

Antonia Romeo
Permanent Secretary
Ministry of Justice
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5 December 2022

Dear Antonia

The impact of changes to criteria for parole – failure to provide a response under the Freedom of Information Act

I am sorry to trouble you with this, but I regret that I must lodge a formal complaint about the department's failure to respond to a request to provide statistical information about the impact of these important policy changes. The failure relates to a request made in a letter of 21 July this year, over 4 months ago.

I attach my letter of 21 July to the then minister for prisons, Stuart Andrew MP. The relevant section reads as follows:

What estimate has been made of the consequences of these changes for:

- *the casework capacity within the ministry to provide advice*
- *the progression of ISPs and the consequential impact on prison capacity.*

Given that the new criteria have been in operation since 6 June, it would be helpful to know how they are operating in practice. So I would be grateful if you could indicate:

- *How many pre-tariff sifts have been considered under the new criteria, and with what outcome.*
- *How many recommendations from the Parole Board have been considered under the new criteria, and of those: -*
 - *How many have been considered solely by officials in the department, with what outcome and on what grounds.*
 - *How many have been personally considered by which minister, with what outcome and on what grounds.*

- *How many in each category have involved a prisoner with one or more protected characteristics and what the breakdown in terms of characteristic and outcome has been.*
- *How many have been decided within the timescales laid out by the policy framework for the generic parole process*

I received a response from the minister on 1 September (also attached) which answered many of the other questions raised in my letter of 21 July, though not the question about what estimate (if any) had been made on the impact of the changes on **prison** capacity as distinct from casework capacity. In relation to the other requests listed above, the minister wrote that:

My officials are considering your request for data and for the Equalities Analysis from your letter dated 21 July, under the Freedom of Information Act, and they will provide you with a response in due course.

As you will know, PRT enjoys constructive relationships with officials in the department, and I have informally enquired about progress since, but none of the data I requested has been made available. We know from an answer to a recent PQ from Baroness Prashar that practice on pre-tariff sifts has changed radically from 54% of such requests being referred to the Parole Board to just 12% of such requests being referred. That information at least has made it to the public domain as a result. We were also separately able to obtain information from the Parole Board which showed that a dramatic change in practice on recommendations for open conditions had occurred, with a 94% rate of acceptance of Parole Board recommendations becoming a rejection rate of 87%. But the Board's records do not include the detail sought in my request to the minister of 21 July on recommendations for open conditions. Nor, of course, is the Board able to answer the question about what the impact on prison capacity might be.

The department's failure to deal with a request made on 21 July and through its own volition treated as an FOI request, clearly falls grossly outside the time limits for answering such requests. It is particularly concerning given the evidence from other sources of a major change in the treatment of prisoners and the Justice Secretary's apparent ignorance of the scale of that change in evidence he gave to the Justice Select Committee on 22 November, and the confusion that is evident in this exchange:

*Q123 **James Daly:** It goes back to something that was touched on earlier by myself and my colleagues. Why do you feel a greater ministerial oversight of moves to open conditions are appropriate? It changed in 2022. This relates to IPP prisoners, in particular, and seems to be another bar on IPP prisoners being referred to open conditions, which may be more suitable for people with mental health conditions.*

***Dominic Raab:** That was a change I made based on risk and commanding public confidence. Of course we want people in open conditions. No one is a bigger advocate of that journey than me. One of the big successes we have had is increasing in one year the volume of offenders released within six months and a proportion of them going into work by*

two thirds. That will not happen if we cannot use open prisons and some of the cat-C estate as well. I want that to happen.

However, the problem and the risk is that, if people abscond, or if people move and there is a problem with it, that undermines public confidence. We must ensure we carry the public with us. I can write to you with the cases. There are a number of cases that raised concerns about this.

The threshold for me blocking it is high. Equally, I want to ensure we protect the public and that public confidence is with us. That is precisely because, where it is appropriate, I want more people going into open conditions because of the reoffending and work programmes we can get them on to.

Q124 James Daly: *How many decisions on average each year will be affected by the change in policy?*

Dominic Raab: *I will write to you with the details. It is not a huge amount.*

Q125 James Daly: *Will the reduction in moves to open prisons for top tier prisoners lead to an increase in the cohort—this is an important question—being released directly into the community from the closed estate?*

Dominic Raab: *It will depend on whether they are a determinate or indeterminate sentence*

I am therefore requesting that you treat this letter as a formal complaint about the department's handling of an FOI request, but also, given the degree to which the original request has been ignored, make arrangements for the data requested, including any estimate of the impact of these policy changes on the need for additional prison capacity, to be supplied immediately.

As with all of our correspondence on parole issues since the chaotic introduction of these changes in the summer, I am placing a copy of this letter on our website and will do the same with your reply.

Yours sincerely



Peter Dawson
Director
Prison Reform Trust