



Ministry
of Justice



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Department
of Health &
Social Care

Independent Advisory Panel on Deaths in Custody

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Tuesday 22 December 2020

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

Dear Lord Chancellor,

I write on behalf of the Independent Advisory Panel on Deaths in Custody (IAP) to give our formal advice in the light of grave threats posed by the new variant of the COVID-19 virus and the additional severe restrictions your government has introduced to protect lives.

When we met recently you gave a further assurance that the emergency early release scheme would remain available as a safety valve for HM Prison Service should it be required. Our understanding is that this is not the case. Having now had the opportunity to talk to senior operational staff who found that, despite their best efforts when the original scheme was introduced, they could not make it work, I am convinced that currently you do not have the safety valve you need to save lives.

In an acute emergency there will not be time to streamline radically the existing scheme unless, of course, the 'pause' period has been used to do so. While technically available, the scheme in its existing form is overly complex and bureaucratic. Almost impossible to administer, when introduced the scheme did little to offer the 4,000 reduction in the prison population you had first anticipated. Instead a reduction was achieved by court closures and backlogs, which you and colleagues are working to remedy, and additional temporary accommodation units which you were able to introduce rapidly.

As we discussed, it is not simply a matter of having physical space in order to cohort people and protect the most vulnerable. We are now faced with a virus which your colleague, the Secretary of State for Health and Social Care, has described as out of control. Safe staffing levels are critical. I was sorry to learn that the virus has struck at the heart of the service. Increasing numbers are testing positive for COVID-19, a large and growing number of staff are in isolation and there are problems with access, particularly to the Kent cluster of prisons. There may well be major problems with food and medical supplies which could be amplified by Brexit.

I appreciate that you do not wish, as you said, to act presumptively. However, faced with the rapid spread of the variant, your government has had to do just that. Now you must be prepared to use your powers to effect executive release for those approaching the end of their sentence. We expect that your officials will be able to give precise information, based on

modelling, on the impact of such a step depending on how many weeks in advance of the release due date and whether you chose to exempt any offence categories. If at all possible, cross-departmental action on testing for the virus prior to release and measures to avoid homelessness on release would be wise. You must be prepared to act quickly and decisively to keep people safe.

On the matter of vaccines, the IAP will write today to the Joint Committee on Vaccination and Immunisation (JCVI), copied to you and the Prisons Minister, to put the evidence-based case for vaccination of prison staff as priority frontline workers and for prisoners as highly vulnerable people with complex health needs. Both the poor, closed conditions in which people are held and the high risk of community transmission add weight to this argument. From the evidence, the IAP suggests that the appropriate place in the vaccination programme is stage six – all individuals aged 16 to 64 with underlying health conditions which put them at higher risk of serious disease and mortality.

I appreciate that you take your obligations to protect life very seriously. We offer our independent, expert advice to help you meet those obligations and prevent deaths in custody.

As ever,

A handwritten signature in black ink, appearing to read 'Juliet', written in a cursive style.

Juliet Lyon CBE
Chair, Independent Advisory Panel on Deaths in Custody