



UK National Preventive Mechanism
c/o HM Inspectorate of Prisons
10 South Colonnade
3rd Floor
Canary Wharf
London E14 4PU

30 March 2020

Dear Robert Buckland QC MP,

I am writing as Chair of the National Preventive Mechanism about the vital importance of efforts to uphold the rights of people in detention and deprived of their liberty during the COVID-19 outbreak. I know from your evidence to the Justice Select Committee that you and all those involved are working hard to protect them.

You will of course be aware that some of our members are working with, and acting directly in support of, the organisations responsible for operating the establishments where people are held in detention. I know that many of the issues raised in this letter are at the forefront of the operational planning that is currently being undertaken at great pace and in very difficult circumstances. I can assure you that NPM members stand ready to offer support in any way they can.

Protecting people deprived of their liberty

First of all, I would like to acknowledge the dedication and commitment that staff working in detention settings are demonstrating at such worrying times. I would also like to thank your officials for their efforts to support the NPM in exercising its role at this time.

We are primarily concerned with the prevention of ill-treatment of all people deprived of their liberty but also with the importance of supporting staff. I am sure you are already aware of the state's duty to protect the physical and mental health and well-being of people deprived of their liberty, as set out by the UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules") and the Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic issued by the CPT of the Council of Europe recently.¹

The COVID-19 outbreak puts detainees (and staff) at significant levels of risk, and the extent to which detention authorities are actually able to mitigate these risks must be considered with realism. The World Health Organisation, in its recent guidance on preparing for, preventing and controlling the outbreak of COVID-19 in places of detention, states that "people in prisons and other places of detention are not only likely to be more vulnerable to infection with COVID-19, they are also especially vulnerable to human rights violations". The impossibility of social distance, particularly in overcrowded places of detention, puts detainees and staff at high risk. In light of these inherent risks, as well as the

¹ Council of Europe, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, 20 March 2020, <https://rm.coe.int/16809cfa4b>

potential impact of some of the restrictive measures imposed to stop the spread of the outbreak,² NPM members have asked me to raise with you the following issues:

- The need to reduce the detained populations to mitigate the inherent risk of maintaining people in close confinement. This is particularly important for detainees with underlying health conditions, including children, and those in other vulnerable categories as well as in areas of the detention estate that are already overcrowded. We are aware of the large numbers of immigration detainees that have been released, but urge you to facilitate prison releases where risk assessment, and the impact on other services in the community deems this feasible, by expanding the use of existing instruments or executive release under emergency legislation.
- The need to consider ways to reduce the numbers of people remanded to custody. This could have the additional benefit of reducing the pressure on staff working in places of detention.
- The need to consider individual people deprived of their liberty in non-hospital settings (e.g. care homes) where the provision of care and imposed isolation to manage infection spread for an individual may give rise to a new or changed deprivation of liberty.
- The need to address the possibility that the shutdown of community services could leave some vulnerable individuals – such as children in residential special schools – at greater risk of being detained.
- Maintaining principles of equivalence of care in relation to both physical and mental healthcare to those in detention. At a time when all health services are under significant strain, the government must ensure that those deprived of their liberty are not disadvantaged in accessing the health and social care services that they need. This is particularly important given the extent to which detainees are likely to be held in conditions that amount to solitary confinement.
- The measures envisaged to facilitate contact between detainees and their families, and contact with other professionals such as advocates. Where physical visits have had to be restricted, and given the many ways in which family contact plays a crucial role for those in detention, how will the government ensure skype, adapted mobiles and any other forms of contact are available.
- The potential impact of COVID 19 on staffing levels in mental health places of detention, which could limit both general support to patients and specialist roles such as psychological input. This could lead to an increase in mental distress of patients and then an increase in the use of restraint, segregation and seclusion which may compromise people's human rights. Reduced staffing levels could also impact people who are already in segregation/seclusion.

Given the importance of these risks, I hope that you will be able to report to the wider public and to Parliament on your progress in protecting those in detention.

² WHO Europe, Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance, 15 March 2020, http://www.euro.who.int/_data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf

The National Preventive Mechanism

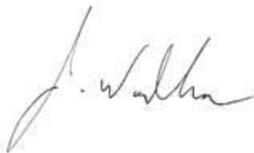
Given this situation, the NPM is currently prioritising efforts to develop approaches to monitoring that ensure they are able to fulfil their statutory functions and international responsibilities to report on the situation in places of detention and prevent ill treatment. The NPM and its members are keenly aware of the pressures on detention authorities at this time, and the need not to overburden them while they develop their strategies and responses, as well as their own need to uphold the principle of *do no harm* in the midst of a public health crisis.³

I would like to mention two approaches that are being developed, though across the 21 NPM members there are many more. Firstly, NPM members are developing risk criteria that allow them to respond to allegations or concerns about potential ill treatment that warrant some kind of visit to be conducted. In most situations, these visits would be carried out by one or two people and follow a much more targeted methodology than normal inspections/monitoring visits. Secondly, NPM members are developing new approaches to remote forms of monitoring. Given the rapidly changing picture across different detention settings and the severity of the measures that are being imposed (restriction of family visits, long periods of isolation, limitations on exercise and association), NPM members are looking into how they can monitor the situation using data from a range of sources, including from detention authorities themselves, via phone lines and correspondence, and from wider stakeholders.

I would be happy to discuss any of these points with you or your officials if that would be helpful, and I look forward to a planned meeting with Alex Chalk MP soon.

Given the importance of providing reassurance to the public during these troubling times, and in particular to those who are concerned about the situation of their family members and friends in detention, the NPM will publish this letter on our website.

Yours sincerely,



John Wadham,
NPM Chair

³ Subcommittee for Prevention of Torture, Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic, 25 March 2020
<https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf>