

Teresa Medhurst
Chief Executive (Interim)
Scottish Prison Service
By: email

17 September 2020

Dear Teresa,

**Re: The Prisons and Young Offenders Institutions (Coronavirus)
(Scotland) Amendment (No.2) Rules 2020**

Thank you for your letter of the 17 August and continuing dialogue on the response of the Scottish Prison Service' (SPS) to the exceptional pressures facing prisons during the current health pandemic.

In relation to the retention of some of the provisions of the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2020 which came into force in April 2020, the Commission recognises that some of the changes on the amendments have helped SPS to prioritise services, including on prisoners' regime and the deployment of SPS staff during these challenging times. We note that you are not seeking to retain the Rule 33A (Provision of clothing to prisoners – Coronavirus), Rule 34A (Personal hygiene – Coronavirus) and 35A (Prisoners food and drink – Coronavirus).

In respect of the other provisions within the Amendment Rules 2020 it is our view that any retention of a provision should be based on evidence and accompanied by a human rights impact assessment. This will help to ensure that the proposal is compliant with human rights standards.

As a prerequisite for accountability it is also crucial that the Scottish Parliament and oversight bodies have enough time to scrutinise whether

the extension of the amended rules are still required. It is our view that prison Governors have significant leeway to introduce reforms over regime changes given by the 2020 amendment and such powers are not accompanied adequate checks and balances, including completely independent oversight.

We are also concerned about the lack of consistency and potentially contradictory application of the Amendments Rules by prison Governors, for example in relation to out of cell time. We welcome your helpful conversation with our Commissioner Alan Mitchell in relation to the issues of the importance of a healthcare assessment prior to transfer (R131A), the need of a consistent and accessible complaint process and the availability of data. As you are aware the Commission has been concerned about the lack of accessible data available to enable independent verification and oversight of monitoring. And we list below some of the areas of data that would be helpful:

- An analysis of time out of cell for each prison and a description of the regime therein.
- Outdoor exercise - how much time is being afforded to the various prisoner groups across the prisons including those subject to Rule 41 cellular confinement?
- Visits - virtual and in person, what is the take up rate like and what are (if any) the impediments to these?
- Work, prisoner programmes and education- opportunities and challenges with provision of the same
- In cell telephony and its usage, and the
- Number of prisoners accommodated in single and shared cells

Finally, we hope that the in cell telephony technical issues has been resolved by now and we will welcome an update on this and the above data required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Judith Robertson', with a stylized flourish at the end.

Judith Robertson
Chair