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| **HM Prison & Probation Service** |
| **DISCLAIMER FOR PRISONERS REFUSING TO SHIELD** |

**Version 2**

**October 2020**

# Introduction

In March 2020 HMPPS introduced a prison cohorting strategy requiring all establishments to separate vulnerable prisoners, those who are symptomatic and those newly received into custody for the duration of the COVID-19 period. A group of prisoners who were particularly vulnerable to COVID-19 was identified and under Government guidelines, this group should be shielded for their own protection. Guidance on shielding and cohorting is provided on the Operational Guidance platform for COVID-19.

Some establishments have reported that prisoners have refused to accept shielding measures. As a result prisons have introduced local disclaimers to be signed by prisoners who refuse to shield. These disclaimers are used to show that the prisoner was informed of the risk they would be taking by not shielding and that they understood why shielding is recommended but have chosen to not follow the advice and area exercising their right to not shield. In all circumstances the disclaimer does not free the establishment from any of our duty of care or standard responsibilities for the protection of that individual.

Disclaimers are used as documentary evidence proving that the establishment staff have made the prisoner aware of the risks associated with not shielding and are being proactive in encouraging the prisoner to adhere to shielding requirements by talking to them regularly about this. At all times we must acting with the preservation of life and prisoners’ safety in mind but ultimately respect prisoner’s decision to not follow the advice (unless the national guidance changes and we are able to enforce shielding at which point we will provide further guidance).

As of 1st August 2020, shielding has been paused in the community. August. In the prison estate the opportunity to shield will continue to be available for anyone who wishes to do so and establishments must therefore maintain the facilities and services for those who wish to shield, even if there are no prisoners currently shielding in case the community guidelines change or there is a localised outbreak and to provide resilience for future escalation of the national outbreak.

Prior to the 1st August, it was required that establishments regularly revisit prisoners refusing to shield in order to remind them of the reasons why they should shield and the risk they were at. Now that shielding has been paused, there is no longer a requirement to continue to revisit these conversations. Establishments must continue to offer prisoners assessed as vulnerable the opportunity to shield, and may wish to sign a disclaimer to state they understand the risks, but need not revisit these conversations unless the position in the community changes.

We have been asked by various prisons to provide a national template disclaimer that can be used together with a script for the staff engaging with the prisoner to use when explaining the importance of shielding. Establishments should give consideration to specific prisoner needs when explaining shielding, for example, prisoners who do not speak English should have it explained it using the language line.

**PURPOSE:**

This document contains a best practice example of a disclaimer to be signed by prisoners refusing to engage in a shielding regime and/or refusing to locate in a shielding unit. Each completed disclaimer should be stored with the prisoner IMR. This document also contains a script containing the essential information that staff should convey when discussing shielding with prisoners. Though shielding is based on PHE guidance, a conversation about shielding is also an operational issue. It is not within scope for medical in confidence considerations and does not need a member of healthcare staff to do this, any member of residential staff can undertake this duty, though healthcare colleagues would need to record the discussion on system one and store the disclaimer.

# Shielding Disclaimer

*If a prisoner refuses to shield, they should be informed of the importance of shielding to protect their health and life (see the script below). If they still refuse, they should sign the disclaimer (see the disclaimer below).*

*You can use this to help you to explain this disclaimer to a prisoner.*

SHIELDING SCRIPT FOR STAFF

Key things:

* Prisoner is identified as being in the at-risk group
* They are being offered an alternative regime to facilitate the changes
* Their health can be put at risk when not adhering to the advice. Advise the prisoner about the possibility to discuss it with healthcare if they require more specific information.
* Staff must make sure the person understand the risk they are posing to themselves and get them to repeat back what they have been told about risk to their health if they remain in the general population

The NHS published a list of conditions that require shielding if you have one of them. It is because people with these conditions are at high risk of severe illness if they get infected with the coronavirus.
Shielding means protecting those people by minimising all interaction between those who are extremely vulnerable and others.

You have been informed by staff that you are at risk of serious consequences when infected with coronavirus and you need to shield yourself. This decision was made by the NHS in cooperation with prison healthcare, following the government’s advice.

Shiedling has now been paused for people in the community which means that they are able to go out more, and return to work as long as there are COVID-19 controls in place. We are still offering people eligible the opportunity to shield in prison, as it accepted that the environment is more high risk. You do not have to shield, and the decision about whether to shield is up to you.

The point of the shielding is that you’re spending most of your time in the safest possible place-your cell- away from other people who could pass the coronavirus to you. You will still be able to come out of your cell for basic necessities such as shower or phone call but that would be done on a separate basis to general population.

We know this is not an easy situation, please feel free to speak to one of the members of staff if you have got any concerns around your regime. They will be able to advise you on some additional support available to you as well as how you can contact healthcare. Staff working with you are also made aware of the risks as well as best ways to minimise them following the strictest hygiene rules.

Having your best interest in mind and thinking about your families and friends, we ask you to follow the guidelines as well as you can help us protect you.

If you choose not to follow the shielding guidelines you need to sign the disclaimer below to say that you have been informed of the risks and you accept that you are not adhering to the given advice.

*(PASS THIS DISCLAIMER TO THE PRISONER TO SIGN IF THEY STILL CHOSE TO REFUSE)*

*(See Below)*

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**SHIELDING DISCLAIMER**

**Name**

**Prison number**

**Cell location**

**Establishment**

**Summary of conversation**

\_\_\_\_\_\_\_\_\_\_\_\_ (name of staff member) has been to see me on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enter date) and we have discussed arrangements at my prison for shielding prisoners who are considered at greatest risk of contracting coronavirus. The staff member explained the following:

* That I have been identified as being in the at-risk group
* That I am advised to shield by the UK Government based on advice from healthcare professionals at Public Health England (PHE)
* That shielding has been paused in the community but is still available in prison.
* That I am offered an alternative regime to facilitate the changes required in order to shield and the staff member has explained how this would work in my prison
* I am likely to put my health at risk by not adhering to the advice to shield

I………………………………………..………….……………………………………………..…………………………………………………… (name; surname; prison number) choose to **not** follow this advice and therefore accept understand that I am putting myself at a high risk of developing a severe illness as a result of the infection with coronavirus.

Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ print \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ date \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Staff member’s signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ print \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ date\_\_\_\_\_\_\_\_\_\_\_\_