

### **Reducing overcrowding and recovery planning**

As the country starts to regain some 'normality' and courts begin to open again, it is concerning that the recovery plans for [prisons](#) and [probation](#) published this week are vague in commitments and, in some areas, there remains an absence to address a number of issues that warrant immediate attention. In particular the guidance fails to outline plans to reduce the prison population which is particularly concerning given the recognition there is likely to be a significant influx of new entrants now that courts are resuming. To reduce the likelihood of infection spread, whilst at the same time enabling greater time out of cell, there needs to be urgent action as part of the recovery plan to release more people early or on compassionate grounds to enable this to happen safely. It is a glaring omission which will significantly hamper efforts to move prisons through the recovery stages and increase time out of cell.

In addition to the 10 prison staff and 23 prisoners who have lost their lives to Covid-19 in custody, there have tragically also been 16 self-inflicted deaths recorded in English and Welsh prisons since the lockdown conditions were introduced – with five suicides having been recorded in just six days. Those in prison have been held in de facto solitary confinement for eleven weeks which will have deleterious consequences if action is not taken urgently to reduce the prison population further. Clearer plans must be published, as part of the Exceptional Delivery Models, which include actions to mitigate trauma and improve mental health and wellbeing. As key work resumes, officers should receive specific training and resources on how to support people's mental well-being and support with issues like bereavement.

The framework for prisons states that there are plans for testing for prisoners on reception and possibly on transfer, but concerns still remain regarding the lack of plans to test those being released who could be temporarily housed in hotels, supported accommodation or Approved Premises, picked up at the gate in a car by a support worker or return to live with family thus increasing the risk for onward transmission of the virus. Furthermore, given that Covid-19 disproportionately impacts those from BAME backgrounds, the MoJ should review the recovery plan with a particular focus on equality issues which have been exacerbated by the crisis. In the current documents an equality analysis is only mentioned in relation to probation, but there is a lack of detail and no accompanying Equality Impact Assessment (EIA) published. Equality analysis needs to be extended to prisons so that they may identify needs of BAME staff and prisoners as well as other groups of people with protected characteristics such as pregnant women and older prisoners. The MoJ should urgently publish the EIA's.

Communication will be vital to manage the expectations of those in prison, as well as their families who will be keen to learn when social visits will resume. As different prisons start visits at different times, which could cause confusion and anxiety, further details on a communication strategy including what information the MoJ will share publicly and with the voluntary sector is vital. A [survey of over 200](#) prisoners' families by New Leaf shows how much families value clear and timely communications during Covid-19 through websites, social media, newsletters and even personal letters from governors.

### **The need for data and demographic monitoring**

We continue to be frustrated at the lack of crucial data being published on a regular basis. Details about number of deaths for example have only been published in response to parliamentary and / or select committee questions. The CJA have requested that the regular MoJ stake holder update include details of deaths, self-inflicted deaths and related demographic data. We have been told this is not possible. Given the information is being released in parliament, it remains unclear why there shouldn't be full transparency about this data and for it to be published publicly on a regular basis. As the information relating to the disproportionate impact of Covid-19 on BAME communities continues to emerge, it is critical demographic data is also included in published data on infections and deaths of those in custody.

### **Testing and cell sharing**

Rates of infection continue to increase. As of Wednesday 3 June 2020, 479 prisoners have tested positive across 79 prisons, along with 944 staff across 105 prisons and 26 prisoner escorts. This may in part be due to the increased capacity for testing prison staff. Eleven weeks on and it is still not clear what proportion of prisoners have been tested, what the criteria is for testing and whether those sharing cells have all been tested. Despite the prison population temporarily falling due to court closures, and additional capacity being added at certain sites, over 29,000 prisoners in England and Wales were still sharing cells including 20 percent of older prisoners. As courts resume, the Institute for Government

have predicted the prison population could rise to over 90,000 and possibly over 95,000 by 2023/24. Spending money on additional 'temporary' units is not the answer. We are concerned that these temporary units may then become permanent, in particular as the prison recovery plan does not mention any timescale for their removal. Efforts and resource should instead be spent on facilitating the early release of low risk prisoners and ensuring that everyone being released from prison has access to accommodation, an increased discharge grant and internet enabled phones to help prevent recalls.

### **Pregnant women and other vulnerable groups**

Only 22 pregnant women and new mothers have been released. With news that BAME women make up half of the pregnant women taken to hospital, we would welcome greater clarity on the ethnicities of those women who have been released, what action is being taken to protect BAME pregnant women who may be more at risk from COVID-19 and when the remaining pregnant women and new mothers will be released. We understand only five people have been released on compassionate grounds and no children have been released early. Again, this data on who has been released is not regularly published in the HMPPS stakeholder update bulletin and there is no data on the ethnicities or ages of the people released or how many are pregnant or new mothers. We repeat our recommendation that the compassionate release criteria are reviewed for older and more vulnerable prisoners and those who have serious ailment, and that the remaining pregnant women and new mothers are released as a matter of urgency. We are also particularly concerned about foreign national people released from prison with no recourse to public funds at this time, and the increased risks to their physical and mental health.

### **Reducing 'churn' and new entrants**

We are pleased to hear that there is now a Bail Information Service at all functioning courts however latest MoJ data reveals an increase in the number of people remanded by 12% for 31<sup>st</sup> March 2019 to 31<sup>st</sup> March 2020. There is a lack of data relating to the number of people remanded into custody since lockdown began and any analysis of why they were refused bail. We would also welcome further clarity about the extent to which custody time limits will be breached. Recent guidance from the Lord Chief Justice on sentencing during Covid-19 was well-timed and necessary, however further guidance is urgently needed reminding Magistrates and District Judges of the need for 'anxious scrutiny' of applications for custodial remand. Particularly important given that remanded prisoners will not be able to access a different regime to convicted prisoners, they will likely be held in their cell for long periods of time, including a two week self-isolation period on entry into prison, will not have family visits and may have to wait longer for their trial date. For parents with dependent children, those children will not be able to visit. Like in courts, Bail Information Services should be urgently rolled out in every prison to support being held on remand to apply for bail and access legal advice. A presumption against recall for technical breaches is also important to avoid unnecessary returns to custody. Data should be published on the number of recalls and reason for recall during the lockdown period, and what action is being taken to reduce this number. It is estimated that courts in England and Wales face backlog of 40,000 criminal cases, therefore a greater focus should be placed on effective alternatives including suspended sentences, community sentences, tagging and out of court disposals such as Restorative Justice.

### **Technology**

We're delighted to hear that secure video calls will be introduced to ten more prisons across England and Wales. However, families learning of the existence in some prisons of this facility, are understandably frustrated they are not available across the prison estate. An urgent plan to roll out virtual visits, especially those with children, would help to alleviate some the stress and anxiety of people in prison and their families. In many other countries' technology is being used to provide access to in-cell learning and other resources. An urgent technology transformation must be a key part of the recovery plan to increase access to purposeful and rehabilitative activities, as well as its use to contact resettlement advice services to prepare for release and complete offending behaviour programmes for parole.

### **Resettlement and probation**

All people being released at the current time face additional challenges and may be particularly vulnerable to Covid-19 due to underlying health conditions, so post release support is even more important. Please see attached a report we submitted to the MoJ three weeks ago, to request the increased discharge grant of £80 for people released under the early release scheme is provided to all people released from custody, along with an internet enabled phone and accommodation support. We welcome funds from the MoJ for CRCs to support prison leavers with the cost of securing deposits for temporary accommodation on release however this funding is only available until the end of June. We would like to see this funding extended longer-term to ensure those being released from custody are not released into homelessness and destitution.