



Deborah Coles
Director, Inquest

Kate Paradine
CEO, Women in Prison

7 May 2020

Dear Deborah, Kate,

COVID-19: REDUCING CUSTODIAL POPULATIONS

Thank you for your letter of 27 March, regarding the need for reductions in custodial populations to prevent the spread of COVID-19 in custodial settings. I am responding in my capacity as the Minister of State for Prisons, responsible for prisons, Young Offender Institutions and Secure Training Centres, however I have also sought views from colleagues in the Home Office in relation to Immigration Removal Centres.

Prison populations

We are committed to containing the spread of COVID-19 within the prison system, to reduce the impact of the pandemic on the National Health Service (NHS), protect the vulnerable in our care and our staff, while continuing to provide a functioning prison service, maintain safety and order, and manage public protection risks.

Our contingency planning is informed by the latest Public Health England (PHE) advice, updated to reflect the developments in the spread of the virus and its effect in prisons. Latest PHE modelling, developed in conjunction with HMPPS, was published on 27 April and is available [here](#)¹. This provides an early indication that our COVID-19 strategy in prisons is having a positive impact on limiting deaths and the transmission of the virus within the estate. The updated modelling suggests that the population reduction required to limit the spread of the virus is around 5,000. Thanks to measures taken, and outlined below, the prison population has already reduced by 3,000 over a seven-week period, and so we are on track to achieving this target.

Our overall strategy entails a number of measures. We have restricted regimes and are minimising transfers of prisoners and staff between prisons. We are implementing an approach known as 'compartmentalisation': isolating the sick, shielding the vulnerable and cohorting new arrivals to reduce risk. We are also easing pressures on prisons with the early release of low-risk offenders, temporary expansion of the estate, and work to reduce the number of those held on remand. While we are seeing outbreaks of COVID-19 affecting staff and those in our care, emerging data suggests that the 'explosive outbreaks' which were initially feared, are not being seen.

¹ <https://www.gov.uk/government/publications/covid-19-population-management-strategy-for-prisons>

Early release is an important, though not exclusive, measure being taken in working towards achieving the population reduction target of 5,000. As you are aware, we are progressing with our plans to temporarily release up to 4,000 risk-assessed prisoners who are within two months of their release date from prison under the End of Custody Temporary Release programme, as part of the national plan to protect the NHS and save lives. Those released will be subject to conditions and will be electronically monitored, with the option for their licence to be revoked at any time. We have worked closely with the electronic monitoring supply market and have procured sufficient equipment to enable us to effectively implement this measure. We are also working closely with the Ministry for Housing, Communities and Local Government to ensure that no one in our care will be released without housing and healthcare support in place. We are working to identify suitable temporary accommodation for low-risk vulnerable offenders, and will ensure this complies with public health guidance on self-isolation and social distancing. Though it has taken time to ensure our systems are robust, we expect release numbers to increase as the process beds in.

As always, we have a duty to maintain public protection and so no high-risk offenders will be considered for release under this scheme, including those convicted of violent or sexual offences, those of national security concern, or those who are a danger to children.

We are also progressing with release for the cohort of c.70 female offenders who are currently pregnant or in Mother and Baby Units, and who are being considered for release under compassionate measures. We will not release any women without ensuring they have access to appropriate, safe accommodation, necessary support services in the community and an agreed health care pathway in place. Governors are working with their family services, Through the Gate teams, and those third sector organisations that currently work within their prisons, to provide the many practical items that these women will need. In addition, we are protecting the most clinically vulnerable within our prison system, including the elderly and those with underlying health conditions. Prisoners identified in accordance with NHS guidance as being 'extremely vulnerable' to coronavirus and requiring shielding, are being pro-actively considered for release from custody under existing Release on Temporary Licence (ROTL) provisions, and will be released where their risk level is sufficiently low and where release is not otherwise excluded under Rule 9 of the Prison Rules and the ROTL policy framework. Where a prisoner falling within this category is considered not suitable for release, they will continue to be appropriately shielded within custody.

We are, of course, very conscious of our responsibilities towards the children in our care and the staff who look after them. Although the youth custodial estate is well under its capacity and every child has their own room, we are, nevertheless, including children who meet the criteria in the End of Custody Temporary Release programme. We will, of course, take care to ensure every child released has appropriate accommodation in place and that youth offending teams and other children's services are ready and able to supervise and support them. Children who do not meet these new temporary release criteria will continue to be eligible for early or temporary release in the usual way.

Our COVID-19 prisoner release policy is now published on GOV.UK and is available [here](#)².

Alongside the early release schemes, and as mentioned previously, we are also working at pace to create headroom through expanding the prison estate. The first wave of temporary single occupancy have been installed at 9 HMPPS sites and more are being delivered to prisons each day. We are targeting the use of these units at prisons where there is the highest number of shared cells, lack of in-cell sanitation and where there are high numbers of vulnerable prisoners. We have also been pursuing opportunities to convert existing government assets to prisons, and on 29 April announced the arrival of the first prisoners

² <https://www.gov.uk/government/publications/covid-19-prison-releases>

at Medway, a former Secure Training Centre which has been repurposed to temporarily house 70 adult men during the COVID-19 period.

It is worth noting that we have already benefitted from a prison population reduction of over 2,500 since mid-March due to upstream disruption in the Criminal Justice System. That said, rule of law is vital to a functioning democracy and, even at times like these, it is essential that our independent courts are able to administer justice.

You draw attention to the impact of restricted regimes. Though this means that prisoners are spending more time in cells, all establishments will continue to deliver the four key regime deliverables: food, family contact, prisoner safety and welfare and medication. We have moved swiftly to make additional staff available to establishments so that we can maintain adequate staffing levels. We are also investing in measures to enhance the in-cell experience during this time. To support mental and physical wellbeing during this period, distraction packs and in cell activities have been collated and are now electronically available for all prison staff to access. Family contact is being maintained through in-cell telephony and, where this is not available, the provision of locked mobile handsets. The Samaritans phone service remains available for all prisoners, and for those most at risk, we are continuing to provide care and support through the Assessment, Care in Custody and Teamwork (ACCT) case management approach.

I want to reassure you that officials are working closely with Scrutiny Bodies to put in place interim monitoring arrangements during the COVID-19 pandemic. Our monitoring bodies, including the Independent Monitoring Boards (IMB) and HMI Prisons, have worked intensively to create an adapted approach for this period. For the IMB, remote methods of providing assurance have been developed but there will still be some limited on-site work where it is safe and feasible to do so. For HMI Prisons, there will be short scrutiny visits – of one-day duration, involving two or three inspectors – to prisons and other establishments. The Prison and Probation Ombudsman will also investigate all COVID-19 deaths and, though these will take place remotely, guidance has been issued to establishments to support the identification and preservation of the necessary evidence needed for investigations.

Immigration settings

In immigration settings, the Home Office is, as always, mindful of its legal obligations in respect of ensuring that there is a realistic prospect of removal in a reasonable timescale.

Decisions to detain are made on a case-by-case basis and kept under constant review, but the priority is to maintain the lawful detention of the most high-harm individuals, including foreign national offenders. It is now the case that the majority of those individuals who remain detained in the estate have been assessed as high harm individuals. All individuals in detention have been reviewed to see if they are at a heightened risk from coronavirus in detention, with new interim guidance issued in March setting out the action that Home Office case-workers should take in response to coronavirus. This reflects Public Health England guidance issued on 16 March 2020. However, there is no global embargo on removals, and the Home Office remain committed to removing foreign national offenders wherever possible.

The Home Office take the welfare of the detainees in their care very seriously. As you will be aware, the High Court ruled that the Home Office are taking sensible, precautionary measures in relation to coronavirus and immigration detention. This is in line with the Public Health England guidance and these measures are in place to protect staff and detainees during these unprecedented times. The Home Office consider the outcome to be a strong endorsement of the steps it has taken so far and which it will continue to take.

In line with Public Health England guidance, measures such as shielding are considered on a case by case basis to minimise the risk of COVID-19 spreading in the immigration detention estate. Further measures including single occupancy rooms and the cessation of social visits have been introduced in line with the Government direction on social distancing.

Detainees arriving at an immigration removal centre (IRC) are medically assessed by a nurse within two hours of their arrival and are offered an appointment with a doctor within 24 hours. Detainees also have access to medical assistance whilst they are in an IRC. Care pathways follow published HM Government guidance on COVID-19 and more detailed PHE and NHS England guidance on the management of COVID-19 in places of detention.

Handwashing facilities are available in all immigration removal centres and we are working closely with suppliers to ensure we have a continuous supply of soap and cleaning materials. In addition, each IRC has posters and leaflets to inform staff and detainees about the importance of handwashing and social distancing to minimise the risk from COVID-19. Detainees are also able to speak to staff directly for advice on the measures in place. This safety messaging is also being reinforced to detainees as part of the IRC induction programme for new detainees. Appropriate personal protective equipment is available to contractor and healthcare staff when interacting with detainees being held in isolation and regularly updated Safe Systems of Work are shared with staff across the estate.

We are faced with unprecedented challenges across Government, but we continue to do all that we can to protect the health and safety of those within our care. We will continually review our approach as the situation evolves to ensure the right measures are in place, balancing our responsibilities to those in our care with our ongoing commitment to protecting the public.

I am also copying this letter to the Home Secretary.

Yours sincerely

A handwritten signature in black ink that reads "Lucy Frazer". The signature is written in a cursive, flowing style.

LUCY FRAZER QC MP