

Victoria Atkins MP
Minister of State
Ministry of Justice
102 Petty France
London
SW1H 9AJ

16 June 2022

Dear Minister,

Eligibility for open conditions

As you know, we provide an advice and information service for prisoners and their families, answering around 7000 queries a year. You will not be surprised that we have received urgent and very distressing queries from people who are affected by the MoJ press release issued on 5 June – “Offenders to face toughest test yet for open prison moves”. The apparent absence of any detailed policy or operating documents to accompany these significant changes has left many thousands of prisoners and their families both confused and deeply apprehensive about its implications.

It would therefore be helpful if you could answer these questions to help us fill in the gaps that this unusual method of implementing such a major change has created.

- What consultation was undertaken prior to the selection of the three new tests for determining whether an indeterminate sentence prisoner can be transferred to open conditions; and what the responses to that consultation were;
- What evidence ministers considered as relevant to their decision to change these criteria;
- Whether an equality impact analysis has been completed;
- Whether any cases considered before 6 June 2022 have been decided on the new rather than the previous criteria;
- Whether any prisoners have been removed from open conditions on the basis of the new criteria;
- Whether any prisoners have had pre-tariff reviews cancelled or postponed because of the new criteria;

- What guidance about the new criteria has been issued to:
 - Prison staff
 - Probation staff
 - Specialist report writers, including psychologists
 - The Parole Board
 - Civil servants charged with advising ministers on individual cases affected by the change
 - Prisoners
 - Prisoners' families
- Whether indeterminate sentence prisoners already in open conditions are to have their cases re-assessed under the new criteria;
- Whether prisoners who meet the criteria of low risk of abscond will be denied the opportunity to benefit from open conditions on the grounds that it is considered as beneficial rather than essential to their resettlement;
- Whether allocation decisions for any other categories of prisoner will be affected by these new criteria, now or in the future;
- Which minister will be charged with undertaking the scrutiny required by the new procedure;
- What criteria will determine which cases are personally considered by that minister;
- What documentation the minister will receive and consider in order to reach a decision in the cases they decide personally;
- What evidence officials and the minister will take into account in considering the risk to public confidence element of the new criteria;
- What training officials charged with advising the minister in these cases will receive in risk assessment;
- What specialist opinion, if any, will be made available to officials and the responsible minister;
- What performance measures will be applied to the process of consideration by officials and the minister in terms of timeliness in particular;
- Whether officials and the minister will be required to give detailed reasons for their decisions;
- Whether those decisions will be subject to any form of appeal, whether by the prisoner or others, including the victims of the prisoner's offending;
- Whether the decision-making process will be open to any form of public scrutiny, in line with the government's approach the parole process more generally;
- Whether the Secretary of State will provide the Parole Board with a view on suitability for progression to open conditions at the original consideration of the case;
- 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
 - the safety of ISPs affected by the changes
 - the occupancy and future use of open prisons

The changes you have implemented have the potential to change dramatically the length of time that people who have served the requirements of punishment still remain in custody. I hope you will therefore agree that providing this detailed clarification is urgent. For the assistance of the people both operating and subject to these new procedures, I am placing this letter on our website and will do the same with your reply once received.

Yours sincerely,



Peter Dawson
Director
Prison Reform Trust