

Written evidence from Dr Shona Minson (COV0151)

This submission draws the attention of the Committee to children with a parent in prison.

The measures taken by government to address the pandemic in prisons have had a significant impact on the human rights of children whose parent is in prison. The Government's decision not to significantly reduce numbers in prison means that prisoners have been living under severely restricted regimes since 23rd March with no social visits to prisons in this time. Children have been unable to have face to face contact with their parents, and until May there were no video visits available. At the time of writing, video visits are operating in approximately 30 prisons (out of 117) with prisoners able to book one visit per month (Jo Farrar, evidence to JCHR, 8th June 2020). The length of call seems to vary, with anecdotal evidence that the 30 minutes of time allocated for the call can include the time taken to bring the prisoner to the room and the time taken to set up the call.

The government's handling of the Covid-19 pandemic in prisons has interfered with the following rights of children:

1. Their right to family life (Article 8, Human Rights Act, 1998)
2. Their right to protection from discrimination (Article 14, Human Rights Act, 1998)
3. Their right to protection by the state, from discrimination or punishment as a consequence of the status or activities of their parent (Article 2, United Nations Convention on the Right of the Child, 1989)
4. Their right for their best interests to be a primary consideration in all actions concerning them (Article 2, United Nations Convention on the Rights of the Child, 1989)
5. Their right to personal relations and direct contact with a parent from whom they have been separated (Article 9(3), United Nations Convention on the Rights of the Child, 1989)
6. Their right to be heard in any matters concerning them (Article 12, United Nations Convention on the Rights of the Child, 1989)

The JCHR have already considered the right to family life with relation to children whose mothers are in prison during the pandemic, noting that interference with that right should be necessary and proportionate. Case law has established that the right is not lost automatically by reason of criminal conviction (*R (on the application of P and Q) v Secretary of State for the Home Department* [2001] paragraph 78). The more serious the interference the more compelling the justification must be (*Ibid.*: paragraph 78 iv; *R (on the application of Amanda Aldous) v Dartford Magistrates Court* [2011]; *R v Petherick* [2012]).

How has the interference with rights impacted children?

I conducted research between the 24th April and 13th June 2020, with parents and carers looking after children who have a parent in prison, collecting information about the experiences of 63 children in England and Wales aged between 3 months and 18 years. For eight children it is their mother who is in prison; for 46 children their father is in prison and for five children both parents are in prison. The impacts of the government's handling of the

pandemic in prison on these children are divided into four categories, and each is examined in turn below.

1. Direct impact on children
2. Impact on the child's relationship with the parent in prison
3. Impact of the restricted regime on the parent in prison and the impact of that on the child
4. Impact on parents, grandparents or others who are caring for children

1. Direct impact on children

Almost all of the children included in the research have had increased anxiety about their parents - most commonly about their parents' health and whether they will die in prison without their child seeing them again. When stockpiling was an issue at the start of lockdown some children worried that their parent wouldn't get enough to eat in prison.

The new behaviours among children since the cessation of contact include but are not limited to: disrupted sleep; self-harm; co-sleeping; panic attacks; weight loss; development of an eating disorder; withdrawal from the family; nightmares; anger; clinginess; physical aggression towards others in their household. Almost all of the children have been reported as experiencing sadness, anxiety and crying.

From the research it is clear that children with disabilities have been acutely and significantly affected, often having no understanding of why their parent has disappeared; interpreting it as a withdrawal of love by the parent. The treatment of disabled children is relevant under Article 14 of the Human Rights Act.

'my 12 year old has just started to make herself sick after eating and when you ask her why she's doing it she says 'I miss my Dad and nobody understands'

'My two year old wakes up every morning and the first thing she says when I dress her every day – 'Can we go and see Daddy today?'. And I say 'No we can't go and see Daddy'. And she points at the picture we've got on the fire and she says 'That's my Daddy'. I say 'I know I know'. She's two, she doesn't like phone calls neither, she won't go on the phone calls, she's not interested.'

'It's had a really, really big impact upon her [four year old] that she hasn't seen him. She come through into the kitchen the other day when I was cooking and she'd drawn a picture with 3 faces on it and they all had, like, upside down like sad faces. 'I miss my Daddy.'

'unfortunately for [6 year old child with complex life threatening condition and disabilities] he can't communicate on a phone so now he has no contact whatsoever with Dad which has affected his weight . He's lost a stone since this started. He's had to go on to specialised shakes off the doctors. The dieticians are also worried about [him].'

2. Impact on the child's relationship with the parent in prison

Since 23rd March the only way most children have been able to have contact with their parent in prison has been by telephone. Children who are pre-verbal, and many who are very young or disabled are unable to engage with this form of communication. The consequence of this is that children who fall into those groups have had what has amounted to a complete cessation of contact with their family, and their right to family life has not just been interfered with but has been removed in its entirety. Being treated in the same way as all other children with a parent in prison has caused additional and severe disadvantage to these particular groups of children and is therefore discriminatory and in breach of Article 14.

22 of the children whose experiences were reported to me are aged five and under, with four being less than 12 months old, and the issues for those children relate to losing interest in the parent, and no longer seeming to understand the connection they have with them. The JCHR report of 3rd July 2020 provides a harrowing account of a baby crawling from room to room 'calling' for his mother. It's well established that attachments in the first few years of life are critical to children's long-term wellbeing and the blanket ban on visits with no efforts to reduce the loss by providing virtual visits is likely to have long term consequences for these children.

'I think she's [one year old] starting to forget him. First two or three weeks she'd sleep with a picture of him and hold on to it and sleep with him in her hand. She's not even taking the picture anymore. We've got a picture on the television stand. Sometimes she'll pick up the photo and say, 'Daddy' and 'Mummy', but that's very rarely. It used to be every day she'd point to the picture on the wall and say 'Daddy'. Now it doesn't really happen.'

'It's really disheartening. Cos like obviously with the situation of him being in there ... I just wanted to make sure she [one year old] knew her Dad and obviously before this she did know her dad and now it's like all the hard work I've put into making sure that happens in the space of 6 weeks it's just has just crumbled. No control of my own. There's absolutely nothing that I can do about it.'

'Obviously the seven month old isn't even going to know who her Dad is. By the time we get back into the prison she's not going to have a clue who her Dad is. She's obviously my biggest concern because when Dad comes home we're going to expect a stranger to move in with my little girl which is unfair on her as well.'

3. Impacts of the restricted regime on the parent in prison and the impact of that on the child

Two different issues were reported in the research with regard to the way the restricted regime was affecting the imprisoned parents and the consequences of that for the children.

Firstly, carers referred to the parent in prison become depressed and down because of the lack of family contact. This made it difficult for them to stay positive when speaking to their children on the telephone.

Secondly, in one instance the parent in prison had cut off all contact with his ten year old child, as he found it too painful to not be able to tell her when she would see him again. The child had therefore entirely lost the parental relationship and had begun to self-harm.

4. Impact on parents, grandparents or others who are caring for children

Parents and grandparents are finding it very difficult to look after children to whom they can give no answers about when they'll see their parents again. Carers describe themselves, as anxious, down, depressed, reaching breaking point. This in turn impacts the children. We know from research evidence that the stability of the carer/ child bond during parental imprisonment can be a protective factor if the carer is well supported, but if the carer is struggling then it becomes a negative factor for the child.

'I feel like I am suffering the same way I did when a loved one died. It is the same grief. It's like my husband is no longer a part of my life, hardly any phone calls and no visits. It seems to me that he is dead. I have had many panic attacks since our contact stopped. I feel sorry for my child because I am struggling myself. How do I help him?'

'Our whole lives have been completely turned upside down. There's nothing. It's like drowning. There's nothing to grab on to. I feel like they're trying to break up families.'

Concluding Remarks

The argument for the restrictions on children's right to family life, and seeming disregard for many of their other rights as set out at the beginning of this submission, is that it is necessary for public health. At the outset of the crisis it was estimated that 800 people in prison would die and it has been stated repeatedly that such deaths have been prevented by implementing the restricted regime including stopping social visits. In response to that the Committee stated: 'a greater degree of interference with the Article 8 right to family life is likely to be proportionate at this time and may justify some restrictions on visiting to prevent the spread of the virus. However, this does not extend to the imposition of a blanket ban on all visits, as is currently in place.' (report, 3rd July 2020).

A proportionate response which upheld children's rights would have included the following elements:

- a) Consideration of temporary or early release for all parents of dependent children who are cared for by someone who is not their parent.
- b) Weekly digital video visits for all children with immediate effect. Prison Voicemail is a service which was providing video visits prior to the pandemic and could have scaled

up its operations into more prisons had there been willingness from the government to do so. This is how the Prison Service in Northern Ireland mitigated the loss.

- c) Prioritisation of re-starting social visits between children and their parents, particularly for young and disabled children who cannot access phone calls.
- d) Provision of consistent information directly to children and families via letters from Prison Governors to children addressing their worries about their parents and their fears that they might never see them again.
- e) Consultation with families, and with services like [Children Heard and Seen, Out There](#), Time-Matters UK and [Sussex Prisoners' Families](#) who have been working hard to provide support to children suffering not just the 'ordinary' impacts of Covid-19 - no school, no contact with friends, worry about the virus, but the additional impact of losing contact with their parent.
- f) Investment from the government in the services named above, to enable them to do vital work to mitigate the harm being experienced by children, and to support those taking care of them

Research evidence with which the Committee is familiar from its previous report on the right to family life of children whose mother is in prison (September 2019), makes it clear that children suffer short, medium, and long term and lifelong harms from being deprived of their parent by imprisonment. From research with children whose parent is in prison it is known that children suffer from ambiguous loss when separated from a parent by imprisonment, but this is mitigated to some degree by visits where they are available. By stopping all visits children have been subjected to re-traumatisation, and have effectively suffered the loss of the parent again, and it is possible the harms already suffered have been compounded.

The Government recognises the importance of family ties for people in prison (Farmer, 2017, 2019) but has severed them during the pandemic without taking proper steps to mitigate the interference necessary to protect public health. Going forward the government must put additional funding and support into services supporting these children and supporting family reunification after parental release, so that children are not left to suffer with the legacy of the government's disregard for their rights during the pandemic.

08/07/2020