

F/T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Wendy Sinclair-Gieben  
HM Chief Inspector of Prisons, Scotland

HM Inspectorate of Prisons  
Saughton House  
Broomhouse Drive  
Edinburgh  
EH11 3XD

By Email: [wendy.sinclair-gieben@gov.scot](mailto:wendy.sinclair-gieben@gov.scot)

16 May 2024

Ms Sinclair-Gieben

Thank you for your letter of 2 May regarding Scotland's prison population. I have listened to the concerns you and others have raised with me, and today made a statement to Parliament.

Over the past two months, there has been a sharp rise in the prison population of around 400. This has exacerbated the longer-term upward trend, which has been a significant concern for some time, and created unprecedented pressure on the prison estate.

This afternoon, I set out to Parliament that there is now a critical risk to the continued safe and effective operation of the prison estate, and that urgent action is needed.

Section 11 of the Bail and Release from Custody (Scotland) Act 2023, which enables Scottish Ministers to release certain groups of prisoners in an emergency situation, is due to come into force on 26 May. I announced this afternoon that should the legal test be met at that point – as I expect to be the case - my intention is to bring forward a proposal for the emergency release of prisoners as soon as possible after this provision comes into force.

This is not a decision I have taken lightly. However, I consider that this is a step that must be taken in order to ensure the security and good order of prisons, as well as the health and safety of those living and working within the prison estate.

The safeguards built into the 2023 Act will apply. These include limiting release to those within 180 days of their scheduled release date, certain statutory exclusions - including in relation to those serving sentences for sexual offences or domestic abuse – and a Governor veto.

I recognise that while the use of emergency release will ease the immediate pressures on the estate, should Parliament approve my proposal in due course, work must continue in the medium to long-term in order to achieve a more sustainable position with regard to the

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

prison population. For that reason, I announced that we will carry out a short consultative exercise over the summer, with the intention of informing a Bill to change how long term prisoners are released. We also intend to bring forward secondary legislation to amend the eligibility criteria for HDC, increasing the period of time individuals can spend on release under licence conditions.

I hope this information is helpful, and I will ensure you are kept informed regarding plans for any emergency release and other measures as they continue to be developed.

Yours sincerely,



**ANGELA CONSTANCE**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

**INVESTORS IN PEOPLE**™  
We invest in people Silver

