



Ministry
of Justice

The Right Honourable
Robert Buckland QC MP
Lord Chancellor & Secretary of
State for Justice

Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights
House of Commons
London
SW1A 0AA

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5 May 2020

Dear Harriet,

RESPONSE TO JOINT COMMITTEE ON HUMAN RIGHTS

Thank you for your letter of 9 April regarding comments made by Northamptonshire Chief Constable, Nick Adderley. I would also like to thank you for inviting me to set out the Government's approach on human rights during the COVID-19 crisis to the Joint Committee on Human Rights.

During the session I committed to provide additional information to the Committee on coronavirus-related deaths in the prison and probation staff; details of mothers in prison; additional assurances on adult social care services; and police force guidance. I will address all these points in turn in this letter.

Comments made by the Northamptonshire Chief Constable

As I stated during my Committee appearance it has been important for the Government to move quickly to provide the police with the powers and guidance they need to support compliance with the essential measures on social distancing. The Home Office is in contact with their police partners on a daily basis to ensure new powers provided to them by the Health Protection (Coronavirus, Restrictions) (England) Regulations Act 2020 are used consistently and proportionately.

However, we must remember that we are all, as a country, facing an unprecedented challenge, and this includes our police. I do not wish to comment on individual cases; however, it is important to recognise that none of us have been in this position before, and I can assure you this Government is taking every precaution to ensure human rights are protected during this crisis.

Coronavirus-related deaths of prison and probation staff

I am deeply saddened to inform you that on the day I gave evidence to the Committee, the total figure of coronavirus-related deaths of prison and probation staff was 7, and that this has since increased to 11 as of 1 May. This figure includes both suspected and confirmed causes of death. The safety of staff in our care remains a primary concern, and we are doing all that we can to protect them. We have implemented a National Response Model to ensure a consistent approach to preventing the spread of the virus amongst staff that includes guidance on working arrangements, access to testing and access to Personal Protective Equipment (PPE).

We are also doing all we can to be flexible and to support staff who are more vulnerable to COVID-19, whether this be through age or underlying health condition. Staff who have existing medical conditions, or are on medication that weakens their immune system, have been advised to seek the advice of NHS 111 and then speak to their managers about their current working arrangements.

On 17 April the Secretary of State for Health and Social Care announced the rollout of swab testing for all keyworkers, including prison staff and those working in Approved Premises (APs) and probation (to include Private Sector service providers).

Together with Public Health England (PHE) we have identified what Personal Protective Equipment (PPE) is required and this may be different depending on the circumstances and proximity of staff to the individual. Distribution of the equipment is taking place via regional hubs, and further information has been shared at a local level.

We will continue to do all we can to protect the safety of our prison and probation staff working across the whole of the UK.

Mothers in prison

The Committee also asked about the release of female offenders who had caring responsibilities. Information on pregnancy, mothers and their dependents is held locally by prisons so that they can provide the appropriate support to individuals as part of their management and care plans. We do not currently monitor or publish this information centrally. We are considering options for improving these areas of data publication as part of an ongoing review on the operational policy for Pregnancy, Mother and Baby Units and Mothers, which is due to be completed later this year.

As I stated to the Committee, on 31 March I announced that that some pregnant women in custody and mothers and babies living on prison Mother and Baby Units would be considered for early release from prison, to protect them and their unborn children from coronavirus. This decision was based on PHE advice on the vulnerability of this cohort and our legal and moral obligations to protect their children. This process is now live and underway, with prison governors able to grant release on ROTL to those passing the relevant risk assessment and once suitable accommodation has been identified.

Additionally, whilst visits have been withdrawn due to COVID-19, a number of initiatives are being implemented to enable the maintenance of family ties, and the women's estate is one of the priority areas. This includes the issuing of secure phones to prisons in which in-cell telephony or 24-hour access to phones is not available, and a pilot for video calling.

Comprehensive guidance for the families of those in prison has been developed in response to the specific challenges brought about by COVID-19. This is published on [GOV.UK](https://www.gov.uk).

Adult social care services

The Government's number one priority for adult social care is for everyone to get the care they need throughout the COVID-19 pandemic. Millions of people rely on this support every day. As the pandemic progresses, these vital services must remain resilient.

Under the Coronavirus Act 2020, councils who choose to operate under 'Care Act easements' remain under a duty to meet needs where failure to do so would breach an individual's Convention rights (as defined in the Human Rights Act 1998).

During the pandemic, the health and care workforce and local authorities may need to make difficult decisions under new and exceptional pressures. The Department for Health and Social Care has developed an Ethical Framework that local authorities will be expected to observe to ensure consideration is given to a core set of ethical values and principles when organising and delivering social care for adults.

People who have new or changing adult social care needs should contact their local authority in the first instance. In March the Government announced £1.6 billion to help local authorities deal with the immediate impacts of COVID-19, which many councils will have directed towards adult social care services. In April we announced a further £1.6 billion for councils.

The Coronavirus Act does not affect the safeguarding protections in the Care Act 2014. The department for Health and Social Care have published guidance explaining that local authorities, social care providers, health care workers, the voluntary sector and our communities must continue work to prevent and reduce the risk of harm to people with care and support needs. If someone is concerned about abuse or neglect, they should contact their local authority.

I would also like to reassure the Committee that whilst the Care Quality Commission (CQC) has suspended all routine inspection activity, it has been developing an Emergency Support Framework as an interim measure to temporarily replace its usual inspection framework. This will enable it to continue to support providers and system partners with the aim of keeping people using services safe, including protecting their human rights. The framework is currently being tested with a small number of adult social care providers and will be rolled out to all registered providers. The CQC's Emergency Support Framework contains an assessment of risk and decision to inspect tool so that a site visit inspection can take place if there are significant concerns about for example, allegations of abuse. The CQC is still able to undertake regulatory/enforcement action to ensure the safety of people who use services.

Furthermore, I can reassure the Committee that the CQC has recently improved its '[Give Feedback on Care Service](#)' service to make it easier to use for anyone - people who use services, their families and friends and care staff - to report good or poor care. I have asked my officials to follow up on signposting to this service on the GOV.UK website. The CQC is also preparing a targeted campaign working with the voluntary sector, Health Work Exchange and other partners to encourage people to speak up as it's even more vital that the CQC hears their feedback during the pandemic.

Police force guidance

The College of Policing has published the Government guidance on implementation of the new powers contained in the Coronavirus Act, which can be found on the following website:

<https://www.college.police.uk/News/College-news/Pages/Health-Protection-Guidelines.aspx>

The Home Office will continue its daily engagement with police forces across the country to ensure the guidance is followed consistently and proportionately.

Whole Government approach

Finally, I also want to reassure the Committee that the UK Government is committed to protecting and respecting human rights. Whilst my department leads on human rights policy domestically for Government, as we discussed, each department is responsible for carrying out its own analysis of human rights compatibility of their policies. If departments do have queries or questions on the human rights aspects of their policies, they do come to my department, as well as, the Attorney General's Office, and both legal and policy officials are able to support them with their assessments.

Therefore, whilst I have Ministerial responsibility for the UK's domestic human rights framework, all Government Ministers have responsibility for upholding the UK's human rights principles within their respective remits. This is the right approach, and reflects that our respect for human rights is embedded into every area of policy making across Government.

I hope this provides you and the Committee with the reassurance and information you require, and I hope you and your family are keeping well during this time.

Yours ever

A handwritten signature in black ink that reads "Robert Buckland". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

RT HON ROBERT BUCKLAND QC MP