

Briefing for the Justice Select Committee on COVID-19 (2 April 2020)

The Criminal Justice Alliance (CJA) is a membership coalition of 160 organisations working to create a fairer and more effective criminal justice system. When the significant impact of COVID-19 became apparent two weeks ago, we worked with some of our members to establish pragmatic recommendations for policy and practice to reduce the burden on the criminal justice system, and ultimately, to protect the lives of those working in or affected by it. These were communicated privately to the government and to officials. Many of our members have also written public and private letters over the last two weeks, offering practical solutions and urging swift action. However, progress remains frustratingly and dangerously slow. We urge the Select Committee to press government to make decisions immediately, to protect the health and safety of those who work and are supported and managed through the criminal justice system. If action is not taken now to manage the crisis in our criminal justice system caused by COVID-19, the costs in lives and resources to deal with the repercussions will be much greater. Other countries are taking decisive action and so should we.

Reducing overcrowding

Over the last two weeks three prisoners have tragically died of COVID-19, and the latest figures indicate 69 have tested positive across 25 prisons, along with 14 prison staff and 4 escort service staff. We welcome the news that pregnant women and new mothers will be temporarily released from prison, but there are other vulnerable cohorts of prisoners who should also be considered for managed early release, following a risk assessment process, including older people and those with underlying health conditions. People on remand should be offered legal advice and review hearings due to 'change of circumstances' and people nearing the end of their sentences should be reviewed for Home Detention Curfew or Release on Temporary Licence with packages of support available for their release. Time is of the essence for the Ministry of Justice to outline plans for doing this, before the virus spreads further. Effective resettlement planning for these cohorts can then begin.

Reducing 'churn' and new entrants

With a quarter of prison staff reportedly absent due to COVID-19 related issues, the churn of new entrants on short sentences, technical recalls and being remanded into custody is putting additional burdens on an already stretched prison workforce, as well as increasing the public health risk of the virus spreading into and out of prisons and the community. Government plans to restrict prison transfers are sensible, but further measures to reduce this churn, where safe to do so, must also now commence as a matter of urgency. Guidance from the Senior Judiciary and the Lord Chancellor, reminding Magistrates and District Judges of the need for 'anxious scrutiny' of applications for custodial remand, would be helpful. Court bail pilots should be urgently expanded to other courts by providing emergency funding for voluntary sector organisations to support this work either in person or remotely. We welcome the Justice Secretary looking into additional bail accommodation, but no plan has yet been published. Ensuring custody is a last resort, especially for short sentences of less than six months for non-violent or non-sexual offences, would also help to reduce new entrants into prison. A greater focus on suspended sentences, community sentences, tagging and out of court disposals would provide effective alternatives. A presumption against recall for technical breaches is also important at this time to avoid unnecessary returns to custody where there is no additional risk to the public.

Victims' services

Victims should continue to be entitled to their rights under the Victims' Code. With offences such as domestic abuse and hate crime increasing, government should ensure victims' services, including domestic violence services; those working with children and young people in households with domestic abuse; and Women's Centres, are provided with emergency funding, so that they can adapt their services at this crucial time, especially as Victim Liaison Officer support will be reduced. The release of people from prison with reduced face to face supervision and other services will need to be carefully managed and risk assessed to protect and reassure victims. Timely information for victims about release decisions

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is of paramount importance, as is support if needed. Those most affected will be victims who struggle to access justice in the best of times. For this reason, specialist and frontline charities working with those with protected characteristics need to have emergency funding made available to them immediately to adapt and expand their services to meet current need. Frontline victim workers also need adequate access to PPE (Personal Protective Equipment) and testing.

Technology

We welcome the government's decision to provide 900 handsets to prisoners across 55 prisons. However, we would like to see phones provided to all prisoners, with the capability to call out and in, as safer custody lines are inundated with calls from concerned families. This would also assist prisoners obtaining legal advice and give access to helplines providing emotional and practical support. In-cell technology for e-learning and access to video conferencing should be rolled out quickly to help wellbeing, family ties and planning for release. The use of video conferencing should be used for all parole hearings, to avoid them being cancelled, which is keeping people ready to be released in prison for longer than necessary. Any already postponed hearings should be organised as soon as practicable.

Resettlement and probation

People being released at the current time face additional challenges and may be particularly vulnerable to COVID-19 due to underlying health conditions and homelessness. There must be a guarantee of accommodation and both financial and practical support for all prison leavers during this crisis. Providing prison leavers with simple smart phones and increased discharge grants will help ensure they can access services and support at a time when much of this provision is being delivered remotely. Those released from custody with a history of drug use are at a significantly higher risk of experiencing an opioid overdose in the immediate post-release period. With community drug treatment services considerably impacted, opioid users could be given naloxone, bridging prescriptions, harm reduction materials and access to remote support services. Police should also be given access to naloxone.

Organisations working with people in the community, including small grassroots charities and BAME-led organisations, should be able to access emergency funding to adapt their services to meet current needs. They should also be provided with sufficient PPE to enable some continuation of face to face work, for example meeting people at the prison gate. Antibody testing would also enable key workers who are self-isolating unnecessarily to return to work. More testing of prisoners and staff for COVID-19, including those leaving prison, would enable suitable support to be provided and reduce risks. Families providing accommodation for prison leaver relatives would benefit from food vouchers and access to remote restorative practitioner services to address any potential conflict or tension. Paid peer support is especially important at this time to prevent breaches of licence conditions or lockdown rules. Funding should be provided to employ peer workers at all stages of the system, from prevention to prison leaving, to build trusting relationships and provide public health information and support.

Scrutiny and monitoring

Full HM Inspections have been suspended, and so measures must be put into place to ensure some level of independent monitoring continues in custodial settings at this crucial time, and that findings are published publicly. Independent Monitoring Boards should continue to monitor on-site where possible and remote monitoring should be facilitated; for example, prisoners should be able to use in-cell telephones to contact the IMB from their cells regarding complaints, and prisons should provide relevant data and information on issues such as testing rates and outcomes, segregation, hygiene, access to showers, phone calls, legal advice, in-cell distraction activities and exercise. Good practice identified by IMBs in prisons should be highlighted and shared. This also applies to police and court custody monitoring.

Hidden Heroes

Staff working in the criminal justice system are some of the most hidden and least publicly valued key workers in our society. We would like to encourage the JSC to support the #HiddenHeroes campaign being run by The Butler Trust to boost morale, thank and celebrate all staff and volunteers working in incredibly difficult and risky circumstances at this time. We hope the suggestions above will help to ease pressure on the system and the workforce, and ensure they can work in a calmer and safer environment for themselves, their families and those in their care.

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