



Independent Advisory Panel on Deaths in Custody

*Chair: Juliet Lyon CBE
Head of Secretariat: Piers Barber*

*102 Petty France
7th floor,
London
SW1H 9AJ*

www.iapondeathsincustody.org

Monday 15 March 2021

Rt. Hon. Robert Buckland QC MP
Lord Chancellor and Secretary of State for Justice

Dear Lord Chancellor,

IAPDC advice: COVID-19 vaccinations for closed institutions

I am writing urgently to provide you with advice from the Independent Advisory Panel on Deaths in Custody (IAPDC) in relation to the vaccination roll out policy for those in detention published on 11 March.¹ We note your responsibility for, and commitment to, keeping people safe.

The IAPDC's advice is that it is neither safe nor fair to require a prison officer working on the frontline who has not been vaccinated to escort in handcuffs a prisoner with coronavirus symptoms, whose infection level is so serious that hospital admission is necessary. It is neither safe nor fair to require a prisoner who is well to share a small, poorly ventilated cell with someone who has tested positive for COVID-19.

The brilliant development of vaccines and the mass vaccination programme enables you and your government more easily to meet your human rights duties to take active steps to protect life. The IAPDC has written to your colleague Matt Hancock, Secretary of State for Health, asking him to reconsider, as a matter of urgency, vaccinating everyone, staff and all those detained, in all closed institutions. This comes in the light of new data and information held by your department and the Department for Health and Social Care on:

¹ Juliet Lyon to The Rt. Hon Matt Hancock MP, Secretary of State for Health and Social Care, 'IAPDC advice: COVID-19 vaccinations for closed institutions', 10 March 2021, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/6049fb42c37b36429e8c459d/161546118703/5/IAPDC+to+DHSC+Secretary+of+State+-+10+March+2021+-+final.pdf>.

- spread of the virus amongst, and rapid rise in deaths of, people in prison;
- major community outbreaks in prison localities, together with growing evidence of the success of vaccination in preventing transmission;
- and recent reports by, amongst others, HM Chief Inspector of Prisons (HMCIP) which attest to serious harm being done by severely restricted regimes and prolonged isolation (annex IAPDC advice on risk and mitigation).

As you know, February 2021 proved the worst month for COVID-19 deaths in prison custody since the onset of the pandemic, with 36 deaths recorded according to Ministry of Justice data. Figures show a further 6 such deaths in the week ending 8 March. Reports indicate that on 22 February the prison population rate of infection was 1.1% - ten times higher than the community rate of 0.11%. There are COVID-19 outbreaks of varying scale in up to 70 establishments (over half of the prison estate). To protect lives, at this stage in the vaccine roll-out just over 120,000 first jabs would need to be given to prisoners and frontline staff.

Reports have indicated that of the ten worst affected areas in England, nine coincide with major prison outbreaks – these include HMPs Birmingham, Manchester and Stocken in Rutland. In the week ending February 21, the area of England with the highest coronavirus infection rate was Wetherby East & Thorp Arch in Leeds, home to both HMP Wealstun and HMYOI Wetherby. The area's rate was 1,181 cases per 100,000 people, the then highest in the country. This week the director of public health for Derbyshire County Council has confirmed that the sudden surge in infection in the Derbyshire Dales which has now propelled this area to the highest in the country is 'entirely attributable' to a 'significant outbreak' at HMP Sudbury. We understand that the Scientific Advisory Group for Emergencies (SAGE) is preparing public health advice on prisons and transmission.²

We welcome your government's ongoing commitment to keep matters under review - if the vaccination programme were to continue on an age-related basis only, in effect this would condemn closed institutions and the people who live and work in them to a further six months, at minimum, of fear, uncertainty and unjustifiable risk during which there are no real prospects of rehabilitation. In our view this policy increases the risk, not only of further COVID-related deaths of prisoners and staff, but also of self-inflicted, natural and other non-natural deaths in custody.

The IAPDC has drawn the Health Secretary's attention to approaches taken elsewhere. The Department of Health in Ireland plans to vaccinate the country's 3,800 prisoners as part of 'group nine' of its vaccine allocation strategy applying "*to those aged 18-64 years who are living or working in crowded accommodation where self-isolation and social distancing is difficult to maintain*".³

Vaccinating everyone, staff and prisoners, at once could increase confidence and take-up by hard to reach groups, significantly over-represented in the prison population.⁴ In

² Minutes of the Eightieth SAGE meeting on COVID-19, 11 February 2021, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963390/S1115_SAGE_80_Minutes.pdf.

³ 'Prisoners to be vaccinated as one cohort in group 9 of rollout', *The Irish Times*, Wednesday 9 March, <https://www.irishtimes.com/news/crime-and-law/prisoners-to-be-vaccinated-as-one-cohort-in-group-9-of-rollout-1.4504716>.

⁴ Prison Reform Trust, 'Bromley Briefings Prison Factfile, Winter 2021', p.28, <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Winter%202021%20Factfile%20final.pdf>.

a recent consultation with 805 prisoners on their likelihood of accepting the vaccine, Nuffield Trust researchers concluded that authorities should “*consider whole prison community roll out, including staff, to alleviate suspicion and increase chances of recovering the regime*”.

The IAPDC welcomes the Joint Committee on Vaccines and Immunisation (JCVI) new advice to vaccinate, as a group, people who are homeless (1 March) and its recent advice to vaccinate, as a group, people with learning disabilities. We note the JCVI’s earlier advice on care homes (JCVI 30 December) that “*vaccination of residents and staff at the same time is considered to be a highly efficient strategy within a mass vaccination programme with the greatest potential impact.*” It is difficult to understand why this advice and reasoning does not apply to people in prison and the staff charged with their care.

To meet your obligation as Lord Chancellor to protect the lives of people detained in state custody, the IAPDC strongly advises you and your government to take a whole institution approach to vaccination in closed settings. This would be a discrete exercise within the overall programme of mass vaccination delivered speedily and simply. It would be comparable to, but on a much smaller scale than, vital steps taken earlier in care homes to keep frontline staff and residents safe with maximal public health impact.

As ever,

A handwritten signature in purple ink, appearing to read 'Juliet'.

Juliet Lyon CBE, Chair of the Independent Advisory Panel on Deaths in Custody
e: juliet.lyon@justice.gov.uk

Annex: IAPDC advice on risk and mitigation

The sole objective of the IAPDC is to prevent all deaths, natural and self-inflicted in custody. Our advice is that the best and quickest way to protect lives is to take a whole institution approach to vaccination.

The restrictive measures you introduced at the start of the pandemic undoubtedly helped to save lives initially. In our view this form of extreme imprisonment and isolation however cannot, and should not, be maintained over time. Further steps in mitigation need to be taken.

Serious concerns arise from reports on the health and state of people in prison, including those produced by HMCIP (February 2021)⁵ and our report with the Royal College of Nursing (RCN) published in October 2020.⁶

We understand that calls to The Samaritans helpline from prisoners have increased steadily over the last four months. In December 2020 alone, they received over 35,000 calls from prisons, which represents 14.7% of all answered phone calls to The Samaritans UK helpline.

It is still too early to assess the full impact of severe restrictions introduced, and maintained by a significantly depleted workforce, to save lives during the pandemic. It is clear from reports however that mental health is being impaired, and suicidal ideation and withdrawal from daily life increased, by extreme isolation. Physical health is being harmed by lack of exercise, sleep and natural light; missed appointments and late diagnoses.

Further steps in mitigation:

- Health-led action should include physical and mental health checks including those for long COVID.
- Mental healthcare, diminished during the pandemic, should be re-established and supplemented by a programme of additional mental health and bereavement support for people emerging from isolation, lockdown and restrictive measures.
- Routine lateral flow tests should be introduced for all prisoners attending courts and for anyone approaching release/discharge – currently this is practice in a few prison pilot sites only.
- The prison service should re-establish or establish for the first time, which is the case for the women's estate, the keyworker scheme as the cornerstone for safety and rehabilitation.

⁵ HM Inspectorate of Prisons, 'What happens to prisoners in a pandemic?: A thematic review', February 2021, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf>.

⁶ Independent Advisory Panel on Deaths in Custody and the Royal College of Nursing, 'Natural deaths in prison custody: Putting things right', September 2020, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f736f57ef92df5643a3a461/1601400665948/200929+IAP-RCN+-+prevention+of+natural+deaths+in+custody+-+final+for+publication.pdf>.

- Safe staffing levels should be reviewed and strengthened to enable regime development.
- Opportunities for socially distanced work and constructive activity in small groups should be re-instated or introduced.
- Contact with family, friends and skilled volunteers should be built back up and increased.
- The Samaritan Listener scheme should be strengthened with training for new Listeners, full coverage across the estate and increased support and supervision.
- Consultation with prisoners is important to keep people safe. Peer support groups, chaplaincy volunteers, race and health mentors are pivotal in influencing take up of vaccinations.
- The IAPDC notes considerable ongoing flexible work being done by your officials and operational services to try to balance risk. Examples of good communication and outstanding leadership should be recognised and shared.