



House of Commons
Justice Committee

Coronavirus (Covid-19): The impact on prisons

Fourth Report of Session 2019–21

*Report, together with formal minutes relating
to the report*

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Summary

Covid-19 presents an unprecedented public health crisis that has put additional pressure on a prison system already in a state of crisis. This report looks at the measures the Ministry of Justice (MoJ) and HM Prison and Probation Service (HMPPS) have taken in response, focusing primarily on regime changes and strategies to manage the prison population.

The Committee pays tribute to all the prison officers, governors and other staff of Her Majesty's Prison and Probation Service who have worked to maintain safe, secure and stable prisons during the coronavirus pandemic. It is a sad inevitability that serving officers and other staff have contracted the virus and it is a tragedy that a number have died in the service of others and of the wider community. Our thoughts are with their families. It is also a matter of great sadness that some prisoners in the care of the state have contracted the virus, and, again, that a number have died. It is, however, a considerable tribute to HMPPS and its entire staff that those numbers are comparatively low, as a result of the actions taken to minimise the spread of the virus within prisons and other custodial environments, and they deserve the thanks of all of us for performing an often unsung role so courageously and so effectively.

Covid-19 presents the prison service with substantial challenges. The service is responding to the pandemic against a backdrop of overcrowding and long-term under-investment in the prison estate. Self-harm and violence in prisons had reached record highs before the pandemic began, and the prison population tends to have poorer health than the general population, and thus a greater need for health care. This is a complex environment at the best of times, and Covid-19 exacerbates many existing problems.

The Ministry of Justice, Her Majesty's Prison and Probation Service and wider stakeholders deserve praise for the vital work done. In particular, front-line prison staff have adapted well to the current climate and continue to protect those in their care and the public.

On 24 March 2020, the prison service moved to an exceptional model of delivery, meaning that the estate was placed in lockdown, with regimes restricted. This means that prisoners are spending less time out of cell, and visits and employment for non-essential reasons have been suspended, with education also severely reduced, among other restrictions on prison life. The Ministry and HMPPS also introduced measures aimed at managing the existing prison population, including: implementation of a cohorting strategy, installation of temporary accommodation and the early release of some prisoners, though significantly fewer than was suggested in MoJ messaging.

Regime changes were a necessary initial step to save lives, and we welcome the additional support that has been provided to prisoners during this time, particularly the provision of phone handsets to ensure prisoners can maintain contact with families. We are concerned about how long lockdown measures have been in place, and while we recognise the increased complexities of moving a prison out of lockdown, we are concerned about the effect severe restrictions will have on prisoners. The prison estate has been in a state of lockdown for 15 weeks, and it is concerning that prisoners have not yet begun to transition from that state.

We are particularly concerned about how restricted regimes may affect the mental health of adults and children held in the secure estate, and we call on the Ministry to set out what additional measures and support have been put in place to mitigate any negative effects.

We broadly welcome the population management measures put in place to increase headroom in the estate, but we note that the End of Custody Temporary Release scheme has had minimal impact on the population, with just over 200 of the 4,000-plus potentially eligible prisoners released in three months.

Reduced court activity, meaning fewer new prisoners, and the scheduled release of prisoners at the end of their sentences has driven the reduction in overall prison population. As court activity begins to increase, we are concerned about whether the population will again rise, to the extent that it reduces prison staff's ability to separate and cohort prisoners in the way that is presently being done. We call on the Government to set out what work has been carried out to understand the potential impact of increased court activity on the number of people in prison and how any influx in population will be managed.

Introduction

About this report

1. In response to the Covid-19 pandemic, the Justice Committee have sought to examine the Government's actions across the justice system. The operation of prisons in England and Wales is one of our highest priorities, and we have looked principally at prison regime changes required to minimise outbreaks of disease and maintain the safety of prisoners and prison staff, and at management of the prison population. We have held five oral evidence sessions specifically on *Coronavirus (Covid-19): The Impact on prison, probation and court systems*, and have taken evidence on the impact of Covid-19 during sessions related to other Justice Committee inquiries. We have received many written briefings from organisations operating in the criminal justice sector.
2. This report summarises what we have heard or received in evidence. We have set out the key events and announcements made by the Ministry of Justice (MoJ) and Her Majesty's Prison and Probation Service (HMPPS) relating to the operation of Prisons in England and Wales. We will publish separate short reports on other aspects of the Ministry's Covid-19 response, including on the impact of Covid-19 on probation in England and Wales and on the effects on the court and tribunals system and the legal profession. We thank the organisations and witnesses who have so far provided us with evidence.
3. **The Covid-19 pandemic poses an urgent threat to public health and safety. It is an unprecedented situation that has required an immediate response by the prison service to protect the NHS and save lives. We praise the Prison Service and wider stakeholders for the vital work they are doing to respond to the pandemic and protect those in their care and the public.**

The current situation in prisons

4. Covid-19 is an unprecedented public health crisis affecting all aspects of society, including prisons in England and Wales. Prisons were already under substantial pressure before the outbreak of coronavirus, however. The Justice Committee reported last year that "the prison system in England and Wales is enduring a crisis of safety and decency" and noted record violence and self-harm and the poor condition of many prisons, particularly a backlog of maintenance estimated at £900 million.¹
5. The prison service has faced increased capacity pressures because of increased demand for prison places and delays in creating new places; at December 2019, the prison population was around 82,300, equating to 98% of the useable operational capacity of the estate.² It is against this backdrop that prisons in England and Wales had to adapt and respond to the immediate threat that Covid-19 posed.

1 Justice Committee, First Report of Session 2019, [Prison Governance](#), HC 191

2 National Audit Office, [Improving the Prison Estate](#) (February 2020), p 6

6. In March 2020, the Lord Chancellor and Secretary of State for Justice, rt hon, Robert Buckland QC MP, told the Justice Committee that the pressure on prisons in England and Wales due to coronavirus was acute:

“I am not going to make any bones about it: it is a huge challenge. I have quite a proportion of the estate where there is crowding and more than one person in a cell. That presents a real challenge”.³

7. In addition to the current condition of the prison estate, people in contact with the criminal justice system, including those in prison and on probation, tend to be in poorer health than the general population and have greater need for health care.⁴ Mr Buckland told the Committee in March:

“I have a number of people in the cohort you would class as vulnerable. I have about 1,800 who would be shielded if they were in the community. This cohort tends to have poorer health than the rest of the population”⁵

8. In April 2020, Public Health England reported: “Outbreaks of COVID-19 in prisons affecting staff and prisoners are being seen currently. But early emerging data collected by PHE suggests that the ‘explosive outbreaks’ of COVID-19 which were feared at the beginning of the pandemic wave are not being seen”.⁶ As of 19 June 2020, 505 prisoners and 984 prison staff have tested positive for coronavirus and 24 prisoners and nine Prison Service staff members have died.⁷ It is to the credit of the Secretary of State and his ministerial team, HMPPS and all those working within the prison service that those figures have been neither higher nor as high as had been feared.

3 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

4 Health and Social Care Committee, Twelfth Report of Session 2017–19, [Prison health](#), HC 963, para 17

5 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

6 Public Health England, [Briefing paper - interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England](#) (April 2020), p 1

7 [Q206](#) [Robert Buckland]

1 Prison Regime Changes

9. The Ministry and HMPPS are working closely with Public Health England, the NHS and the Department of Health and Social Care to manage the challenges prisons face.⁸⁹ The Prison System has been placed in “command mode”, meaning that the response to a major incident can be coordinated nationally.¹⁰ Mr Buckland told the Committee in March:

“We have already stood up the criminal justice gold command ... it is the meeting place for all agencies - police, probation and other agencies - to come together to work out what the challenges are, and to make sure that all parts are talking to each other so that we are getting communication”.¹¹

Changes to the prison regime and time out of cell

10. A number of changes to the prison regime have restricted the movement of prisoners. On 24 March 2020, following the Prime Minister’s announcement of a UK lockdown, Dr Jo Farrar, Chief Executive, HMPPS, told the Committee:

“Following the Prime Minister’s announcement, we have moved today to an exceptional delivery model in prisons. That means that more people in prison will have more time in cells... From today, they will spend more time in their cells, but we will be making sure that people come out for meals, to make phone calls to family or other people that they need to phone, and to have their health attended to and to take showers. We will also be making arrangements for people to exercise in the open air with proper social distancing.”¹²

11. Prison regime changes mean that prisoners are spending more time in their cells and are no longer able to take part in activities such as using the gym, going to worship or visiting the library. Only essential workers are able to continue with their jobs (such as kitchen staff or wing cleaners).¹³ HMPPS have said that those no longer able to undertake employment will still be paid.¹⁴ Release on Temporary License (ROTL) has been suspended, except where the prisoner working is a key worker, or the temporary release is on compassionate grounds or in accordance with a new temporary release scheme (discussed in the next chapter).

12. Education provision in the prison setting is minimal, consisting primarily of in-cell work packs. Many education departments have closed, and education providers have withdrawn from prisons. Peter Clarke, Chief Inspector of Prisons, in all of his recent reports on short scrutiny visits (Long-term and high security prisons,¹⁵ Category

8 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

9 PQ [300 6](#) [Prisons: Coronavirus], 16 March 2020

10 “[Release inmates or face jail pandemic say prison governors](#)”, The Guardian, 25 March 2020

11 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

12 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

13 Ministry of Justice and Her Majesty’s Prison and Probation Service, ‘[Coronavirus \(COVID-19\) and prisons](#)’, accessed 18 June 2020

14 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

15 HM Inspectorate of Prisons, [Report on short scrutiny visits to Long-term and high security prisons](#) (May 2020)

C Training Prisons,¹⁶ Local Prisons,¹⁷ Prisons holding women¹⁸ and Young Offenders Institutions holding children¹⁹) has found that education provision across the prisons inspected was variable, and that face-to-face education had been largely suspended in most prisons. For example, at HMP Bronzefield, some limited face-to-face education was provided at cell doors²⁰ and HMP Parc was able to plan and deliver limited face-to-face education that complied with social distancing.²¹

Reaction to regime changes and time out of cell

13. Concerns have been raised about the effect the restricted prison regime may have on individuals. Peter Clarke in his April 2020, *Report on short scrutiny visits to local prisons* notes that those inspected were large and busy prisons that present considerable management challenges even in less exceptional times and stated that “it was a credit to the approach of staff and skilled crisis management by senior managers that all the prisons were stable”.²² However, commenting on the conditions prisoners were living in, he said:

“The vast majority [of prisoners] were locked up for nearly the whole day with usually no more than half an hour out of their cells. We found some examples of even greater restrictions. In one prison, a small number of symptomatic prisoners had been isolated in their cells without any opportunity to come out for a shower or exercise for up to 14 days.”²³

14. The Howard League emphasise the severity of the current prison regime, stating that “conditions are consistent with, or very close to, international definitions of solitary confinement (22 hours or more alone each day)”.²⁴ Dame Anne Owers, National Chair of the Independent Monitoring Board (IMB), in a letter to the Committee states that “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”.²⁵ The Independent Monitoring Board have urged the Ministry of Justice to set out “clear and centrally determined expectations of the minimum time out of cell and activity to be provided, with any exceptions requiring justification”.²⁶

15. The Committee recognise the necessity of the measures introduced to minimise the spread of the virus and save lives and commend staff and prisoners for adapting to these changes. However, we do not believe that the current regime is sustainable in the long term and are concerned about the effect this may have on the wellbeing and rehabilitation of individual prisoners.

16 HM Inspectorate of Prisons, [Report on short scrutiny visits to Category C training prisons](#) (May 2020)

17 HM Inspectorate of Prisons, [Report on short scrutiny visits to Local Prisons](#) (April 2020)

18 HM Inspectorate of Prisons, [Report on short scrutiny visits to Prisons holding women](#) (May 2020)

19 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

20 HM Inspectorate of Prisons, [Report on short scrutiny visits to Prisons holding women](#) (May 2020)

21 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

22 HM Inspectorate of Prisons, [Report on short scrutiny visits to Local Prisons](#) (April 2020) p 7

23 HM Inspectorate of Prisons, [Report on short scrutiny visits to Local Prisons](#) (April 2020) p 7

24 The Howard League, [Covid-19 briefing](#), 28 May 2020

25 Letter from Dame Anne Owers, National Chair, Independent Monitoring Board to Sir Bob Neill, Chair, Justice Committee, [Update on Independent Monitoring Boards findings](#), June 2020

26 Letter from Dame Anne Owers, National Chair, Independent Monitoring Board to Sir Bob Neill, Chair, Justice Committee, [Update on Independent Monitoring Boards findings](#), June 2020

16. *We are not clear as to why there is such wide variance across the estate in type of regime and time out of cell. We agree with the Independent Monitoring Board and recommend that the Ministry of Justice set out clear expectations of the minimum time out of cell and activity to be provided at each phase of recovery. This is not currently clearly set out in the COVID-19: National Framework for Prisons and Services.*

Mental health concerns

17. Significant concern has been expressed about the effect prison regime lockdown may have on the mental health and wellbeing of a prisoner. Before the Covid-19 outbreak, the latest Safety in Custody Statistics for England and Wales demonstrated that self-harm incidents in the 12 months to December 2019 had reached a record high, up 14% from the figure for the previous 12 months.²⁷ The number of individuals self-harming increased by 3%, and the number of self-harm incidents per individual by 11% over the same period. There is concern that changes to regime as a result of Covid-19 may exacerbate the mental health and wellbeing issues of many in the prison system.

18. Dame Anne Owers notes that while Independent Monitoring Boards continue to report a largely compliant prisoner population and some positive initiatives in many prisons, there are concerns for both the current and recovery phase. Dame Anne states that “a number of prisoners 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’”.²⁸

19. Others have raised similar concerns about the impact restricted regimes are having on prisoners. INQUEST, in a briefing to the Committee, notes that “More restricted regimes as a result of COVID-19, leading to increased isolation, anxiety and uncertainty, alongside restrictions on family visits and potentially more oppressive conditions, also raise concerns about the risk of self-inflicted deaths and self-harm across detention”.²⁹ In May 2020, the Guardian reported that since lockdown conditions were introduced there had been 16 self-inflicted deaths recorded in prisons in England and Wales; five of which were recorded over a six-day period.³⁰ The Criminal Justice Alliance in a briefing to the Committee, states that “clearer plans must be published, as part of the Exceptional Delivery Models, which include actions to mitigate trauma and improve mental health and wellbeing”.³¹

20. The Independent Advisory Panel on Deaths in Custody, in their May 2020 report “*Keep talking, stay safe*”: *A rapid review of prisoners’ experiences under Covid-19*³² reviewed messages from around 200 prisoners, include 19 women, across 55 prisons and found that the current regime restrictions were “having a negative impact on many prisoners’ mental health and wellbeing. Prisoners described going through a ‘rough time’, of self-harming due to stress and fear that the virus will spread”. One prisoner spoke of their experience, stating that:

27 Ministry of Justice, [Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to March 2020 Assaults and Self-harm to December 2019](#), 30 April 2020

28 Letter from Dame Anne Owers, National Chair, Independent Monitoring Board to Sir Bob Neill, Chair, Justice Committee, [Update on Independent Monitoring Boards findings](#), June 2020

29 INQUEST, [Covid-19 Briefing](#), 23 March 2020

30 “[Alarm over five suicides in six days at prisons in England and Wales](#)”, The Guardian, 28 May 2020

31 Criminal Justice Alliance, [Covid-19 Briefing](#), 5 June 2020

32 Letter from Juliet Lyon, Chair, Independent Advisory Panel on Deaths in Custody to Sir Bob Neill, Chair, Justice Committee, [A rapid review of prisoners’ experience under Covid-19](#), June 2020

“All the double cells have pad mates to talk to. They’ve got activities to do like playing chess. All single cells get nothing. I’m talking to walls at the moment which is affecting my mental health. We’re in desperate need for some stimulation for our brains.”³³

21. When asked by the Committee, what was being done to monitor mental health, self-harm and suicide, the Lord Chancellor and Secretary of State for Justice, rt hon, Robert Buckland QC MP, states that “I have told the Committee before that every loss of a life or the taking of a life by self-harm is reported to me individually as soon as it happens, so they are more than mere statistics to me.”³⁴ Mr Buckland further notes that “We are busy communicating with our prisoners to make sure that they know what is to come and that, as lockdown restrictions change in the community, we can reflect that as well in the prison estate. Communication is everything if we are to minimise the mental health effects on prisoners.”³⁵

22. The Committee recognise the severity of the current regime in prisons and commend both staff and prisoners for responding and adapting to current circumstances. We are pleased to hear reports that the prison population have been largely compliant with changes made, but we share concerns about the potential long-term impact current restrictions will have on the health and wellbeing of prisoners themselves. We are unclear what additional support is being provided to those struggling with their mental health. Before the Covid-19 pandemic, prisons already faced alarmingly increased levels of self-harm and the current situation in prisons may serve to make that situation worse.

23. We recommend that the Ministry of Justice set out what additional mental health support is available for prisoners and what their long-term plan is to mitigate the effect lockdown may have on the mental health of prisoners should prisons remain in this current phase for a prolonged period.

Suspension of visits

24. HMPPS decided to temporarily suspend prison visits from 24 March 2020. Dr Jo Farrar told the Committee that HMPPS would be making more phones available: “60% of prison cells have in-cell telephony. For those who do not, we are ensuring that people have access either to handheld devices, which we have secured, or to phones on the landing that they can use”.³⁶

25. In a letter to Sir Bob Neill, Chair of the Committee, in May 2020, Lucy Frazer QC MP, Minister of State for Justice set out measures introduced to enable prisoners to maintain family ties. Following a successful trial of secure video calls at HMP Berwyn, the Minister confirmed that these calls will “be made available at 10 establishments with a wider roll out in the coming weeks”.³⁷ Video calls would be provided through secure laptops in a designated room in each establishment and each prisoner allowed one video call per

33 Letter from Juliet Lyon, Chair, Independent Advisory Panel on Deaths in Custody to Sir Bob Neill, Chair, Justice Committee, [A rapid review of prisoners’ experience under Covid-19](#), June 2020

34 [Q215](#) [Robert Buckland]

35 [Q215](#) [Robert Buckland]

36 Justice Committee, Oral Evidence, The Work of the Lord Chancellor, [HC 225](#), 24 March 2020

37 Letter from Lucy Frazer QC MP, Minister of State for Justice to Sir Bob Neill, Chair, Justice Committee on [COVID-19 in Prisons: Family Contact](#), 15 May 2020

month, lasting up to 30 minutes. The MoJ was “considering a longer-term solution for video calls in line with the recommendations of Lord Farmer’s 2017 Review, and further Review for Women (2019), focusing on those who do not receive face-to-face visits under normal circumstances”.³⁸

26. In addition to the implementation of secure video calling, the Minister confirmed that 900 locked mobile phone handsets had been rolled-out for use in establishments without access to in-cell telephony. Prisoners had been provided with additional pin credit to allow more contact with families. Prisoners in the open estate were allowed controlled access to personal mobile phones.

27. It is vital that prisoners are able to maintain contact with family and friends, particularly at such an uncertain time. Family contact is essential to a prisoner’s wellbeing and resettlement, and we welcome measures taken to ensure that prisoners are able to maintain contact with family. We welcome the decision to provide 900 locked mobile handsets, and we are pleased to note that the trial of secure video calls at HMP Berwyn was successful and will now be available at 10 establishments.

28. While the secure video calling service is a temporary measure implemented in direct response to the changes across the estate resulting from Covid-19, the Committee believe there is scope for this service to be developed in the long-term and rolled out further across the prison estate. We recommend that the Ministry of Justice make the secure video calling service available permanently across the rest of the prison estate. The Ministry of Justice should provide costings for such extension of this service and set out a timeframe for when this service will be expanded beyond the 10 establishments due to receive it, and how establishments will be prioritised.

COVID-19: National Framework for Prisons and Services

29. While lockdown restrictions in the community are beginning to ease, prisons remain in a state of lockdown, with severe restrictions in place. Prisons in England and Wales have been in lockdown since 24 March 2020, a period of 15 weeks at the time of writing.

30. On 2 June 2020, the MoJ and HMPPS published a National Framework for Prison Regimes and Services, setting out a conditional roadmap for what the easing of Covid-19 restrictions will mean in practice.³⁹ MoJ state that: “It will not be a case of a straightforward return to normality, and in some areas, it may never be possible to provide the same standards in prisons while public health restrictions remain necessary”.⁴⁰

31. The MoJ have set out three overarching objectives that will guide decision making: Preservation of life; Maintain security, stability and safety; Provide sufficient capacity. A number of principles are set out that are relevant to achieving the overarching objectives in the current context. These principles include:

38 Letter from Lucy Frazer QC MP, Minister of State for Justice to Sir Bob Neill, Chair, Justice Committee on [COVID-19 in Prisons: Family Contact](#), 15 May 2020

39 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020

40 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020

- “Prisons are closed settings holding many vulnerable people and so inherently high risk. The timing of changes may not mirror developments outside prisons because of the heightened risks. The easing of restrictions in the community will increase the risk of new incursions of the disease through new prisoners, staff and others, and we will need to respond accordingly.
- Where certain activities can resume—such as social visits or education—we should expect them to do so with considerable restrictions and adaptations (including reduced capacity) in the interests of safety, although we will look for innovative ways to deliver them. Progress will be slow and incremental, and restrictions may need to be re-imposed in the event of local outbreaks.
- Our plans will need to be flexible enough to accommodate the very different circumstances and situations of different prisons (the appropriate regime will be very different between a YCS establishment, a High-Security prison, a female Open prison and so on). As health is a devolved area, in some places government guidelines may vary between England and Wales and prisons may at times follow different health instructions.”⁴¹

32. The MoJ also set out 5 regime stages (Complete Lockdown, Lockdown, Restrict, Reduce, Prepare), the conditions to operate at each stage, and what the prison regime could look like operating at each stage. No target dates have been set for the prison estate, or individual establishments, to move to less restricted regime states, since decisions to do so must be based on an “objective and rigorous assessment of the data and evidence about what is appropriate”.⁴² The MoJ states that: “the operational prison structure at Gold level will take the final decision on what stage is most appropriate for each individual establishment”.⁴³

33. Peter Clarke, Chief Inspector of Prisons, in evidence to the Committee raises concerns about the process in place to remove restrictions. He states that:

“It is about a process to remove restrictions rather than about freeing up and enabling innovation and mitigation, which is what it needs to do. It talks about autonomy for governors, but when you look at the processes that governors will have to go through to implement recovery plans, they have to go through three layers of authorisation above them, including at the very top the so-called gold level, where there will have to be authority given for a detailed implementation plan. How it is going to work in terms of autonomy at the local level when there has to be detailed authority given centrally is not at all clear to me, I have to say.”⁴⁴

41 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020, p 2

42 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020, p 4

43 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020, p 7

44 Oral evidence taken on 16 June 2020, HC 303, [Q30](#) [Peter Clarke]

34. In evidence to the Committee on 23 June 2020, Dr Jo Farrar, Chief Executive, HMPPS, states that:

“We are very keen to move to the next stage. At the moment, we are developing a number of exceptional delivery models for stage 3. We are agreeing those this week with the trade unions. Prison governors are preparing their local plans to ensure that they are ready to open up. As soon as those are written and signed off, when we have an agreement with the trade unions, and Public Health England is comfortable for individual prisons to move forward, we can start to relax the regime. We hope that will happen within the next few weeks.”⁴⁵

35. Given that prisons have been in a state of lockdown for 15 weeks, we are pleased to hear that Exceptional Delivery Models for stage 3 are being developed and that there are hopes to relax the regime in the next few weeks. *We recommend that the Ministry and HMPPS keep the Committee updated on their progress, including what prisons will be transitioning and in what timeframe.*

2 Prison Population Management

36. Prison overcrowding is an issue that predates the coronavirus pandemic. Capacity issues have largely resulted from increased need for prison places and delays in creating new places. The National Audit Office reported that in December 2019, 60% of prisons in England and Wales were crowded, with the 10 most crowded prisons running at or above 147% than their uncrowded capacity, meaning that prisoners are sharing cells designed for fewer people.

37. On the Friday before the introduction of lockdown (Friday 20 March), the prison population had risen again, to 83,525 and operational capacity was 85,095.⁴⁶ The current population, as of 10 July 2020 is 79,467 and operational capacity is now 81,353. The reduction in population arises largely from the routine release of prisoners not being matched by the number entering prison because the courts are processing fewer cases. The reduction in operational capacity reflects the move to single cell occupancy as a result of Covid-19, meaning fewer shared spaces are available.

38. To manage the prison population during the pandemic, and respond to capacity issues within the estate, the MoJ and HMPPS introduced various measures, including:

- Cohorting the population
- Early release of some prisoners
- Installation of temporary accommodation

39. In addition to these measures the Lord Chancellor notes that the MoJ have been “expediting remand hearings to reduce the unsentenced prison population”.⁴⁷

Cohorting

40. In March 2020, HMPPS issued ‘Cohorting guidance for prisons during the COVID-19 period’ to operational staff.⁴⁸ The guidance sets out population management measures including:

- All Inter Prison Transfers (IPT) ceased (from March 31) with immediate effect for the duration of the COVID-19 period as part of a suite of measures to stabilise the overall prison populations. This measure is intended to reduce opportunities for transmission between prisons;
- Cohorting the population: All establishments are required to establish designated areas/units for the protection of specific cohorts within their population. There are three types of cohort units (figure 1).

46 Ministry of Justice and Her Majesty’s Prison Service, [Population bulletin: weekly 20 March 2020](#)

47 Letter from Robert Buckland QC, Lord Chancellor and Secretary of State for Justice to Sir Bob Neill, Chair, Justice Committee, [Statement of Principles from the European Committee for the Prevention of Torture and Inhumane Treatment or Punishment \(CPT\)](#), 28 May 2020

48 Her Majesty’s Prison and Probation Service, [Cohorting guidance for prisons during the COVID-19 period](#) March 2020, p 3

Figure 1: Types of cohort units, HMPPS, March 2020⁴⁹

Name	Description
Reverse Cohort Unit (RCU)	Unit or area for the temporary separation of newly received prisoners for up to 14 days; allowing the prison to verify that each individual is not symptomatic.
Protective Isolation Unit (PIU)	Unit or area for the temporary isolation of symptomatic prisoners for up to 7 days; to be used if isolation within their current cellular location is deemed inappropriate (see the specific section for further guidance)
Shielding Unit (SU)	Unit or area for the temporary isolation of those prisoners within the NHS England vulnerable persons cohort for 12 weeks; reducing the likelihood of this susceptible group contracting the virus.

41. Commenting on the guidance, the Prison Governors Association (PGA) said:

“The PGA does not disagree with this position, but we have significant concerns in the ability to achieve this if prisons are full and cells remain doubled. Our members have reported to the PGA National Executive Committee that the challenge is immense. They have also reported to us that Public Health England and HMPPS require a reduction of 15,000 prisoners in order to truly safeguard prisoners and staff”.⁵⁰

42. Public Health England in its April 2020 briefing paper - *Interim assessment of impact of various population management strategies in prisons in response to COVID-19 Pandemic in England*⁵¹ - state that:

“Within prisons, the most effective form of compartmentalisation is single-cell accommodation, but it was recognised that this would require significant reductions in prisoner population to achieve across the prison estate (about 15,000 people was the estimate at the time of the original advice provided). But building on best evidence to protect the most vulnerable and reduce transmission of infection, new cohorting strategies were developed by HMPPS advised by PHE which were implemented from 31 March”.

43. Public Health England found that while outbreaks were occurring in prisons, there had not been the ‘explosive outbreaks’ that previous modelling suggested was possible if mitigation measures were not taken. Commenting on the approach taken and evidence set out by PHE, in a letter to the Committee in April 2020, Robert Buckland said:

“We are containing the spread of COVID-19 within prisons using an approach known as ‘compartmentalisation’. Through this approach, we are

49 Her Majesty’s Prison and Probation Service, [Cohorting guidance for prisons during the COVID-19 period](#) March 2020, p 3

50 Prison Governors Association, [Covid-19 Briefing](#), 6 April 2020

51 Public Health England, [Briefing paper - interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England](#) (April 2020), p 2

isolating the sick, shielding the vulnerable and cohorting new arrivals to reduce risk. This has been supported by further measures to restrict regimes and minimise inter-prison transfers.”⁵²

44. At the time of writing its briefing paper, from engagement with HMPPS nationally and working with individual prisons, Public Health England were able to ascertain that “as of 21 April, around 25% of prisons have fully implemented the compartmentalised strategy, around half have implemented Protective Isolation Units and Shielding Units in full, and around 35% have implemented Reverse Cohorting Units”.⁵³

45. In an update to the Committee on 23 June, Mr Buckland spoke of the success of the cohorting strategy at limiting the spread of Covid-19 in prisons, he states that:

“the national scheme of cohorting that we introduced, which is now in about 98% of our prisons, whereby for the first 14 days new inmates were quarantined and kept separate, existing inmates who were symptomatic were put into a cohort and vulnerable inmates were shielded, has been the source of the considerable progress that we have made in prisons in limiting this unpredictable and worrying disease.”⁵⁴

46. We are pleased to hear that more than 98% of the prison estate now has cohorting in place. This appears to have been an effective strategy for containing the spread of the virus and protect the lives of staff and prisoners. The Committee thank all of the staff who have worked to implement this measure.

Temporary release of pregnant prisons and women in prison with their children

47. On 31 March 2020 the Government announced that pregnant women and prisoners with children in Mother and Baby Units would be temporarily released from prison where assessed not to pose a high risk of harm to the public.⁵⁵ In an update to the Committee on Covid-19, Mr Buckland confirmed that around 70 women were to be released.⁵⁶

48. Many welcomed the Government’s announcement, including Women in Prison, PCS and the Criminal Justice Alliance. However, some raised concerns about the release planning process for this cohort of women. Women in Prison stated:

“Currently any plans for release do not appear to involve criminal justice charities, including women’s centres and other specialists, such as Birth Companions and Hibiscus. We welcome the announcement about releasing pregnant women and those on Mother and Baby Units (made on Tuesday

52 Letter from Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice to Sir Bob Neill, Chair, Justice Committee, [COVID-19 in Prisons: PHE Modelling](#), 28 April 2020

53 Public Health England, [Briefing paper - interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England](#) (April 2020)

54 [Q207](#) [Robert Buckland]

55 “Pregnant prisoners to be temporarily released from custody”, Ministry of Justice and Mer Majesty’s Prison and Probation Service press release, [31 March 2020](#)

56 Letter from Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice to Sir Bob Neill, Chair, Justice Committee, [Update to the Justice Select Committee on COVID-19](#), 6 April 2020

31st March), but this is only a tiny step and should have happened at the beginning of this crisis. We also have serious concerns about the release planning process even for his small group”.⁵⁷

49. As of Friday 19 June, twenty-three pregnant women and mothers with babies in custody have been released.^{58,59}

50. **The Committee welcome the Government’s decision to temporarily release pregnant women and women in prison with their children, whenever it is safe to do so. The Committee recognise that this cohort of women require specialist support in the community, but in the 14 weeks since the announcement was made, only 23 women out of around 70 eligible, have been released from custody. We ask the Ministry to explain why that is.**

End of Custody Temporary Release

51. On 4 April 2020, the Government announced that selected risk-assessed prisoners within two months of their release date could be temporarily released. The press release stated:

- Selected low-risk offenders, within weeks of their release dates, will be electronically tagged and temporarily released on license in stages;
- Offenders can be recalled at the first sign of concern;
- Violent and sexual offenders and those of security concern will not be considered.⁶⁰

52. On 24 April, the Ministry of Justice published an ‘Overview of the eligibility criteria’ and the process for offenders to be released under the scheme, which has been called “End of Custody Temporary Release”.⁶¹ The Government estimated that up to 4,000 prisoners would be eligible for the scheme.⁶²

53. While the announcement was widely welcomed, various concerns were raised about the rate of progress achieved in releasing prisoners and about the impact the scheme has had on population size. The Prison Governors Association raised initial concerns, stating that the scheme would not result in enough prisoners being released to sufficiently ease overcrowding. The PGA urged the Government to “be braver and make significant reductions”⁶³ and noted that the 4,000 figure was not achievable given the strict criteria set out; it estimated that about 2,000 would be released and said this was nowhere near enough to free up the spaces necessary.

57 Women in Prison, [Covid-19 Briefing](#), 2 April

58 PQ [587 4](#) [Prisoners’ Release: Coronavirus], 19 June 2020

59 [Q220](#) [Robert Buckland]

60 Ministry of Justice, ‘[Measures announced to protect the NHS from coronavirus risk in prisons](#)’, accessed 10 June 2020

61 Ministry of Justice and Her Majesty’s Prison and Probation Service, [End of Custody Temporary Release](#) (April 2020)

62 [Q38](#)

63 Prison Governors Association on [Twitter](#), 6 April 2020

54. Dr Jo Farrar, Chief Executive of HMPPS told us that HMPPS was working closely with Public Health England on all plans, and that the release of up to 4,000 prisoners was not the only plan in place.⁶⁴ At the same meeting, Mr Buckland noted that the figure of up to 4,000 releases would be a rolling figure, and that there was no one day on which everything was fixed.

55. Since then, concerns have been raised about delay in releasing prisoners and the low numbers being released. Helen Berresford, Director of External Engagement, Nacro, said in April that: “On early release, Nacro, like many other organisations, has been calling on the Government to increase the number of people released from prison and continues to do that. We believe that that needs to be faster and go further”.⁶⁵

56. On 14 April 2020, when asked about progress made in releasing prisoners early under the End of Custody Temporary Release Scheme, Lucy Frazer told us: “In relation to the wider early releases that we identified, we released four men last week and are planning to release a significant number this week”.⁶⁶ When asked to clarify what was meant by a “significant number” the Minister responded:

“We will be seeing a significant number. As I said, I do not want to give precise figures, because, obviously, this is subject to the risk assessments that are taking place and the other matters to ensure that people can be released safely, but I would expect that, tomorrow [15 April 2020], we will have a few hundred people released, and that will continue.”⁶⁷

57. As of Friday 3 July 2020, that expectation of a few hundred releases had not been met. 209 prisoners have been released under the Covid-19 temporary release schemes.⁶⁸ No figures have been provided specifically on the number of children released, but as of 28 April 2020, fewer than 10 were deemed eligible for early release over the next three months.⁶⁹ These numbers are significantly lower than the number of prisoners eligible for early release, and lower than the number of releases the Minister expected to take place on a single day in April. In evidence to the Joint Committee on Human Rights in June 2020, Lucy Frazer commented on the success of the End of Custody Temporary Release Scheme, stating:

“I know that it has not produced the number of releases that people had hoped for, but it is one part of our overall strategy on managing Covid within our prisons. In addition to releasing people, we have temporary accommodation coming into a number of prisons to increase our headroom, some of which are in the female estate. The scheme is not our only strategy for managing the prison population”.⁷⁰

58. Commenting on the success of the scheme in its *Report on short scrutiny visits to local prisons*, HM Inspectorate of Prisons, states that “only one man across the three prisons [inspected] had been released under the ‘End of Custody Temporary Releases Scheme’”.⁷¹

64 Justice Committee, [Summarised note](#), 7 April 2020

65 [Q20](#) [Helen Berresford]

66 [Q37](#) [Andy Slaughter, Lucy Frazer]

67 [Q38](#) [Andy Slaughter, Lucy Frazer]

68 [Q220](#) [Robert Buckland]

69 [PQ 410 3](#) [Prisoners’ Release: Children], 28 April 2020

70 Oral evidence taken before the Joint Committee on Human Rights on 8 June 2020, [HC 265](#), Q42 [Lucy Frazer]

71 HM Inspectorate of Prisons, [Report on short scrutiny visits to Local Prisons](#) (April 2020)

HMIP further note in its *Report on short scrutiny visits to Category C training prisons* that: “The End of Custody Temporary Release Scheme had not had a meaningful impact on the population at any of the three sites. At Ranby, managers had undertaken a substantial amount of work around the scheme, but were frustrated that only five prisoners had so far been released, despite 64 being initially assessed as eligible for assessment of their suitability”.⁷² HMIP also found in its *Report on short scrutiny visits to prisons holding women* that “The End of Custody Temporary Release scheme had proved to be ineffective”.⁷³

59. When asked by the Committee about the success of the End of Custody Temporary Release scheme, Mr Buckland stated that:

“While in the context of the whole pandemic the total [of individuals released under the scheme] might look low, it must be accompanied by the fact that since February, when we were near to 84,000 prisoners, the numbers in total on the prison estate have now dropped by about 4,000. They stand at about 79,500 as we speak. That in itself has been a significant contribution to the headroom issue that PHE identified and that we have endeavoured to follow. The work goes on. We are not saying that we are near mission accomplished.”

60. A little more than 200 of up to 4,000 eligible prisoners have been released under the End-of-Custody Temporary Release scheme, which has not, therefore, in itself, delivered a significant reduction in the prison population, or a reduction of the order that Ministers appeared to expect when they gave evidence to us and introduced the scheme by statutory instrument. We note that the scheme was implemented alongside other population management measures which have had a substantially greater effect in creating new prison accommodation or freeing up space; it is also the case that some prisoners who might have been eligible under the scheme will by now have reached their original release date, and that others, on assessment, would have been considered unsuitable for early release. ***We ask the Government to set out how many prisoners were actively considered for release under the scheme and the principal reasons why just over 5 per cent were in fact released early.***

Accounting for the reduction in the prison population

61. The prison population has reduced since March. At the time of writing there were 4,058 prisoners fewer than on the Friday before lockdown. Most of the reduction resulted from ordinary prison releases as people reached the end of the custodial part of their sentences or were released from remand. In evidence to the Committee, Lucy Frazer told us that 890 people were released in a single day in the ordinary course of release.⁷⁴ Such routine releases, combined with very small numbers of new receptions into prisons as a result of jury trial suspensions explains the reduction in population. In evidence to the Committee in June, Angus Mulready-Jones, Lead for Children and Young People, HM Inspectorate of Prisons said:

“I do not think that anybody could sensibly say it [End of Custody Temporary Release Scheme] has been a success in reducing the prison

72 HM Inspectorate of Prisons, [Report on short scrutiny visits to Category C training prisons](#) (May 2020)

73 HM Inspectorate of Prisons, [Report on short scrutiny visits to Prisons holding women](#) (May 2020)

74 [Q38](#) [Lucy Frazer]

population. Obviously, normal releases have been happening throughout this time. A slowdown in court activity has meant that the population has slightly reduced, although this is likely to be a temporary reduction.”⁷⁵

62. As court activity begins to increase, it is likely that the prison population will begin again to increase. In a written parliamentary question to the Secretary of State for Justice, Lyn Brown MP asked “if he will make an assessment of the effect of increased court activity resulting from the easing of covid-19 lockdown restrictions on the size of the prison population in England and Wales in the next six months”.⁷⁶ Lucy Frazer replied:

“Any roadmap for transitioning out of the COVID-19 lockdown measures within the custodial estate in England and Wales requires close engagement across the whole of the criminal justice system, including with Her Majesty’s Courts and Tribunals Service, to understand the effects of renewed court activity and the potential impact this may have on the prison population. This work has already begun and we will keep Parliament informed of progress.”⁷⁷

63. It is not clear what impact increased court activity will have on the prison population, and how MoJ and HMPPS intend to manage any potential influx as a result of increased court activity. The Committee are pleased to note that work has already begun on understanding the effects of renewed court activity; *the MoJ should update the Committee on the progress of that work, and how they will manage any influxes in prison population that may result from increased court activity.*

Temporary prison accommodation

64. To complement a reduced population, the MoJ has also sought to increase prison capacity. Temporary accommodation is being installed across the estate. In April 2020, the MoJ said that “it was working to identify publicly owned sites that could be used to house temporary prison accommodation to ease pressure on the permanent estate, further separate prisoners and reduce the spread of the virus”.⁷⁸ On 9 April the Ministry announced that work to install 500 temporary, single occupancy cells within the existing secure prison estate had begun.⁷⁹ The Ministry announced on 29 April that the recently closed Medway Secure Training Centre, would be temporarily reopened as an annex to nearby HMP Rochester, housing up to 70 Category D prisoners.⁸⁰ Furthermore, in evidence to the Committee, Lucy Frazer stated:

“Another part of our strategy is to increase headroom by bringing temporary accommodation on to existing prison sites, within the prison perimeters.

75 Oral evidence taken on 2 June 2020, HC 306, [Q9](#) [Angus Mulready-Jones]

76 [PQ 465 2](#) [Prisoners: Coronavirus], 13 May 2020

77 [PQ 465 2](#) [Prisoners: Coronavirus], 13 May 2020

78 Ministry of Justice, ‘[Measures announced to protect the NHS from coronavirus risk in prisons](#)’, accessed 19 June 2020

79 Ministry of Justice and Her Majesty’s Prison and Probation Service, ‘[Prison estate expanded to protect NHS from coronavirus risk](#)’, accessed 19 June 2020

80 Ministry of Justice and Her Majesty’s Prison and Probation Service, ‘[Further expansion of prison estate to protect NHS](#)’, accessed 19 June 2020

We have already started that process, and some of those additional units are coming on stream already. That will involve significant numbers as well - potentially around 2,000 spaces, in terms of headroom”.⁸¹

65. In a further update to the Committee on the deployment of temporary accommodation across the prison estate, the Minister noted:

“I can confirm that as of 21 May nearly 600 cells have been delivered across 17 prisons and 48 cells are already in use at HMP North Sea Camp, and further cells coming into use at HMP Hatfield. The remaining 15 sites... where cells have been delivered are undergoing final operational checks before they are occupied. We expect the number of operational cells to increase steadily over the coming weeks.

Our ambition is to place 2,000 temporary units (which includes the 500 previously announced) across the prison estate and this will support the compartmentalisation strategy we are implementing across the estate to protect and shield prisoners. This is an ongoing programme of work”.⁸²

66. The Minister also confirmed that the additional measures taken to install temporary accommodation do not change the useable operational capacity of a prison and are intended as a means to increase residential space in prisons, e.g. by reducing the number of shared cells.⁸³ Jo Farrar told the Committee: “We have introduced a number of new units in prisons through temporary accommodation to allow fewer double cells. We now have over 5,000 fewer people sharing cells than we had in February.”⁸⁴

67. Robert Buckland updated the Committee on the installation of the temporary cells, stating that:

“We have now had the delivery of 896 units across 26 sites; 477 units have been installed and are ready for use, and 289 of them are now being used. We have opened up an annexe at HMP YOI Rochester to hold up to 70 males; 32 cells are currently in use. It is our intention to go further with regard to that accommodation because we think it will have some long-term benefits with regard to the way in which we can manage maintenance on the prison estate. Therefore, it is not, I am glad to say, a one-off investment that will only have limited use. It will have, I believe, longer-term benefits.”⁸⁵

68. We welcome the sourcing and installation of temporary units to increase headroom across the prison estate. We welcome the announcement by the Chancellor of the Exchequer in his Summer Statement on 8 July that £60m is being made available to provide 1,000 temporary places. We recognise that this is ongoing work, but *the Ministry of Justice should set out when they intend all 2,000 temporary units to be*

81 [Q38](#) [Lucy Frazer]

82 Letter from Lucy Frazer QC MP, Minister of State for Justice to Sir Bob Neill, Chair, Justice Committee, [Deployment of temporary accommodation across the prison estate as part of COVID-19 mitigation plan](#), 22 May 2020

83 Letter from Lucy Frazer QC MP, Minister of State for Justice to Sir Bob Neill, Chair, Justice Committee, [Deployment of temporary accommodation across the prison estate as part of COVID-19 mitigation plan](#), 22 May 2020

84 [Q214](#) [Jo Farrar]

85 [Q218](#) [Robert Buckland]

installed and when these units will be operational. Additionally, the Ministry should provide costings for the 2,000 temporary units, and set out how they intend to re-deploy these cells in the long-term.

3 Children and young people in the custodial estate during COVID-19

69. The children’s estate has also been affected by the outbreak of Covid-19. As of March 2020, there were 738 children in the youth secure estate, more than one third of whom (274) were being held on remand.⁸⁶ Measures introduced in the adult estate have been similarly applied, including: suspension of normal regimes in order to apply social distancing; suspension of prison visits; and the possibility of early release for some children under the End of Custody Temporary Release scheme.⁸⁷

70. Children in the youth custodial estate are particularly vulnerable: the number is small but the cohort entering custody over the past 10 years have had increasingly complex requirements, including on mental health and special educational needs. The cohort includes many children who are or were looked-after children as well as a high proportion excluded from schools. There are high levels of self-harm and violence in the youth estate; in the latest year (2018/19) the number of Restrictive Physical Interventions increased by 16%, and the number of self-harm incidents increased by 3%. For both measures, these are the highest number of incidents in the last five years.⁸⁸

71. Given their existing vulnerabilities as a cohort, concerns have been raised about the effect Covid-19 is having on children; Keith Fraser, Chair of the Youth Justice Board (YJB) told the Committee that “Covid-19 could be viewed, first of all, as another adverse childhood experience for children, due to the circumstances in their home life and, secondly in relation to mental health in children. There is some evidence at the moment, and we are testing its validity, of additional self-harm and an increase in attempted suicide. There is also an impact on training and education, which leads to a sense of increased isolation and could have a detrimental impact on children in their re-assimilation to society.”⁸⁹

72. On 18 March 2020, a coalition of charities wrote to the Lord Chancellor and Secretary of State for Justice, raising concern about children in custody and asked that “the Youth Custody Service make arrangements to release and stop admitting, children who can be safely supervised and looked after within the community”.⁹⁰ In the year ending March 2019, the majority (66%) of outcomes for children remanded to youth detention accommodation at some point during court proceedings, did not subsequently result in a custodial sentence.⁹¹ In the latest year for which statistics are available, there were nearly 1,200 outcomes following a remand to youth detention accommodation; just under a third (32%) of these outcomes resulted in acquittal.⁹² We acknowledge that different legal tests apply to decisions on remand and on eventual sentence, and that a number of complex issues stand to be considered in each case. ***We recommend, however, that***

86 Her Majesty’s Prison and Probation Service, [‘Youth Custody Report: April 2020’](#), accessed 19 June 2020

87 [A statutory Instrument](#) was laid on 6 April 2020 amending the Prison and Young Offender Institution Rules to allow for early release due to the Coronavirus. The scheme only applies to those children in Young Offenders Institutions and Secure Training Centres. At present there is no power in place for the scheme to be applied in Secure Children’s Homes.

88 Youth Justice Board and Ministry of Justice, [Youth Justice Statistics 2018/19](#), January 2020

89 Oral evidence taken on 2 June 2020, HC 306, [Q2](#) [Keith Fraser]

90 Article 39, [‘Joint call for safe release of child prisoners’](#), accessed 19 June 2020

91 Youth Justice Board and Ministry of Justice, [Youth Justice Statistics 2018/19](#), January 2020

92 Youth Justice Board and Ministry of Justice, [Youth Justice Statistics 2018/19](#), January 2020

the Government investigate the reasons behind the relatively high level of remand into custody and explain the reasons behind that, particularly given the pressures on the custodial estate during the coronavirus outbreak.

73. The End of Custody Temporary Release scheme was available from 6 April 2020, to children meeting the criteria for release. Fewer than 10 children were deemed eligible for early release under the scheme, and at 2 June no child had been released.⁹³

Regime restrictions

74. Similar regime restrictions apply to children as apply to adults. However, concerns have been raised about the specific impact severe restrictions may have on children. Commenting on the effect of current regimes in custody, the Howard League, in a briefing on *Children in prison during the Covid-19 pandemic*, state:

“In response to Covid-19, the regime in prisons has been severely restricted, with most children being placed in prolonged solitary confinement. There are no face-to-face visits, no face-to-face education in the majority of establishments and no therapy. Children are experiencing difficulties in accessing the support they need to plan for release. The usual safeguards that exist, including on-site advocacy services, are no longer present.”⁹⁴

75. In April, HM Inspectorate of Prisons produced a *Report on short scrutiny visits to young offender institutions holding children*. The report discusses findings from short scrutiny visits to Cookham Wood, Parc and Wetherby Young Offender Institutions (YOIs). At the time of HMIP’s scrutiny visit the three establishments held around 400 children. Although all three sites carry out the same function they vary considerably in size and operation. Cookham Wood and Wetherby are operated directly by the Youth Custody Service and Parc is operated by G4S.⁹⁵

76. The Inspectorate found some inconsistencies between establishments, but Peter Clarke noted that “this is a generally positive report, which details the swift actions taken to keep children safe, as well as the creativity of staff and managers in providing opportunities for children to receive meaningful interaction. Crucially, cases of COVID-19 have been contained effectively with little impact on the wider establishments”.⁹⁶ Particularly notable examples of good practice include:

- i) Communication with both staff and children had been effective—staff and children had been well informed about the reasons for regime restrictions and social distancing measures the Inspectorate found that they were generally well implemented across all three establishments;
- ii) All three establishments inspected had introduced enhanced safeguards to monitor well-being and mental health;

93 Oral evidence taken on 2 June 2020, HC 306, Q9 [Angus Mulready-Jones]

94 The Howard League, [Children in prison during Covid-19 pandemic](#) (May 2020), p 1

95 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

96 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

- iii) Management oversight of health care and partnership working was generally found to be effective across the three sites inspected.

77. Additionally, HMIP commented that:

“Only Parc was able to plan and deliver limited face-to-face education that complied with social distancing requirements. As a consequence, children at Parc received over three hours out of their cell each day, compared with just 40 minutes at Cookham Wood and around an hour at Wetherby. The Government’s advice is that those who are deemed vulnerable should be able to attend education in the community. Most children held in custody would meet this definition, and the leaders of all three establishments had wanted to deliver at least some education within public health guidance, so it is hard to see the justification for why such different approaches had been taken.”⁹⁷

78. Further to the restricted regimes, the suspension of visits means that families, social workers, youth offending team workers, lawyers and other relevant professionals cannot meet face-to-face with children in the secure estate. HMIP in its recent report stated that, in the YOIs they inspected, “All children had in-cell telephones. In response to the lack of visits all three sites provided additional phone credit: £5 a week at Parc and £20 a week at Cookham Wood and Wetherby. In addition, weekly ‘pocket money’ payments continued, and many looked after children received enhanced payments from local authorities”. HMIP further stated that “all sites were slow to adopt video calling technology”,⁹⁸ however on 15 May 2020 the Ministry of Justice (MoJ) announced that following a successful trial at HMP Berwyn, secure video calls will be introduced to prisons and young offenders’ institutions.⁹⁹

Easing lockdown restrictions

79. Although lockdown restrictions are being eased in the community, they have not yet been eased in the secure estate. Institutions holding children continue to be in a state of lockdown with restricted regimes still in place.¹⁰⁰ Colin Allars, Chief Executive of the Youth Justice Board, told the Committee of concerns about the long-term impact of restrictions on children, stating: “We are concerned about the potential for long-term impacts. To take where we have got to, effectively children in the system have had a pretty difficult time for 10 weeks in terms of education in the secure estate or in the support they have had in the community. Undoubtedly, it has been a difficult time for them.”¹⁰¹ Peter Clarke, Chief Inspector of Prisons said:

“We are being told now that, while prisoners and children in YOIs have understood the need for restrictions so far, as they begin to see the situation changing in the community, they will lose patience if they do not see a

97 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

98 HM Inspectorate of Prisons, [Report on short scrutiny visits to Young offender institutions holding children](#) (April 2020)

99 Ministry of Justice and Her Majesty’s Prison and Probation Service, ‘[Coronavirus \(COVID-19\) and prisons](#)’, accessed 19 June 2020 <https://www.gov.uk/guidance/coronavirus-covid-19-and-prisons>

100 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020, p 2

101 Oral evidence taken on 2 June 2020, HC 306, [Q5](#) [Colin Allars]

similar progression. It might not necessarily be at the same pace—that would be broadly understood—but there needs to be some progression within the custodial estate on relaxing regimes.”¹⁰²

80. On 2 June, the MoJ and HMPPS published a National Framework for Prison Regimes and Services, setting out a conditional roadmap for what the easing of COVID-19 restrictions will mean in practice (the details of this are set out in Chapter 1). The MoJ and HMPPS note that their “plans will need to be flexible enough to accommodate the very different circumstances and situations of different prisons (the appropriate regime will be very different between a YCS establishment, a High-Security prison, a female Open prison and so on).”¹⁰³ Commenting on the framework in oral evidence to the Committee, Peter Clarke, Chief Inspector of Prisons states that:

“... if you look at the national framework, the children’s estate is literally a footnote to it. It points out in a footnote that the framework applies to YOIs. The fact is that the so-called exceptional delivery models, which are being put together to implement the framework in practical terms, have not so far included the children’s estate, and there is going to be a separate one drawn up for the children’s estate. It is all part of the bigger problem, which is that, basically, children’s custody is a subset of the adult prison estate and is treated as such in many ways. There needs to be far more discrimination.”¹⁰⁴

81. *We recommend that the MoJ and Youth Custody Service set out how they have responded to the crisis in the context of the children’s estate and how the specific needs of children have been considered. It is also unclear why there is such a disparity in the regimes provided across the youth estate; the MoJ and Youth Custody Service should set out what is being done to address disparities and ensure that all children in the estate receive equivalent provision.*

82. *We are concerned that there does not appear to be a sufficiently clear, separate plan on how the youth custodial estate will transition out of the current lockdown phase. We agree that plans need to be flexible enough to accommodate different circumstances and situation of prisons, but we do not believe that this commitment is reflected in the National Framework for Prisons and Services. We are disappointed that children and young people appear as a “footnote” in the National Framework and believe that the specific needs of this cohort should be clearly articulated. The Committee recommend that the MoJ and Youth Custody Service set out in greater detail specifically how the children’s estate will transition out of the current phase of lockdown, bearing in mind our current understanding of the relative risks from Covid-19 in the youth custody estate and those in the adult estate.*

102 Oral evidence taken on 2 June 2020, HC 306, [Q3](#) [Peter Clarke]

103 Ministry of Justice and Her Majesty’s Prison and Probation Service, [COVID-19: National Framework for Prison Regimes and Services](#), 2 June 2020, p 3

104 Oral evidence taken on 16 June 2020, HC 306, [Q24](#) [Peter Clarke]

Conclusions and recommendations

Introduction

1. The Covid-19 pandemic poses an urgent threat to public health and safety. It is an unprecedented situation that has required an immediate response by the prison service to protect the NHS and save lives. We praise the Prison Service and wider stakeholders for the vital work they are doing to respond to the pandemic and protect those in their care and the public. (Paragraph 3)

Prison Regime Changes

2. The Committee recognise the necessity of the measures introduced to minimise the spread of the virus and save lives and commend staff and prisoners for adapting to these changes. However, we do not believe that the current regime is sustainable in the long term and are concerned about the effect this may have on the wellbeing and rehabilitation of individual prisoners. (Paragraph 15)
3. *We are not clear as to why there is such wide variance across the estate in type of regime and time out of cell. We agree with the Independent Monitoring Board and recommend that the Ministry of Justice set out clear expectations of the minimum time out of cell and activity to be provided at each phase of recovery. This is not currently clearly set out in the COVID-19: National Framework for Prisons and Services.* (Paragraph 16)
4. The Committee recognise the severity of the current regime in prisons and commend both staff and prisoners for responding and adapting to current circumstances. We are pleased to hear reports that the prison population have been largely compliant with changes made, but we share concerns about the potential long-term impact current restrictions will have on the health and wellbeing of prisoners themselves. We are unclear what additional support is being provided to those struggling with their mental health. Before the Covid-19 pandemic, prisons already faced alarmingly increased levels of self-harm and the current situation in prisons may serve to make that situation worse. (Paragraph 22)
5. *We recommend that the Ministry of Justice set out what additional mental health support is available for prisoners and what their long-term plan is to mitigate the effect lockdown may have on the mental health of prisoners should prisons remain in this current phase for a prolonged period.* (Paragraph 23)
6. It is vital that prisoners are able to maintain contact with family and friends, particularly at such an uncertain time. Family contact is essential to a prisoner's wellbeing and resettlement, and we welcome measures taken to ensure that prisoners are able to maintain contact with family. We welcome the decision to provide 900 locked mobile handsets, and we are pleased to note that the trial of secure video calls at HMP Berwyn was successful and will now be available at 10 establishments. (Paragraph 27)
7. While the secure video calling service is a temporary measure implemented in direct response to the changes across the estate resulting from Covid-19, the Committee

believe there is scope for this service to be developed in the long-term and rolled out further across the prison estate. *We recommend that the Ministry of Justice make the secure video calling service available permanently across the rest of the prison estate. The Ministry of Justice should provide costings for such extension of this service and set out a timeframe for when this service will be expanded beyond the 10 establishments due to receive it, and how establishments will be prioritised.* (Paragraph 28)

8. Given that prisons have been in a state of lockdown for 15 weeks, we are pleased to hear that Exceptional Delivery Models for stage 3 are being developed and that there are hopes to relax the regime in the next few weeks. *We recommend that the Ministry and HMPPS keep the Committee updated on their progress, including what prisons will be transitioning and in what timeframe.* (Paragraph 35)

Prison Population Management

9. We are pleased to hear that more than 98% of the prison estate now has cohorting in place. This appears to have been an effective strategy for containing the spread of the virus and protect the lives of staff and prisoners. The Committee thank all of the staff who have worked to implement this measure. (Paragraph 46)
10. The Committee welcome the Government's decision to temporarily release pregnant women and women in prison with their children, whenever it is safe to do so. The Committee recognise that this cohort of women require specialist support in the community, but in the 14 weeks since the announcement was made, only 23 women out of around 70 eligible, have been released from custody. *We ask the Ministry to explain why that is.* (Paragraph 50)
11. *We ask the Government to set out how many prisoners were actively considered for release under the scheme and the principal reasons why just over 5 per cent were in fact released early.* (Paragraph 60)
12. It is not clear what impact increased court activity will have on the prison population, and how MoJ and HMPPS intend to manage any potential influx as a result of increased court activity. The Committee are pleased to note that work has already begun on understanding the effects of renewed court activity; *the MoJ should update the Committee on the progress of that work, and how they will manage any influxes in prison population that may result from increased court activity.* (Paragraph 63)
13. We welcome the sourcing and installation of temporary units to increase headroom across the prison estate. We welcome the announcement by the Chancellor of the Exchequer in his Summer Statement on 8 July that £60m is being made available to provide 1,000 temporary places. We recognise that this is ongoing work, but *the Ministry of Justice should set out when they intend all 2,000 temporary units to be installed and when these units will be operational. Additionally, the Ministry should provide costings for the 2,000 temporary units, and set out how they intend to re-deploy these cells in the long-term.* (Paragraph 68)

Children and young people in the custodial estate during COVID-19

14. *We recommend, however, that the Government investigate the reasons behind the relatively high level of remand into custody and explain the reasons behind that, particularly given the pressures on the custodial estate during the coronavirus outbreak. (Paragraph 72)*
15. *We recommend that the MoJ and Youth Custody Service set out how they have responded to the crisis in the context of the children's estate and how the specific needs of children have been considered. It is also unclear why there is such a disparity in the regimes provided across the youth estate; the MoJ and Youth Custody Service should set out what is being done to address disparities and ensure that all children in the estate receive equivalent provision. (Paragraph 81)*
16. We are concerned that there does not appear to be a sufficiently clear, separate plan on how the youth custodial estate will transition out of the current lockdown phase. We agree that plans need to be flexible enough to accommodate different circumstances and situation of prisons, but we do not believe that this commitment is reflected in the National Framework for Prisons and Services. We are disappointed that children and young people appear as a “footnote” in the National Framework and believe that the specific needs of this cohort should be clearly articulated and believe that the specific needs of this cohort should be clearly articulated. The Committee recommend that the MoJ and Youth Custody Service set out in greater detail specifically how the children's estate will transition out of the current phase of lockdown, bearing in mind our current understanding of the relative risks from Covid-19 in the youth custody estate and those in the adult estate. (Paragraph 82)

Formal minutes

Wednesday 15 July 2020

Members present:

Robert Neill, in the Chair

Paula Barker	Maria Eagle
Richard Burgon	John Howell
Rob Butler	Kenny MacAskill
James Daly	Dr Kieran Mullan
Ms Sarah Dines	Andy Slaughter

Draft Report (*Coronavirus (Covid-19): The impact on prisons*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 82 read and agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 21 July at 1.45 pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 14 April 2020

Katie Lomas , National Chair, Napo; Ian Lawrence , General Secretary, Napo	Q1–8
Justin Russell , Chief Inspector of Probation, HM Inspectorate of Probation	Q9–19
Mark Johnson , Chief Executive Officer, User Voice; Helen Berresford , Director of External Engagement, NACRO	Q20–25
Lucy Frazer QC MP , Minister of State, Ministry of Justice; Dr Jo Farrar , Chief Executive, HM Prison and Probation Service; Amy Rees , Director General of Probation and Wales, HM Prison and Probation Service	Q26–58

Monday 04 May 2020

John Bache JP , National Chairman, Magistrates Association; Ellie Cumbo , Head of Public Law, Law Society	Q59–86
Amanda Pinto QC , Chair, The Bar Council; Bill Waddington , Chairman, Criminal Law Solicitors Association; Simon Davies , President, Law Society; Elspeth Thomson , Co-chair, (family justice professionals group), Resolution	Q87–108
Chris Philp , Parliamentary Under Secretary of State, Ministry of Justice; Susan Acland-Hood , Chief Executive, HM Courts and Tribunals Service; Alex Chalk , Parliamentary Under Secretary of State, Ministry of Justice	Q109–136

Friday 22 May 2020

Rt Hon The Lord Burnett of Maldon , Lord Chief Justice, Judiciary of England and Wales	Q137–175
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Tuesday 23 June 2020

Robert Buckland , Lord Chancellor and Secretary of State, Ministry of Justice; Susan Acland-Hood , Chief Executive, HM Courts and Tribunals Service; Dr Jo Farrar , Chief Executive, HM Prison and Probation Service	Q176–243
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Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

- 1 [A Criminal Barrister](#)
- 2 [Arthur Michael Robinson](#)
- 3 [Chartered Institute of Legal Executives](#)
- 4 [Children's Rights Alliance for England the Youth Justice Legal Centre, part of Just for Kids Law](#)
- 5 [Clinks: Impact on the voluntary sector](#)
- 6 [Clinks: Briefing for Justice Committee](#)
- 7 [Criminal Justice Alliance](#) 5 June 2020
- 8 [Criminal Justice Alliance](#) 2 April 2020
- 9 [Howard League for Penal Reform: Women in prison](#)
- 10 [Howard League for Penal Reform: Briefing for Justice Committee](#)
- 11 [Independent Advisory Panel on Deaths in custody](#)
- 12 [INQUEST](#)
- 13 [JUSTICE: Briefing for Justice Committee](#)
- 14 [JUSTICE: Ensuring fairness in socially distanced trials](#)
- 15 [Law Centres Network](#)
- 16 [Law Society's Junior Lawyers Division](#)
- 17 [Legal Aid Practitioners](#)
- 18 Rt Hon Lord Burnett of Malden, [Lord Chief Justice of England and Wales](#), dated 10 June, Open Justice
- 19 [Magistrates Association](#)
- 20 Ministry of Justice
- 21 Rt Hon Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice, dated 7 July 2020: [Impact of COVID-19 on criminal enforcement](#)
- 22 Rt Hon Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice, dated 28 May 2020: [CPT Statement of Principles](#)
- 23 Lucy Frazer QC MP, Minister of State for Justice, dated 10 June 2020: [Reforms to probation services](#)
- 24 Lucy Frazer QC MP, Minister of State for Justice: [Covid-19 plans for easing of restrictions](#)
- 25 Lucy Frazer QC MP, Minister of State for Justice dated 26 May 2020: [HMPPS reporting of staff cases of Covid-19](#)
- 26 Lucy Frazer QC MP, Minister of State for Justice dated 28 May 2020: [Covid-19 testing for prison and probation staff](#)
- 27 Lucy Frazer QC MP, Minister of State for Justice dated 28 May 2020: [Deployment of temporary accommodation across the prison estate as part of Covid-19 mitigation plan](#)

- 28 Lucy Frazer QC MP, Minister of State for Justice dated 28 May 2020: [Covid-19 in prisons: family contact](#)
- 29 Chris Philp MP, Parliamentary Under-Secretary of State, Ministry of Justice, 17 June 2020: [Release of HMMCTS weekly operational management information](#)
- 30 Chris Philp MP, Parliamentary Under-Secretary of State, Ministry of Justice, 3 June 2020: [Changes made to mitigate the impact of Covid 19 on the courts and tribunal system](#)
- 31 [NACRO](#)
- 32 Sir Robert Neill, Chair, Justice Committee to Lord Chancellor, dated 8 April 2020: [evidence session on 7 April 2020](#)
- 33 [Prison Governors Association](#)
- 34 [Prison Reform Trust](#): 21 May 2020
- 35 [Prison Reform Trust](#): 14 May 2020
- 36 [Prison Reform Trust](#): Briefing for Justice Committee
- 37 [Public and Commercial Services Union](#)
- 38 [Reducing Reoffending Third Sector Advisory Group](#)
- 39 [Revolving Doors Agency](#)
- 40 [Standing Committee for Youth Justice](#)
- 41 [Switchback](#)
- 42 [Transform Justice](#): Issues in the criminal courts
- 43 [Transform Justice](#): Briefing for Justice Committee
- 44 [Unlock](#)
- 45 [Women in Prison](#): Briefing for Justice Committee
- 46 [Women in Prison](#): additional material on planning for release
- 47 [Young Legal Aid Lawyers](#)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

First Report	Appointment of Chair of the Office for Legal Complaints	HC 224
Second Report	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
Third Report	Coronavirus (COVID-19): The impact on probation	HC 461
Fifth Report	Ageing prison population	HC 304
First Special Report	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
Second Special Report	Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019	HC 151
Third Special Report	Transforming Rehabilitation: Follow-up: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152