



MoJ ref: ADR82197

22 October 2020

Dear Juliet,

END OF CUSTODY TEMPORARY RELEASE

Thank you for your letter of 23 September regarding prison capacity and the contingency measures for responding to the Covid-19 pandemic, including the End of Custody Temporary Release (ECTR) scheme. In this response, I hope to:

- Contextualise ECTR within our broader response for protecting the prison estate from the transmission of the virus into and between prisons; and
- Outline the set of contingency measures we have planned to respond to the next phase of the pandemic.

I can also assure you that we are considering what lessons we can draw from the ECTR scheme as operated between April and August, in case we need to resume it or a similar process in future. The particular issues you highlighted in your letter, concerning the use of electronic monitoring and the system for police checks, are being considered as part of this exercise.

Strategy for responding to Covid-19 in prisons

Guided by public health advice, we took swift and decisive action to implement a suite of measures to respond to the Covid-19 pandemic. These measures were designed with the aim of maximising the safety of prisoners, staff and the public, whilst also maintaining the most important prison functions.

Our decisions have been based on three core objectives:

- **Preservation of life:** to continue to protect our staff, the public, and those in our care by minimising deaths and hospitalisations, ensuring continued access to healthcare, and protecting the NHS from explosive outbreaks.
- **Maintain security, stability and safety:** to ensure the ongoing stability and safety of the estate, including risks of disorder, self-harm, and sufficient staff confidence to deliver regimes and rehabilitative activities as intended.
- **Providing sufficient capacity:** to ensure that we have enough space to receive from the courts and sufficient capacity to meet overall demand, as well as sufficient staffing and resources to run establishments.

As you know, in March we started to implement our compartmentalisation strategy across the estate to isolate the sick, shield the vulnerable and quarantine new arrivals. As part of this strategy, we significantly reduced transfers between prisons and the cross-deployment of staff. Reducing movements between prisons was recommended to reduce the risk of 'seeding' infections and causing subsequent explosive outbreaks.

At the same time, we introduced a range of unprecedented regime restrictions at the national level, mirroring the restrictions imposed on the community. This included the suspension of all social visits, all education, training and employment activities (except for essential workers), and all access to gyms, religious association and general association. Restrictions were also imposed on the numbers of people unlocked or in exercise yards at any one time, and social distancing for staff and prisoners was supported wherever possible.

In order to create the headroom needed to allow us to fully implement the compartmentalisation strategy, we undertook a number of measures. Alongside the careful release of low-risk offenders, as part of the ECTR and Compassionate Release on Temporary License (ROTL) schemes, we have been working to expedite remand cases, accelerate the Home Detention Curfew process and expand the estate.

ECTR was one small part of this overall initial strategy. It was designed and implemented in a unique and extremely fast-moving situation, where it was necessary to take decisive action at pace. To ensure public safety, we put important safeguards in place as part of the process of identifying prisoners for release. These safeguards included checks at a local level with establishments and partner agencies about the suitability of the identified prisoners for release.

In your letter, you suggested that we had anticipated more than 4,000 prisoners could be released under this scheme. I would like to emphasise that we never had a target for the number of prisoners to be released under the ECTR scheme. The 4,000 figure you quote is a reference to an early estimate of the maximum number of individuals potentially in-scope, but we knew from the outset that many cases would ultimately prove to be unsuitable for release after additional checks were carried out. We do not agree that the scheme has "all but failed", as its purpose was not to release as many people as possible.

Managing the prison estate throughout winter

The restrictions and measures implemented as part of our initial strategy were necessary to save lives. However, we are fully aware that these restrictions have had consequences for the wellbeing of prisoners and their families. We have therefore been working hard to understand where we can relax these restrictions. As you are aware, on 2 June, we published the National Framework, which sets out in detail how we will take decisions about easing coronavirus-related restrictions in prisons. We are grateful to you for all your input into the development of the Framework and the supporting more detailed guidance.

All prisons, excluding some facing outbreaks, are operating at Stage 3 of this Framework, and several prisons are planning to transition shortly to Stage 2, which will give them greater flexibility to tailor their regime to their local priorities.

We take the wellbeing of those in our care very seriously. Therefore, in parallel with the National Framework, we introduced video calling to facilitate contact between families and their loved ones. As of 28th September, video calling was available in 103 prisons. We have also resumed the rollout of the updated Assessment, Care in Custody and Teamwork (ACCT), which is a multi-disciplinary case management system used in prisons to support people at risk of suicide and self-harm.

Although the resurgence of incidence rates in the community is concerning, we were prepared for that possibility and still believe this is the right Framework through which to manage the easing of restrictions. The outbreaks we have witnessed in establishments over the last few weeks reinforce the need for us to remain vigilant and make use of the contingency measures at our disposal. I will outline some of these

contingency measures, in addition to the continuation of the compartmentalisation strategy mentioned above.

Social distancing and basic hygiene remain the most effective controls to reduce transmission of the virus. We are continuing to reinforce this message through a range of communications in prisons, whilst providing access to the right cleaning and hygiene products.

Testing is a crucial part of our plan to guard against outbreaks in custody, enable us to maintain regimes, and support capacity pressures by reducing time spent in cohorting units. Guided by public health advice, we are currently rolling out our testing strategy for prisoners, which includes testing prisoners on reception and those prisoners being transferred from prisons in areas with high levels of the virus. This will help to minimise the risk of prisoners transmitting the virus into and between prisons.

The compassionate ROTL scheme continues to operate, through which we carried out a number of temporary releases of pregnant women, mothers & babies, and the clinically extremely vulnerable. Although many individuals in these groups posed too high a risk to release, our wider package of measures has helped protect the lives of those in our care.

As well as these measures, the compartmentalisation strategy has been implemented across the estate, and prison capacity is being carefully managed. The ECTR scheme remains as a contingency measure that we have available. As you rightly point out, it is important that we ensure the scheme is as effective as possible should we have to consider using it in the future. We are therefore considering what lessons we can draw from how it has operated so far. Thank you for the specific points you raise, which we will consider as part of that exercise. At present, however, there are no plans to reintroduce it.

We will keep you updated on our work to keep those in our care safe, and we are grateful for the ongoing support that you and the IAP have provided during this time to help protect lives.

Yours sincerely

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

RT HON ROBERT BUCKLAND QC MP