

LIBERTY

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Rt Hon Boris Johnson MP
House of Commons
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(and by email)

Copied to: Rt Hon Matt Hancock MP, Rt Hon Rishi Sunak MP, Rt Hon Michael Gove MP, Rt Hon Sir Keir Starmer KCB QC MP, Jon Ashworth MP

2nd November 2020

Dear Prime Minister,

I write in response to your announcement that new national restrictions will be introduced in England from November 5th to combat the spread of COVID-19. Liberty has supported proportionate measures to protect public health since the start of the pandemic, and safeguarding civil liberties and equality is clearly integral to achieving this aim. To this end, I write to recommend a number of measures for inclusion in the reportedly imminent legislation and guidance. They are especially pertinent in the context of new and significant national restrictions; however, many have been sorely needed since the pandemic first began, and will remain relevant following a return to the three-tier system, potentially contributing to a reduction in the need for future national restrictions. I encourage you to consider adopting them as far as is relevant on a long-term basis.

ENFORCEMENT, SCRUTINY, AND PUBLIC COMMUNICATIONS

1. **Draft legislation should include a sunset clause requiring the new restrictions to expire on December 2nd as publicised.** Should the Government at some point in the future decide on the basis of the available evidence that restrictions should be extended, further legislation can be brought before Parliament in sufficient time to provide for this.
2. To maintain public trust and support public compliance, **communications by public authorities should accurately distinguish between law and guidance,¹ and come from reliable and accessible sources, not via anonymous sources or paywalled publications.** For example, one political commentator tweeted in advance of Saturday's national briefing

¹ See, for example, a statement about exercise made by a Government Minister that was inconsistent with the law and guidance in force at the time: *Politics Home*, 'Michael Gove tells joggers to limit exercise stints to 30 minutes amid coronavirus lockdown', 29 March 2020: <https://www.politicshome.com/news/article/michael-gove-tells-joggers-to-limit-exercise-stints-to-30-minutes-amid-coronavirus-lockdown>

that “outbound international travel will be banned”.² This proposal has yet to be outlined substantively by Government before Parliament or the public. This method and sequencing of communication is wholly inappropriate given the significance of the restriction apparently being proposed.

3. **Public authorities should maintain proactive and accessible communication of all exemptions, both to the public, and to authorities with enforcement powers.** This should be done with specific regard for people with protected characteristics or at risk of harm, such as people at risk of domestic violence or with mental health needs.
4. **Additional police enforcement powers should be minimal.** Journalists from Liberty Investigates³ found that during the last period of national lockdown, police used enforcement powers disproportionately against people of colour,⁴ and increased use of force by 12.5%⁵ despite a significant proportion of the population remaining at home. **From November 5th, police forces should be required to publish data on enforcement under the regulations, disaggregated where possible by protected characteristics, on a weekly basis.** This will allow for prompt scrutiny of enforcement powers, protecting people from arbitrary and discriminatory policing.
5. **The reported⁶ Memorandum of Understanding between Public Health England and police forces to share test and trace data should be immediately withdrawn** to maintain public trust in, and engagement with, the system.

HEALTH AND SOCIAL CARE

6. **All charging of migrants for NHS services, including the Immigration Health Surcharge, should be suspended, as well as all data-sharing for charging and immigration enforcement purposes between public health authorities and the Home Office.** Coronavirus is rightly exempted from the list of chargeable conditions. However, as noted by Doctors of the World UK,⁷ the wider charging infrastructure acts as a deterrent to migrants seeking healthcare. In the context of your stated strategy to test, trace, and isolate people with coronavirus, this is harmful for individuals, and for public health more broadly.
7. Provisions made in the Coronavirus Act to allow care providers to vary, reduce, or stop care services to people with care needs have had significant negative impacts on people’s lives.⁸ **Government should ensure that local authorities have sufficient funding to**

² <https://twitter.com/Peston/status/1322562695460196352?s=20>

³ Liberty Investigates is an editorially independent investigative journalism unit based at Liberty: <https://libertyinvestigates.org.uk/>

⁴ Liberty Investigates, *BAME PEOPLE DISPROPORTIONATELY TARGETED BY CORONAVIRUS FINES*, 26 May 2020: <https://libertyinvestigates.org.uk/articles/bame-people-disproportionately-targeted-by-coronavirus-fines/>

⁵ Liberty Investigates, *REVEALED: SURGE IN POLICE USE OF FORCE DURING HEIGHT OF LOCKDOWN*, 29 October 2020: <https://libertyinvestigates.org.uk/articles/revealed-surge-in-police-use-of-force-during-height-of-lockdown/>

⁶ The Register, *UK test-and-trace coronavirus data may be handed to police to nab those who aren't self-isolating as required*, 19 October 2020: https://www.theregister.com/2020/10/19/uk_test_and_trace_data/

⁷ See: *Hands Up for our Health*, Doctors of the World UK <https://www.handsupforourhealth.org.uk/>

⁸ The Guardian, *Stop using coronavirus powers to neglect care duties, UK councils told*, May 2020 <https://www.theguardian.com/society/2020/may/07/stop-using-coronavirus-powers-to-neglect-care-duties-uk-councils-told>

maintain and if necessary enhance social care provision to protect the dignity, health and wellbeing of people with care needs.

WORKERS' RIGHTS AND INCOME SUPPORT

Ensuring health and safety in open workplaces, and income support for workers who need to self-isolate, is highly likely to increase compliance with COVID-secure guidelines and any further restrictions, protecting public health.

8. **All workers should receive full sick pay in the event that they have to self-isolate due to their own health status or that of someone they live with.**
9. While I appreciate further guidance on this point is forthcoming, as a minimum, **all workers who are on the 'clinically extremely vulnerable' list should receive full sick pay if they cannot fulfil their duties from home.**
10. Renewal of the furlough scheme is a welcome development. However, **Government should make additional funds available to ensure that low-paid workers do not fall below the real living wage.**⁹
11. In light of reports of unsafe working conditions in areas of high coronavirus incidence,¹⁰ and outbreaks linked specifically to workplaces,¹¹ **Government should continuously review the evidence base on which certain workplaces remain open, and ensure sufficient resources and capacity in the relevant authorities to oversee workplaces that remain open.** Any information obtained in the course of investigations by the relevant authorities should be firewalled from immigration enforcement to maintain workers' trust in raising health and safety concerns.
12. **No Recourse to Public Funds conditions should be lifted for the duration of the restrictions** to ensure that everyone has access to the social safety net, and to minimise the need for people to continue potentially unsafe and exploitative work.¹²

HOUSING SUPPORT

While the Government has instructed people to stay at home, it must recognise that home is not a safe place for everyone. Nobody should have to weather these new short-term restrictions or the pandemic as a whole without safe and suitable accommodation.

13. **The forthcoming legislation should establish explicit exemptions for homeless people, to avoid people being unfairly subject to enforcement powers.**
14. While Government has taken welcome steps in this area, **it should continue to ensure sufficient funding for local authorities and homelessness services to ensure that**

⁹ As defined by the Living Wage Foundation: <https://www.livingwage.org.uk/what-real-living-wage>

¹⁰ The Guardian, *Revealed: 'shocking' lack of regulation at Leicester garment factories*, 30 August 2020 <https://www.theguardian.com/uk-news/2020/aug/30/revealed-shocking-lack-of-regulation-at-leicester-garment-factories>

¹¹ BBC News, *Coronavirus: Greencore staff self-isolate after outbreak*, 13 August 2020 <https://www.bbc.co.uk/news/uk-england-northamptonshire-53762233>

¹² For further information, see JCWI's briefing on No Recourse to Public Funds <https://www.jcwi.org.uk/westminster-hall-debate-nrpf>

homeless people can access safe and suitable accommodation, regardless of their immigration status.

15. The last national lockdown saw a worrying and well-documented increase in demand for domestic violence support services.¹³ While Government has taken welcome steps in this regard, **it should continue to ensure that refuges and domestic violence services have sufficient funding to meet increasing levels of need.**
16. Crucially, Government should take steps to ensure that people do not lose their homes in the first place. **In addition to a further eviction ban, Government should ensure financial support for low-paid renters, or a forgiveness scheme for rent arrears, if support under the furlough scheme remains capped at 80% of salaries.**

PLACES OF DETENTION

17. The Government should act on the call made by INQUEST, Women in Prison, and a wide coalition of charities, grassroots organisations and individuals, including Liberty, **to take urgent life-saving steps to immediately reduce the number of people in prison, young offender institutions, secure training centres and immigration detention settings.**¹⁴

I recognise that the Government must act quickly to bring legislation before Parliament in good time. Nevertheless, it is worth acknowledging that these recommendations are at most a starting point in safeguarding civil liberties and equality in the context of further national restrictions. The Government, and society at large, would benefit greatly from taking account of the learnings of the last few months, and representations from a wide range of groups, especially from people most likely to be disproportionately affected by the virus and proposed restrictions.

While this letter does not seek to comment in detail on the necessity of new national restrictions, I would reiterate a point that Liberty made to all Parliamentarians in July:¹⁵ to maintain public trust and protect public health, Government must use the breathing space afforded by significant restrictions on our freedom to create the infrastructure and conditions that will reduce the need for such drastic restrictions in the future.

I remain at your disposal should you wish to discuss any of these recommendations further.

Yours sincerely,



Gracie Bradley
Interim Director

¹³ BBC News, *UK lockdown: Calls to domestic abuse helpline jump by half*, 26 April 2020 <https://www.bbc.co.uk/news/uk-52433520>

¹⁴ Read the full letter by INQUEST and Women in Prison here: <https://www.inquest.org.uk/covid-19-letter>

¹⁵ Liberty, *LIBERTY'S ABRIDGED BRIEFING ON THE CORONAVIRUS ACT 2020*, July 2020 <https://www.libertyhumanrights.org.uk/wp-content/uploads/2020/03/Libertys-Abridged-Briefing-on-Protecting-Civil-Liberties-in-a-Pandemic.pdf>