



Frances Crook
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Howard League for Penal Reform
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MoJ Ref: 83657

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Dear Frances,

ADJUDICATIONS - JUSTICE AND FAIRNESS BRIEFING

Thank you for your letter of 27 November enclosing your latest Justice and Fairness in Prisons briefing. Please accept my sincere apologies for the delay in responding due to an administrative oversight. I was interested to read the report and am committed to the principle that prisons should be places of justice where both staff and prisoners feel safe.

Your letter rightly points out that there has been a fall in the number of additional days awarded as punishment due to the impact of the COVID-19 pandemic. Indeed, the latest statistics published on 28 January show that additional days were awarded as a punishment on 656 occasions, which was 86% lower than the same period in 2019. There are many contributing factors to the reduction of adjudications, as explained below and it is difficult to decipher the cause of the reduction without robust research in order to establish the correlation. However, I absolutely agree that this presents an opportunity to learn lessons for the future.

A number of policy interventions were made to prevent the spread of COVID-19 in prisons and which will have contributed to the decrease in additional days awarded. Disciplinary hearings requiring an Independent Adjudicator (IA) were suspended between 23 March and 22 June 2020, following the restriction on regimes and visitors to prisons, as there was no immediate solution to how the hearings could continue at the stage of early outbreak. Due to the limited capacity within the Judiciary to supply judges, the scope of charges which can be referred to the IA have been narrowed by issuing prison governors with revised guidance on what may be considered as serious charges. The revised seriousness list is not an exhaustive list and governors are best placed to determine whether the circumstances of a charge are sufficiently serious to be referred to an IA where there is a clear rationale for doing so. This was done to reduce the inevitable build-up of cases whilst we established how IA hearings could resume. As you will know, IA hearings resumed using video technology on 22 June.

You will be aware of the early engagement meeting that Adjudication policy officials held in February last year with external stakeholders to discuss their plans to undertake an evidence-informed whole system review of the prisoner discipline system. I am pleased that representatives from the Howard League attended, and that the meeting provided useful insights for policy development. Unfortunately, this work has

had to be postponed due to the pandemic and the resulting need to introduce virtual adjudications. As prisons remain on a restricted regime, it is too early to consider or reflect upon lessons learned but we know that the decrease in additional days could also be attributed to the impact of the restrictions on prisons leading to a reduction in illicit behaviour. Adjudication policy officials aim to continue the important work of the review, building in lessons learnt from the pandemic once prisons are in recovery and operating with normal regimes. Your research briefing is welcomed in this context and officials are committed to continue to engage with you when the review progresses and as your research continues. Officials will also be seeking the views of wider stakeholders, including recognised Trade Unions and senior HMPPS leads before considering a proposed approach. I look forward to hearing more about the proposals before we set future direction.

In the meantime, Adjudication policy officials are working on integrating the principles of procedural justice within the adjudications training that is provided to staff and governors. Prisons will also shortly be issued with an Easy Read document that explains the adjudication system to prisoners, in line with procedural justice principles. This will assist prisoners with learning and other difficulties to better understand the adjudications process.

Thank you for your kind offer to meet to discuss this further. Unfortunately, owing to diary commitments, I am unable to meet you at this time; however, may I use this opportunity to express my gratitude for the valuable and sustained contribution made by the Howard League and to state that I remain fully committed to this work, as I well remember our meeting about it when I was Minister of State.

Thank you for taking time to write to me about these important issues.

Yours ever

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

RT HON ROBERT BUCKLAND QC MP