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Chair of the Justice Committee
House of Commons
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Dear Bob

Prison Population 2022: Planning for the Future

Thank you for your letter of 26 June following our response to the report on *Prison Population 2022: Planning for the Future*. I would like to reiterate my gratitude to the Justice Committee for their inquiry and to all those who gave evidence.

In your letter you ask three specific questions and attach ten more detailed questions picking up points from my response to your report. I will address the three questions in this letter and I attach an annex that I hope addresses all of your specific points.

First, you asked for more detail on our plans with respect to short sentences. As you know, this is an area of high interest to me. I am convinced by the evidence that there is a strong case for reform and we continue to develop options. While there will be differences of opinion on how far any reform should go, I hope to build a broad consensus that short sentences are too often ineffective and I look forward to the future contribution of the Committee as we take this forward.

Second, you asked for an update on The Female Offender Strategy. Edward Argar MP wrote to you on the 27 June outlining a full update on the strategy one year on. I hope this addresses your concerns.

Finally, you asked about our future plans for the prison system. I feel that we have made good progress in addressing some of the challenges that prisons face right now – on safety, security, decency, and the estate in general. But I am clear that what the prison system ideally needs is a long-term and multi-year plan not only to address the current challenges but also to put the whole system on a more sustainable footing. This is being developed in preparation for a future Spending Review and I hope to be able to tell you more about this in due course.

I am conscious the Committee has spent a great deal of time conducting a detailed inquiry into prison population management. Given this investment of time it is right that we continue to update you on how we are doing. So, I would like to offer an informal briefing with my officials for

the Committee in the autumn when you might be able to discuss some of these issues in greater depth.

Yours ever
David

RT HON DAVID GAUKE MP

Annex B – specific response to questions raised by the Justice Committee

1. The Government's Response makes reference to a series of pilots of new initiatives. Recommendation 4 asks the Ministry to set out how it intends to replicate those pilots that prove effective. The Government's Response notes that the outcome of pilots will be taken into consideration during allocation decisions. The Committee would welcome more detail on how pilots are evaluated and would be grateful if a list of all pilots being undertaken across the prison estate could be provided.

As a large operational agency, HMPPS clearly has a large number of change initiatives underway some of which will involve some degree of testing and trying things out, and many of which are relatively small. These are all invaluable as they help add to our evidence base. Within this there are a small number of “true” pilots which will be of particular interest to the Committee. These are as follows:

- **Drug Recovery Prison Programme (DRP) Pilot:** This aims to test a whole prison approach to tackle the supply of drugs into prison, creating an environment where prisoners have access to the full range of health services that meet their needs, and support on their release to help their transition from custody to life in the community. This pilot is being run in partnership with NHS England. It started on 1 April 2017 and is scheduled to end on 30 March 2020.
- **Theological Interventions:** This is a Security, Order and Counter Terrorism (SOCT) initiative which aims to pilot theological interventions to measure their potential use in disengaging offenders from extremism and terrorism. Counter Terrorism Imams have received training and are now delivering theological interventions. This pilot began in March 2019 and is scheduled to end on 28 February 2020.
- **Offender Accommodation on Release:** This is a pilot by HMPPS Wales involving a small pilot study that seeks to improve housing outcomes for offenders on release from custody, specifically exploring innovative and long-term solutions. It started on 1 March 2018 and is currently scheduled to end in September 2020.
- **The Report & Rehabilitation Session Pilot Project:** This is a National Probation Service ‘business as usual’ project, trialling a new rehabilitation-focused approach to post-sentence supervision to help reduce re-offending and reduce licence breaches. It started on 1 August 2018 and ended in June 2019.
- **Desistance and Disengagement Programme:** This is a SOCT pilot reviewing how the Desistance and Disengagement Programme probation strand can be mainstreamed. It started on 1 October 2016 and is due to end on 30 March 2020.
- **National Multi-Agency Centre:** This is a SOCT pilot aiming to develop and embed HMPPS activity for the National Multi-Agency Centres (NMAC). It started on 1 October 2017 and is scheduled to end on 30 March 2020.

There is no universal methodology for the evaluation of pilot exercises but the approach to evaluation in these instances involves the capture of learning from the pilot through a combination of interviews and surveys of prisoners, prison officers, governors and probation staff. Where possible, progress towards expected outcomes from the pilots are measured against a ‘control’ comparator group that has not received the interventions experienced by the pilot group. That said, we are keen to develop a more robust and transparent approach to a ‘testing framework’ which can be applied regularly and consistently to consider the value of prospective innovations. We are happy to update the Committee further when the above individual pilots have ended and evaluation is complete.

2. Recommendation 8 suggested that the Reducing Reoffending Group should commission a systematic review of cross-departmental activity to reduce crime, or that an independent commission should be set up to consult on a sustainable approach to

prison and crime reduction up until 2030. The Committee would welcome a clear response to this recommendation, as well as further information on what consultation the Ministry is undertaking in relation to its Justice 2030 project.

We recognise that the current picture on reducing reoffending across Government is complex. There are many initiatives at national, local and institutional level. Having reflected on the Committee's recommendation, we are undertaking mapping work – both within the Ministry of Justice (MoJ) but also across Government – to build a more comprehensive picture of these differing initiatives and how they interact, or could overlap. This should result in a more focussed cross-Government plan to reduce reoffending, approved and governed by the Ministerial Reducing Reoffending Board, given that this agenda requires concerted action from across Government. We would welcome the opportunity to discuss the Government's overall approach to reducing reoffending with the Committee once this work is complete.

On the Justice 2030 work that the MoJ undertook last year, we do not plan to publish or consult more widely on this at present. It was intended as horizon-scanning of the context that we would be operating in a decade from now, so has served to inform our policy-making and our Spending Review preparation by focusing on long-term trends. We would, however, be very happy to discuss the work with the Committee should that be of interest.

3. Recommendation 14 of the Committee's Report recommended increased resources for the Sentencing Council to conduct research. The Government's Response notes the recent Tailored Review of the Council, but does not deal specifically with the case for extra resources for additional research. The Committee would be grateful if the Government's position in relation to this point could be clarified, as well as further information as to how exactly the Ministry will work with the Sentencing Council to review opportunities for improving the evidence base on sentencing practice and trends.

Our view is that the Sentencing Council is sufficiently funded for the work that it carries out. We have been able to maintain the Council's funding in 2019/20 – taking into account inflation – despite challenging constraints on budgets across the Department. Given these wider funding pressures facing the Department, we have not allocated extra ringfenced funding for additional research. However, we will work with the Council to explore how they might resource additional research from their existing financial resources.

The Data and Analytical Services Directorate in MoJ also has a sentencing research function which works closely with the Sentencing Council. The MoJ team provide analytical support to criminal law and sentencing policy and link with the Sentencing Council on their Resource Assessments of sentencing guidelines. Researchers from the Sentencing Council and MoJ last met in May where they discussed the priority evidence gaps that would improve the evidence base on sentencing practice and trends.

4. Recommendation 21 talked about high turnover of staff and how prison officers are trained to deal with the challenge of managing complex prisoners. The Committee welcomes the Government's Response, but would like further information on who sits on the HMPPS Retention Board and what action it is taking. The Government Response also talks about improving the diversity of prison officers and that the Ministry is implementing action plans in relation to this. More information on what actions are being implemented as part of those action plans would be helpful.

The Retention Board is attended by: HR Deputy Director for Prisons and Youth Custody Service (Chair); the Executive Director North as the "People Lead" for Prisons; Senior HR Business Partners; and the Principal Operational Researcher from the Workforce Planning, Insights and Research function in the MoJ People Group. The current work plan is focussed on completing a

“deep dive” analysis with all the Prison Group Directors and Senior HR Business Partners to review and assess measures that we would take to improve retention in specific local areas.

Attracting, training and retaining the right staff is critical in managing the prison population, especially those with complex needs. It is equally important to build a more diverse workforce, which is a top priority for the new Chief Executive of HMPPS, Jo Farrar. Our plans to make HMPPS a more inclusive and appealing place to work are therefore centred around attracting a diverse range of staff and equipping them with appropriate training and support to develop.

We are committed to attracting people from more diverse backgrounds, fully reflective of the community they serve and recognise the benefits this will have for the organisation. We are determined to improve workplace culture to ensure that all staff feel welcome, safe and valued. Steps that will help achieve this are:

- Continuing to improve the recruitment process to attract and target the right people with the right skills; the assessment processes has been reviewed to ensure that there is no adverse impact for external applicants. A dedicated BAME senior recruitment and progression lead who leads on work to attract and increase the diversity of our candidate pool including working closely with specialist recruitment agencies to achieve this.
- We now have four BAME Staff Development Leads working within different business areas to nurture and develop the BAME talent we already have in our organisation. Talent pools for BAME staff at all levels will be established in 2019/20 to further support those who are seeking to progress their careers.
- Working closely with our race, disability and LGBT+ staff support networks to tackle inequalities and improve our policies to support people at work. Our Workplace Adjustment Passport offers more effective support and reasonable adjustments for staff with a disability, health condition or those undergoing gender reassignment in the workplace.
- Training and support packages to enable all staff to improve their knowledge and understanding on all the protected characteristics allowing them to combat biases in decision making.
- A project has been established to support the increasing number of women working in prisons and address issues they face.
- Ongoing monitoring of our staff data so that we can proactively address disparities that occur for staff with different protected characteristics.

5. Recommendation 24 requested the Ministry update the Committee on which prisons are able to operate their stated regime six months after the Committee's Report was published. The Government's Response states that further data on regimes will be published as part of HMPPS's performance framework from 2020-21. The Committee would like further details on which prisons are not currently able to operate their stated regime and information on what steps are being taken to make improvements at prisons where the stated regime is not operating as expected. If the Ministry does not currently hold this information the Committee would like to understand why that is the case.

Prisons provide weekly self-assessments which outline the level of regime, bearing in mind that prison regimes can change on a weekly basis due to factors such as sick absence that restrict staff availability. In the most recent report (27 June 2019), 30 of 103 public sector prisons that provided a return reported a 'green' regime, where green is reflective of the full stated regime being delivered. 63 prisons self-reported as 'green/amber', which indicates that they are achieving something close to their full stated regime and ten self-reported as 'amber/red' regime which would likely involve curtailments as part of a structured plan of delivery. In steps being taken to make improvements, Prison Group Directors have oversight of the level of regime

being delivered in their prisons, and when sudden or notable changes to a regime are identified they will put in place additional support to address them. This additional support can include authorisation to use payment plus (overtime) and or provide additional staff on detached duty from within their group. If this is insufficient, the Prison Group Director can request national support in the form of access to the national detached duty scheme or payment plus bonus scheme. More generally, as set out in our previous response to the Committee's recommendation 23, we have plans to update the performance framework from 2020/21 to include prisoner "Time Out Of Cell" and "Time Spent On Purposeful Activity". In the longer term, we would like to have better digital tracking of these metrics.

6. Recommendation 25 recommended that prisons are monitored on their capacity to meet the needs of prisoners. The Response says the Ministry is developing plans to deliver against identified needs for all prisons, but does not provide information on how prisons are monitored on their capacity to meet the identified needs of prisoners. The Committee would like further information on how rehabilitative strategies are developed in individual prisons, what information these are based on and how they are monitored.

All prisons have a needs analysis that is refreshed annually. This identifies the needs of its offender population, and is used to inform the local commissioning of services such as health services and substance misuse services, the provision of education, and interventions and services focused on families and significant others. Appropriate contract management processes are in place at a local, regional and national level to ensure that delivery is consistent and effective.

Alongside the needs analysis, all prisons have conducted exercises which have informed the creation of their "rehabilitative culture strategy". These strategies are intended to create cultures within prisons where people not only feel safe but can thrive, are encouraged to take part in rehabilitative activity, are rewarded for progress, and are challenged to address their needs. Each prison directorate (North, South and Long-Term High Security Estate) has a rehabilitative culture lead who will assist each prison in developing their strategy, and provide assurance to the Executive Directors that it is in place and being managed and monitored. The national Rehabilitative Culture team also take an interest in prison strategies through their regional/group representative network. The rehabilitative culture strategy supports and enables the prison's reducing re-offending strategy which sets out how they will address the criminogenic needs of their population and prepare people for release.

The prison's business plan details all of these specific commitments, which are monitored closely by Prison Group Directors and Executive Directors via assurance visits and bilateral performance meetings. The prison level performance framework holds governors to account for performance at prison level. The current framework comprises 33 measures across six domains, four which are aligned to the HMIP healthy prison tests, namely Safety, Respect, Purposeful Activity and Rehabilitation and Release Planning which directly address prisoner outcomes related to their needs. The measures are based on a combination of quantitative and qualitative information, making use of a range of administrative data owned by MoJ and including internal audits and external inspections to give the most rounded and balanced assessment possible.

7. Recommendation 29 suggested that the Ministry consult on legislative solutions to both release and recall of IPP prisoners. The Response noted the Committee's support for legislating in this area. Could the Government clarify its position in relation to looking at legislative solutions for the release and recall of IPP prisoners?

The Government continues to keep the need for legislative reform of the IPP sentence under review and any future reform would be subject to appropriate consultation. However, although

we have not ruled out reform at some point in the future, our current focus is on reducing the IPP prison population as safely and as quickly as possible through the operational measures that are contained in the joint HMPPS/Parole Board Action Plan. There is clear evidence that these measures are working as IPP prisoners are being processed in large numbers and have a high chance of a positive outcome from Parole Board hearings. However, the Parole Board may only direct release of an IPP prisoner if it is satisfied that their detention is no longer necessary for the protection of the public. We will continue to focus on these measures, adapting and improving them where necessary, as long as this evidence of success continues. This focus also extends to the recall of IPP prisoners where we are aware that the numbers recalled to custody has increased. We are looking at practical ways in which we can safely reduce this rate, both amongst IPP prisoners and the prison population overall.

8. In response to recommendation 31 asking the Ministry to clarify how the new Kaizen programme is being evaluated, the Ministry stated that an internal assessment was due to be completed by the end of 2019 to aid the design of future evaluations. The Committee would welcome a commitment from the Government to provide an update on this, as well as any evaluation of Horizon by the end of 2019. The Committee would also like further information on what role trainee psychologists play in running treatment programmes.

The internal assessment for Kaizen is underway and the expectation remains that it will be delivered by November 2019. This report will outline design options and an indicative timeline for the evaluation of Kaizen in the future. That report will be presented internally to the Correctional Services Accreditation and Advice Panel (CSAAP) to aid their decision-making relating to accreditation. A short-term outcome study for Horizon and iHorizon is underway and is due for completion prior to the next planned CSAAP meeting in March 2020, with an expectation that Horizon/iHorizon findings will be published on GOV.UK during the next financial year. We would be happy to update the Committee on the findings of those reports. Trainee forensic psychologists have a minimum academic qualification of an MSc in Forensic Psychology and are currently undertaking doctoral level training. As a trainee, they will provide a range of services whilst undertaking their training under supervision of a senior registered psychologist. Trainee psychologists will be at varying stages in their professional development. Trainee psychologists are part of the delivery team for a number of specialist programmes. They may, if sufficiently experienced, work as a treatment manager on a programme; providing the clinical oversight to ensure the programme is delivered in accordance with the research and design aims and supporting staff in working with individuals within the programme. All work is carried out under supervision.

9. Recommendation 34 asks the Ministry to develop a properly costed long-term estates strategy. The Committee would welcome clarification as to when such a strategy will be published.

This work is being undertaken in preparation for a Spending Review in the autumn, and will form an integral part of the Department's submission to HM Treasury.

10. The Government's Response to recommendation 41 agrees there is a strong case for abolishing short prison sentences and says the Government is currently 'exploring options'. The Committee would like to see more detail on what those options are and a timeframe under which the Government will be taking this forward.

We welcome the Committee's support for sentencing reform and the recommendation to restrict the use of short custodial sentences. There is a strong case to abolish sentences of 6 months or less, with some exceptions and we continue to develop options. There will be differences of opinion on how far any reform should go, but we hope to build a broad consensus that short sentences are too often ineffective, failing victims, society and offenders.

Community orders can be more effective than short custodial sentences in reducing reoffending and we must ensure the public and judiciary have confidence in effective community orders, including those which address offenders' behaviour, answer their mental health and alcohol or drug misuse needs, or provide reparation for the benefit of the wider community. Our recently announced reforms to probation are a critical first step to building this confidence and improving the delivery of effective community orders.