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3 June 2020

The Rt. Hon. Sir Bob Neill MP  
Chair, Justice Select Committee

(via email to: Holly Tremain [TREMAINH@parliament.uk](mailto:TREMAINH@parliament.uk)>)

Dear Sir Bob,

### **Update on Independent Monitoring Board findings**

This update is based upon

- reports from individual Boards and regional representatives during May 2020
- over 500 calls and messages from prisoners to the [freephone IMB applications line](#) from 13 prisons in the first four weeks.

We are now coming to the end of the pilot phase for the 0800 number, and it has proved remarkably successful. In the first four weeks, we received 554 calls from the 13 prisons in the pilot. On a number of occasions, we were able to alert prisons directly to prisoners who disclosed a risk of serious self-harm: in the first week these averaged one a day. On the whole, prisoners using the phone line did not feel they were getting answers from the prison, with a lack of faith in the prison complaints procedure and no direct contact with third party agencies, such as voluntary sector or probation. The scheme is being extended to a further 22 prisons in June and approximately the same number in July.

Overall, Boards report that prisons remain stable and reasonably calm. The Prison Service has taken decisive action to minimise risks, so that there have been no explosive Covid infections in prisons, as feared, and far fewer deaths. That is no mean feat, given the vulnerability and close confinement of those in prisons. It has largely been due to the very restricted regime in place, as well as the arrangements for separating (cohorting) prisoners who are new, vulnerable or symptomatic: though population pressure has meant that over half of local prisons are unable to operate strictly to Public Health England guidance on cohorting. Nevertheless, many Boards report that prisoners feel safer from Covid infection than they believe they would be in the community.

Boards continue to report a largely compliant prisoner population and some positive initiatives in many prisons, some of which were referred to in my previous note, to mitigate the impact of the restricted regimes. Contact with family and friends is particularly important in the absence of social visits, and HMPPS initiatives welcomed by Boards include: video messaging for contact with children, and with relatives in emergencies or for funerals; issuing iPads for supervised contact; allowing DVDs from families. We also hope that the pilot of video visits will be rolled out as quickly as possible: this is an initiative that will be welcome even after the current crisis, as a very useful supplement to face to face visits, particularly for prisoners held far from their families.

Communication is also important and some prisons have strengthened consultative mechanisms or regular opportunities (sometimes daily) for prisoners to raise concerns with governors. Welfare teams and chaplaincies have been active in many prisons, sometimes visiting wings daily or twice daily, sometimes focusing on prisoners at risk.

Most Boards report that there are now sufficient staff: indeed some have reported that there are noticeably more staff on wings than they would normally see. This provides an opportunity for improved interaction with prisoners who are unlocked in small groups; however, those Boards that are able to go into prisons also report a lack of social distancing among staff, who tend to congregate in offices. There have been positive comments about staff communication and support: one Board surveyed prisoners, the great majority of whom commended staff for going 'above and beyond'; only a few were criticised for inflexibility and over-use of control.

It is understandable that in the immediate aftermath of a sudden shutdown, combined with the urgent need to prevent catastrophic levels of infection, there have been some inconsistencies and negative impacts. Some concerns, both for the current and recovery phase are:

- A number of prisons are now starting to report an increase in self-harm and self-inflicted deaths, and there are also some spikes in violence, often associated with 'hooch'. There are particular concerns about the cumulative impact of lockdown, particularly on prisoners who have, or are developing, mental health conditions. This was a major concern raised by prisoners in a questionnaire in one local prison; in another there had been an increase in sleeping tablet prescriptions. A number of boards report that mental health support is less available, with some teams offering only crisis support. There is a concern that risks may be being missed: one London prison noted that normally 40% of ACCTs are opened by non-prison staff: agencies delivering services into the prison, who are not now attending.
- There is considerable inconsistency in relation to time out of cell, which does not appear explicable by the function or lay-out of the prison, with some prisons providing as little as 30 minutes a day out of cell, or exercise only every other day. In some, there is no gym or PE; in others, instructors are providing regular sessions in small groups or there is access to the sports field. A number of Boards have commented that, while prisoners have initially been compliant and predominantly grateful to be safe, as they see more staff on duty and as restrictions in the community are loosened, frustration is growing. We would urge that, as prisons move towards a recovery regime, there should be clear and centrally determined expectations of the minimum time out of cell and activity to be provided, with any exceptions requiring justification.
- There are particular concerns about the impact of lockdown on children and young people. Time out of cell remains only 40 minutes a day at Cookham Wood compared with three hours, with some education provision, at Parc. The Cookham Wood Board have written to the Secretary of State on this point.
- Concerns have been raised by a number of Boards, and on our freephone line, about the inadequacy of the regime for symptomatic prisoners in isolation. Often, they have had no direct human contact (unless in a shared cell with another prisoner who might then develop the infection) and some were unable to access showers. At one prison, healthcare visited only on the first and fifth day of isolation. Concerns were expressed via the IMB application line that prisoners were reluctant to reveal symptoms to avoid such extreme isolation.

- There have also been noticeable inconsistencies in the operation of the key worker scheme. Even before the current emergency, some Boards were expressing concern in their annual reports that key work had noticeably declined after reaching the 52% contact target for sign-off. In some regions, Boards have now been reporting that the scheme is 'defunct', while in others it has still been operating. It is welcome that the Prison Service has now issued fresh guidance that the scheme should now operate, though largely on a welfare model at present.
- The early release scheme, as previously reported, is having minimal effect on the prison population; indeed some Boards are reporting that it has simply created bureaucratic work for prison staff without any noticeable impact.
- Another area of inconsistency is the provision of accommodation for prisoners on release. In Wales it is reported that no prisoners are released without some accommodation to go to, due to an initiative from the Welsh Government. However, in England some Boards, including in women's prisons, continue to report problems, and we understand that some prisoners released from London prisons have been told that they have to go to hostel accommodation in Newcastle for three months.
- The Prison Service guidance is that in current circumstances the use of the basic level of the incentives scheme should be exceptional, and logged as a defensible decision. Use of basic seems to have reduced; however, there are inconsistencies among prisons and indications that it is being used as an alternative to adjudications for serious disciplinary allegations. This changes the nature and purpose of the incentives scheme, without due process to find the facts to justify punishment. We would urge the Prison Service to clarify the circumstances in which the basic regime can legitimately be used.
- It is highly regrettable that the Prison Service authorised the wider use of PAVA spray, without the previously agreed safeguards, and without informing scrutiny bodies or stakeholders of the change in policy, having previously stated that the roll-out had been suspended. After some IMBs reported that it appeared that PAVA was being introduced 'by the back door', it was then confirmed by HMPPS that new guidance had been issued. This permits PAVA to be used in any prison by any staff who have been trained, without the previously agreed preconditions of an effective key worker scheme and the need for at least 50% of staff to be trained in its use. We understand that this was based on a fear that there would be widespread indiscipline. Clearly this has not happened, and violence has in fact decreased, with prisoners largely locked up and let out in small groups. We would urge that the Prison Service review this change, and in the meantime publish every month the statistics about the use of PAVA and the circumstances which led to its use.

As the Prison Service moves into a recovery phase, there are a number of other issues that are emerging:

- The importance of in-cell telephony as long as regimes, and access to agencies and services, remain restricted. Prisons with in-cell phones have been able to provide access and some support for those at risk of self-harm and with mental health concerns, access to psychology and probation for progression and parole hearings, and greater access to legal advice, Samaritans, IMBs, families and friends. Prisoners without this facility can be restricted to as little as ten minutes a day to make calls. These discrepancies are creating both unfairness and heightened risk for prisoners without in-cell phones.

- It is unsurprising that the highest proportion of calls from prisoners on the freephone line were about healthcare. However, few were specifically Covid-related. The great majority were about the inability to access treatment and medication; some also raised mental health concerns. As in the community, there is a risk that the combination of a focus on Covid and restricted access to normal healthcare provision will exacerbate health issues in a population with known high morbidity rates.
- Education provision appears to have been at best patchy. Most education providers initially disappeared, as did library facilities, which are now reopening in some form. Many providers now appear to be providing some service, though in some cases it is very limited, sporadic and often generic, designed to provide distraction rather than formal education geared to individual learning plans and qualifications. However, a few Boards have reported that prisoners have individualised course material that is marked and feedback is being provided. This variation is found among prisons that have the same education provider, and may reflect the degree of liaison and management from the prison. Some Boards are reporting that tutors may be returning, and this will be an opportunity to move towards best practice. If, as seems likely, classroom education in adult prisons is not possible for some months, it will be essential to ensure that there is a proactive and innovative approach to providing prisoners with the education and skills they need.
- After healthcare, the next highest number of callers on the applications phonenumber were prisoners with concerns about progression. This includes lack of communication about reasons for recall, parole hearings, recategorization decisions or release dates, inability to contact offender management teams or psychologists, and the cost of phoning outside probation. Frustration and anxiety are clearly building up and this needs to be addressed. For that reason, it is important that the key worker scheme, as intended, provides help and information about offender management.
- There is a growing number of foreign national prisoners held under immigration powers after sentence expiry, who are unable to leave the country even if they wish to. They, and some Boards, are reporting very limited or non-existent contact with Home Office teams.

We will be expanding the IMB freephone applications line to more prisons during June and July with the aim that it will operate in 50% of establishments by the end of July; this should provide an expanding evidence base about the impact on prisoners of regime changes. We have now seen the HMPPS national framework and roadmap, and will be providing more detailed comment later. We do have concerns about the pace of change proposed for the adult prison population. While it is clearly important to ensure that robust infection control measures remain in place, we are aware of frustrations building up, which could create a different set of serious risks. In addition, purposeful activity and rehabilitative work are central to the successful rehabilitation of prisoners and therefore the protection of the public. We will therefore be monitoring the impact and outcomes of the framework as it is rolled out.

I have been reporting regularly to the Prisons Minister and HMPPS on Boards' findings ; I will continue to do so and intend to provide similar regular briefings to the Committee.

Yours sincerely,



