place are proportionate to the health risks facing places of detention. As always, I welcome their continued scrutiny and challenge.

I also recognise the principle of transparency reflected in the points that you raise on data publication. The new HMPPS Covid-19 weekly data release covering England and Wales is being published from 26 June 2020 will address service user deaths, confirmed cases in custody and early release of prisoners. At present, further information regarding prison regimes and recovery is only available as internal management information but we are considering how we report publicly on progress in the

implementation of the National Framework, using suitably quality assured data and information. As usual, I will provide regular updates in Parliament on progress.

Robert Buckland

RT HON ROBERT BUCKLAND QC MP