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Margaret Mitchell MSP
Convenor
Justice Committee
Scottish Parliament
EH99 1SP

10 October 2019

Dear Convenor,

As I have written to you previously and you will be aware, the Management of Offenders (Scotland) Act 2019, amongst other things, creates the new offence of remaining unlawfully at large offence and introduces improved powers of recall from HDC. On 1st October, I laid regulations in parliament which will commence these provisions and a number of other provisions of the Act on 11 October 2019. I enclose a copy of these regulations for your information.

The main provisions being commenced on 11 October 2019 are as follows—

- the introduction of new powers of recall from HDC for the SPS;
- the clarification of the law on HDC and temporary release;
- the creation of an obligation on certain public authorities to co-operate in the exercise of their functions relating to prisoners; including sharing information;
- the creation of a requirement on the Scottish Ministers to publish an HDC protocol;
- the new offence of remaining unlawfully at large; and
- additional powers for the Police to apprehend those who remain unlawfully at large.

In anticipation of the new legislative changes commencing and the recent Inspectorate reports and subsequent follow-up reports, we have been working with SPS, the Risk Management Authority and others to update the national guidance on HDC and that guidance will be reissued. The work on revising the HDC guidance and making improvements to the HDC scheme will continue, and the Guidance and Governance Group (chaired by the Scottish Government and with a membership which includes many of the justice partners) which has been taking this work forward will continue to meet.



During the Bill process, we accepted your suggestion that guidance on HDC should be prepared and published. Accordingly, an HDC operating protocol, setting out details of risk assessment and monitoring of HDC will be laid before Parliament within 6 months of Royal Assent. This operating protocol is separate from the forthcoming update to the HDC guidance which is simply intended to reflect the new legislative provisions being brought into force on 11 October 2019 and provides some clearer guidance on the interaction between the HDC presumption and broader risk assessment. We will contact you again when the broader HDC operating protocol is due to be published. The existing guidance will inform that protocol and my intention is that this work will continue and will be broadened out to include a wider range of partners.

Best wishes,
H. Yousaf
HUMZA YOUSAF

