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6 April 2020

**For the Urgent Attention of
Rt Hon Robert Buckland QC MP
Lord Chancellor & Secretary of State for Justice**

CC

The Prisons Minister
The Lord Chief Justice
The Chair of the Parole Board
The Chief Executive of The Parole Board
HMP Governors and Directors
The Legal Aid Agency
The Law Society
The Criminal Law Solicitors Association
The London Criminal Courts' Solicitors Association
Appeals

Dear Sir/Madam,

ACCESS TO JUSTICE FOR PEOPLE IN CUSTODY DURING THE COVID-19 PANDEMIC

We write on behalf of our representative bodies in respect of practical arrangements for private legal consultations with people in custody during the current 'lockdown' period. During this time people in prison continue to have urgent legal matters across all areas of law that require them to have contact with their lawyers.

This is an extraordinary period in which home and remote working has been mandated to minimise the risk of the spread of Covid-19. The government and the courts have confirmed their commitment to ensuring that criminal justice and civil justice systems do not grind to a halt. Legal representatives are obviously committed to ensuring that their clients' cases can progress and are not delayed wherever possible.

This is proving particularly difficult for people in custody. Many prisons have stated that they cannot offer any video-link facilities for the time being. Some prisons have video-link facilities but will not offer them for use for private consultations between prisoners and their legal representatives. Hardly any prisons have offered private telephone consultations. Many prisoners do not have phones in their cells or have limited credit with which to make essential calls.



We are collating data relating to the facilities offered by each prison but this is on an *ad hoc* basis. There are no publicly available, centrally co-ordinated records.

We fully appreciate the extraordinary pressures that prison staff and managers are under at the present time as a result of the Covid-19 pandemic. We understand that balancing health and safety concerns with the needs and rights of prisoners is a very challenging undertaking.

We are very willing to work collaboratively and imaginatively to seek to mitigate these pressures. We have to emphasise, however, that prisoners cannot have meaningful access to justice across all areas of law (civil and criminal) without access to **private** legal advice **for reasonable periods**.

We are aware that some measures have been taken to facilitate communication but they are largely focused upon providing additional 'pin-phone' credit for phone calls in some establishments, although this is patchy and prisoners still often struggle to get numbers approved quickly. Whilst additional credit is welcome to ensure that prisoners are able to have some contact with their lawyers, they also need phone credit to maintain contact with their families and friends and this, in itself, is not sufficient to ensure meaningful access to justice. Calls are strictly time-limited and are inadequate for the detailed and sensitive discussions required for many cases.

It is essential that urgent and sufficient arrangements are put in place by prisons to facilitate adequate and confidential communication between people in prison and their lawyers for the period in which the Coronavirus restrictions persist. We believe that this may require mandatory instructions, albeit we recognise that these will need to allow for reasonable flexibility to take into account the need for prisons to maintain the health and safety of staff and prisoners.

We would very much welcome the opportunity to discuss, as a matter of urgency, how access to legal advice and assistance for prisoners (and hence their access to justice) can be protected in these very challenging times. We copy in the Law Society, with whom we understand you are already in contact, as well as a number of other departments connected to the Ministry of Justice who will be directly affected by this issue, and criminal law solicitor representative bodies who will also have an interest in this issue.

We hope you will appreciate that this request is made due to the extraordinary circumstances in which we find ourselves, the desire to ensure that important hearings can proceed and to enable the pressure on the prison system, already under huge strain, to be eased where possible.

We would be very grateful to hear from you as soon as possible.

Yours sincerely,

Andrew SPERLING on behalf of

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Practitioners Group**

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