



Ministry  
of Justice

The Right Honourable  
**Alex Chalk KC MP**  
Lord Chancellor & Secretary  
of State for Justice

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

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20 October 2023

Dear Harriet,

## **VICTIMS AND PRISONERS BILL**

Thank you for your letter of 14 September regarding the Victims and Prisoners Bill. I am very grateful to the Committee for providing this scrutiny.

### **Part II – Independent Public Advocate**

Firstly, may I thank the Committee for its support of the overarching objective to establish the Independent Public Advocate (IPA) and its commitment to ensuring that it will effectively support victims of major incidents.

I am also grateful to all the witnesses who gave evidence, such as Inquest and the Right Reverend James Jones KBE. They share my desire to ensure that the IPA can deliver impactfully for those who need it and I recognise the responsibility that comes with delivering on this support service.

I would like to acknowledge the concern relating to the IPA's current structure and deployment process following a major incident. I want to reassure the Committee that I recognise these concerns, and so it may be helpful if I briefly explain the rationale behind the deployment process.

If there is an incident as serious as Hillsborough, Grenfell, or the Manchester Arena Attack, we anticipate that the IPA will be appointed and deployed immediately to help people on the ground in the immediate aftermath. The IPA will therefore be on the ground as soon as possible. A policy statement, which will be published in the following months, to accompany the legislation, will set out the factors to be considered when making these decisions. This will be especially helpful when incidents are less clear cut or develop over time so that a quick decision can be made. I appreciate the concerns about the timeframes of this process and deploying an IPA, however I would like to reassure the Committee that my main objective is for this process to be fast.

I have listened to the arguments made during Commons Committee about the need for a permanent IPA and would like to reassure the Committee that I am considering this feedback ahead of Report Stage. I share the Committee's desire for the IPA to be deployed as quickly as possible following a major incident and understand why this has resulted in the calls for a permanent advocate.

I look forward to further discussions as the Bill progresses through Parliament to ensure that we get these measures right.

### **Part III – Parole reforms**

The Parole Board does a difficult job and, generally, has a good track record, however a small number of cases have negatively affected public confidence. Part III of the Bill does not seek to undermine the Board; instead, it introduces new measures intended to strengthen public confidence when it comes to the release of the most serious offenders, such as murderers and rapists.

I appreciate that creating a power to enable the Secretary of State to quash certain Parole Board release decisions is a significant step and it is not one the government is taking lightly. Some high-profile decisions – such as those in respect of John Worboys, Colin Pitchfork and Tracey Connelly – have attracted criticism and undermined public confidence in the Board. The government is, therefore, legislating to enable the Secretary of State, in a limited number of cases, to step in on behalf of the public and provide additional scrutiny of decisions to release such offenders.

The government, of course, considered these measures, and their compatibility with our European Convention on Human Rights obligations, very carefully before the Bill was published. The government is satisfied they are compatible and, as required, my predecessor made a statement on the face of the Bill to confirm this.

It is the government's view that having more Parole Board members with a law enforcement background is a beneficial move. Experience in law enforcement brings an understanding of offenders' behaviour that is key to assessing the risk they pose. That said, I do understand your concern about the power to enable the Secretary of State to amend the Parole Board Rules so as to require that these particular members sit on certain types of cases. I can assure the Committee that we will consider any amendments to the Rules very carefully before deciding whether to make them.

The Committee is also concerned about the power for the Secretary of State to dismiss the Chair of the Parole Board. This is not a power we intend to use lightly. However, if a situation arose where public confidence in the Board had been severely damaged, it is only right that the government has a mechanism for changing the Board's leadership in order to restore confidence. Maintaining public confidence in the work of the Board is crucial and dismissing its Chair would be used in exceptional circumstances only.

Your letter raises reservations about the disapplication of Section 3 of the Human Rights Act 1998 from release legislation. The intention behind these provisions is to remove the possibility of a domestic court adopting a strained interpretation of this legislation, disregarding the intentions of Parliament when passing it. However, I appreciate the Committee's concerns and will consider this issue further.

### **IPP prisoners**

The issue of IPP sentences remains high priority for the Government and for me personally. I am on the record stating that the now-abolished IPP sentences are a stain on the justice system, which is why I committed in a statement to the House on 17 October to look at significantly reducing the licence period in line with recommendation 8 in the Justice Select Committee's report. The government believes the report into the IPP sentence provided a valuable opportunity to take stock and identify areas for improvement which will make a genuine difference to the way that IPP offenders are rehabilitated and supported through to safe release, or termination of the licence, where appropriate.

The government is focused on the rehabilitation of IPP prisoners via a refreshed and updated Action Plan, published on 26 April 2023. The Plan provides a renewed focus on supporting those serving IPPs in both

custody and the community. It sets out actions to help prisoners progress towards safe release, with a sentence plan tailored to their individual needs, and to support those in the community on licence to comply with their conditions and progress towards licence termination.

In recognition of the fact that delivering the wide-ranging Action Plan will require robust governance oversight, we have put in place a Senior IPP Progression Board to supervise and drive work to support IPP offenders.

The enforcement of the IPP sentence as currently in place is compatible with our international human rights obligations. It is important to note that there has never been a finding in the European Court of Human Rights or in UK domestic courts that the IPP sentence was or is unlawful. Those serving an IPP have appropriate access to opportunities, including rehabilitative courses, where required, to progress through the requirements of their sentence plans towards a prospective future release.

Recently, there have been several self-inflicted deaths of those serving an IPP sentence in custody. Every death in custody is a tragedy, and we must do whatever we can to prevent prisoners taking their own lives. Our prison safety programme includes a range of actions designed to continue to improve the way that we identify, manage and support those at risk of self-harm and suicide.

The Justice Select Committee's main recommendation was to undertake a full re-sentencing exercise of all remaining IPP offenders. The government's view is that retrospectively changing the sentence which was lawfully passed would give rise to an unacceptable risk to public protection. It would inevitably result in the immediate release of many offenders who have committed serious sexual or violent offences, in many cases not even with a period of licensed supervision. It is vital for public protection that those serving the IPP sentence in prison, whether not yet released or recalled following release, are released only where the Parole Board determines that they may be safely managed in the community.

The government is, as a matter of priority, reviewing the work to date to help more prisoners progress towards release, including on the licence term, and will report back to the House in due course.

## **Mothers in Prison**

Your letter raises the issue of the impact of the imprisonment of mothers on their children. As you will appreciate, sentencing is entirely a matter for our independent courts. Courts must strike a balance between the legitimate aims to be served by custody and the effect that sentence has on the family life of others, especially children. Sentencing guidelines, issued by the independent Sentencing Council, specify 'sole or primary carer for dependent relatives' as a factor reducing seriousness or reflecting personal mitigation and set out relevant considerations when sentencing an offender who is pregnant. The Council is now consulting on a new factor specifically relating to pregnancy and maternity as part of its miscellaneous amendments consultation ([www.sentencingcouncil.org.uk/publications/item/miscellaneous-amendments-to-sentencing-guidelines-consultation-2023/](http://www.sentencingcouncil.org.uk/publications/item/miscellaneous-amendments-to-sentencing-guidelines-consultation-2023/)).

You also raise concerns about the approach to bail for women. The Bail Act 1976 sets out a general right to bail for all defendants awaiting trial unless it is necessary for the protection of the public or the delivery of justice that they are remanded in custody. This principle aligns with the common law and Article 5 of the European Convention on Human Rights. A defendant accused of an imprisonable offence can be refused bail only where there is specific justification, as specified in the legislation. In deciding whether or not to grant bail, the court will consider a number of factors, such as pregnancy or parenthood, when determining whether it is necessary to remand an individual into custody. The Bail Information Report includes information about the direct impacts on an individual and any dependents, if applicable, should they be remanded in custody.

We plan to commence the implementation of a new national, permanent, dedicated, and proactive Bail Information Service in all courts and reception prisons in England and Wales over the next 12 months. The new service will be committed to enabling more women, as a priority group, to successfully access bail services.

I also note your concerns about data and recognise the importance of better data in this area. The Prison Strategy White paper, published in 2021, outlines our intention to work with other government departments to commission updated research to improve our collective understanding of the overall number of children affected by parental imprisonment. We will deliver on this commitment through our Better Outcomes through Linked Data (BOLD) Project. BOLD is a cross-government project that is linking data to enable better evidenced and more joined up cross government services. Through BOLD, we have been exploring data sharing opportunities both within and across government services to improve our understanding of the number of children with parents in prison.

Changes have also been made to the Basic Custody Screening Tool to enable us to collect data on entry to prison about how many primary carers are in custody and how many children under the age of 18 are affected by their imprisonment. The learning from the data collected will be incorporated into findings from the BOLD programme. Findings will be published when the analysis is complete.

Thank you again for your letter and the Committee's thoughtful analysis of these important issues. I can assure the Committee we have given serious consideration to its views and advice and I look forward to further engagement in the future.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Alex Chalk'.

**RT HON ALEX CHALK KC MP**

**LORD CHANCELLOR AND SECRETARY OF STATE FOR JUSTICE**