



Joint Committee on Human Rights

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From Rt Hon Harriet Harman MP, Chair

Rt Hon Matt Hancock MP

Secretary of State for Health and Social Care
Department of Health and Social Care
39 Victoria Street
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9 April 2020

Dear Matt

I am writing as Chair of the Joint Committee on Human Rights in relation to the mandatory review of the Health Protection (Coronavirus, Restrictions) (England) Regulation 2020 due to take place by 16 April.

It is obviously essential that the Government takes all reasonable measures to address the threat caused by the Coronavirus outbreak, which poses a significant threat to life. It is also important that any human rights interferences that arise as a result of these measures are proportionate and only interfere with human rights to the extent absolutely necessary to deal with the threat to public health.

I am therefore writing to support your work in undertaking the mandatory 21-day review of the Coronavirus Restrictions Regulations, to ask some questions, and to raise some rule of law and human rights considerations that it would be useful for you to address as part of this review.

Firstly, it is important that even in these challenging times, we respect the rule of law. There has been significant confusion between what is unlawful (in the Regulations) and what is merely contrary to “guidance” or “advice” – unhelpfully with both referred to in police and Government communications as “the rules”. Cases have emerged where Officers have fined or arrested members of the public, but the penalty was then rescinded after it became clear no laws were broken. Issues like this occur because of a discrepancy between official “advice”, and what is actually enshrined in law, as well as confusion as to which the police should be enforcing. Article 7 ECHR, which guarantees no punishment without the law, is potentially violated in such scenarios. Moreover, where significant tensions arise due to a heavy-handed approach to policing that doesn’t immediately relate to the public health risk, police-community relations are put at risk, so it is vitally important to get this right.

I would therefore appreciate answers to the following questions:

- (a) How are you ensuring the police clearly understand the current regulations?
- (b) How will the differences between legal obligations and mere advice be made clear to the public and the police?
- (c) Has the Government updated communications plans to ensure that errors in statements made by Government representatives in broadcast interviews, as was the case for example in the confusion as to the position of children of separated parents, are not repeated if, and when, the regulations are amended?
- (d) How does the Government intend to ensure a good police / community relationship, and how will you guarantee enforcement is proportionate to the health risks?

Secondly, the regulations have a particular and arguably disproportionate impact on certain groups, ranging from those with specific needs such as a disability or autism, to those at increased risk of domestic violence, to those who, due to their circumstances, have specific social or mental health needs. Article 8 ECHR, which protects the right to respect for a private and family life, Article 11 (freedom of assembly and association) and Article 14 ECHR, which prohibits discrimination in the application of the ECHR's Articles, are clearly engaged by the lockdown. In order to address these concerns, I would encourage you, as part of the review, to reflect upon the groups that are significantly impacted by the lockdown and to consider what measures could be put in place to lessen the deleterious impacts of the restrictions on those groups. Could you please answer the following questions:

- (e) How does the Government intend to reassure groups with specific concerns, as to what constitutes a reasonable excuse to leave their homes?
- (g) What steps are you taking to help facilitate reasonable, and safe, outdoors access for those living in cities?

Finally, as you will no doubt be aware, the lockdown provisions represent the most significant incursion into civil liberties in modern times:

- (f) Beyond the 21-day reviews, what processes exist to ensure that such extraordinary measures are only kept in place for as long (and to the extent) absolutely required?

Could you please respond to this letter by 15 April.

I have copied this letter to the Secretary of State for the Home Department and the Minister of State (Minister for Security).

Yours sincerely



Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights