**Emergency Response to Critical Staffing**

**Purpose**

The purpose of this guidance is to expand the existing emergency response to critical staffing guidance to include the option for establishments suffering acute staffing shortages to apply to use the exceptional contact isolation reasonable excuse for critical workers. This has now been approved to include all operational staff in HMPPS Prisons and Approved Premises (APs). This guidance is for prisons only and separate guidance has been published for use in probation settings.

This guidance does not replace the recently published [Resource Support Guidance](https://hmppsintranet.org.uk/ersd-guidance/2020/05/29/cross-site-working/) which continues to set out what resource support is available and how it can be accessed from July 2021 and describes the circumstances in which payment plus (PP) can be approved, the reporting and assurance requirements, and the point at which additional help can be sought from the Operational Resourcing and Stability Panel.

This guidance provides additional guidance around the options available to establishments in scenarios where a critical staffing position is reached and the options in the resource support guidance have been exhausted.

**Overview**

If an establishment reaches a critical staffing position (often seen through rapid deterioration of staffing overnight with contact from a positive case(s)) the following protocol should guide decision making. This RAG rated protocol denotes the route of escalation.

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| * Use of existing TOIL within the prison to cover shortfall. * Use of Payment Plus within the establishment to cover shortfall. * Review regime provided considering safety, stability and National Framework stages in line with the Regime Management Plan. * PGD response within Group via redeployment/ detached duty. |
|  |
| * Request to Operational Resource and Stability Panel for national support. |
|  |
| * Consider Operational Emergency and staffing extensions with confirmation from Gold. * Use of Exceptional Contact Isolation Reasonable Excuse for critical workers, approved by Executive Director/Gold and confirmed by the Chief Operating Officer. |

**National Detached Duty**

Please refer to the National Detached Duty Guidance.

This can be accessed at: <https://hmppsintranet.org.uk/ersd-guidance/2020/05/29/cross-site-working/>

**Exceptional Contact Isolation Reasonable Excuse for critical workers**

Ahead of the 16 August changes when all fully vaccinated contacts will no longer have to self-isolate in limited and very specific circumstances where there is a serious risk to public welfare and critical infrastructure as a result of individuals being unable to work, a reasonable excuse from contact isolation can be granted. This will only apply to fully vaccinated staff (defined as someone who is 14 days post-second dose – and where other controls are in place ie. PCR and LFD testing). This is not a complete excusal from self-isolation: employees would still be required to self-isolate unless at work or travelling to and from it.

When sourcing volunteer staff, consideration should be given to specialist tasks which may only be executed by appropriately trained staff. For example, ECR staff and Category A drivers.

This excusal will require each person identified to be named and approval given by the Chief Operating Officer or an SCS2 grade in her absence. This request for excusal will be made with Executive Director/Gold approval and effectively will seek authority from the COO for the prison to act with the excusal. This must be reviewed after 7 days.

Once an establishment is cleared to use this measure, Health Resilience Leads (contact tracing leads) in establishments will contact staff who are named contacts requesting that they return to work if they are not symptomatic, they consent to the required testing regime, and they choose to do so. Staff who do not choose to volunteer to return to work must not suffer any repercussions as a result of their decision.

Establishments should consult Gold for advice around avenues of support available.

The central guidance around the excusal is quickly evolving and developing and therefore it may be necessary for us to update our guidance in the near future. Establishments are advised to remain alert for any future updates to the policy position.

**Approval Process**

To seek approval the PGD will request Executive Director authority for a site and they will confer with Gold to seek national validation and the COO’s authority. This decision will be entered into the Gold log. The staff identified locally will be written to formally by the prison using Annex A (which gives them authority to not isolate when attending work) and their details in Annex B will be submitted to Gold who will in turn submit this to the DHSC lead at [Critical.Workforce.Request@dhsc.gov.uk](mailto:Critical.Workforce.Request@dhsc.gov.uk) on behalf of the COO.

Establishments applying to use the reasonable excusal should use the form provided below.



**Conditions**

Staff who agree to volunteer to work during their isolation period are subject to a number of conditions:

a. The individual would have to self-isolate until a negative PCR test result*.* It may be reasonable if strictly necessary to go to work before receiving the results of the PCR test, but only if they have taken an LFD test just before doing so and received a negative result.

b. The individual would take daily LFD tests, report the results daily to the line manager and self-isolate immediately if they test positive.

c. The individual would have to self-isolate if they show any Covid-19 symptoms, no matter how mild and get a new PCR test. They would then need to self-isolate and could only go to work if the new PCR test was negative.

d. The individual would only leave self-isolation to attend - and travel to and from – work for specific, named purposes.

e. The individual could, if strictly necessary, travel on public transport or with others to and from work but would have to wear a face covering at all times.

f. Social distancing should be optimised and, wherever possible, maintained at all times in the workplace. Face coverings should be worn at all times.

g. Individuals would be advised to avoid breaks/meals with other staff and other social contact in enclosed spaces with other staff. Establishments are asked to consider deployment of volunteer staff to avoid close working to vulnerable colleagues or prisoners.

Establishments must refer to the Reasonable Excuse for Isolation Testing guidance for the operational Guidance and further details around the operation of daily testing.



If staff develop symptoms or test positive, they will need to self-isolate immediately, wait for the results of their follow-up PCR test, and follow the standard Government Covid guidelines.

**Annex A**

Dear XXemployeeXX

HMP XXX

Self-isolation remains an essential tool in the country’s efforts to reduce the spread of coronavirus. However, there are situations where self-isolation of close contacts can result in disruption to critical services. I consider that your case, the impact of that disruption presents a reasonable excuse for you as a key individual to leave self-isolation for the purposes of undertaking critical work. In reaching this view, I have followed a process and criteria agreed with the Department of Health and

Social Care.

I therefore consider that, subject to you being fully vaccinated (14 days post second dose of an MHRA-approved vaccine), that you have a reasonable excuse not to self-isolate for a 7 day period in order to enable you to perform the critical tasks as a Prison Officer at HMP XX

At all other times you must continue to self-isolate. Having a reasonable excuse not to self-isolate for a limited period and for limited purposes does not remove the requirement for you to comply with the legal duty to self-isolate at all other times. It remains an offence not to self-isolate in breach of the duty. It is ultimately for those enforcing the duty to determine what is and is not a “reasonable excuse”. However, it is our firm opinion where an individual leaves self-isolation for the purposes, and in accordance with the terms set out in this letter, that you have legitimate ground for arguing that they have a reasonable excuse. You may wish to show this letter to any enforcing body if challenged.

To mitigate against the risk of onward transmission, the following conditions will

apply:

● You will self-isolate until a negative PCR test result is obtained. It may be reasonable if strictly necessary to go to work before receiving the results of the PCR test, but only if an LFD test is taken just before doing so and you receive a negative result.

● You will take daily LFD tests, report the results daily to your establishment and self-isolate immediately if you test positive and PCR twice weekly.

● You will have to self-isolate if you show any Covid-19 symptoms, no matter how mild.

● You will only leave self-isolation to attend – and travel to and from – work for specific, named purposes.

● You may, if strictly necessary, travel on public transport or with others to and from work but should wear a FRSM face covering at all times.

● Social distancing should be optimised and, wherever possible, maintained at all times in the workplace and face coverings/masks should be worn at all times.

● You will have only limited/essential access to shared areas, such as canteens and staff rooms.

●You will be deployed to lower risk or lower contact roles wherever possible.

This position will be reviewed on [insert date no more than 7 days after date of issue]

Signed: GOVERNOR HMP XX

On Behalf of Michelle Jarman-Howe, Chief Operating Officer, HMPPS

**Annex B**

To Ministry of Justice Workplace Lead (Prisons)

Self-isolation remains an essential tool in the country’s efforts to reduce the spread of coronavirus. However, there are situations where self-isolation of close contacts can result in disruption to critical services. I consider that in this case, the impact of that disruption presents a reasonable excuse for key individuals to leave self-isolation for the purposes of undertaking critical work. In reaching this view, I have followed a process and criteria agreed with the Department of Health and Social Care.

I therefore consider that, subject to their being fully vaccinated (14 days post second dose of an MHRA-approved vaccine), the following individuals have a reasonable excuse not to self-isolate. However, that reasonable excuse will only apply for the period during which it is necessary for the individual not to self-isolate so that they can perform the critical tasks set out below.

● [Individual’s name / task to be completed]

● [Individual’s name / task to be completed]

● [Individual’s name / task to be completed]

At all other times the individual should continue to self-isolate. Having a reasonable excuse not to self-isolate for a limited period and for limited purposes does not remove the need for the individual to self-isolate if they have been instructed to do so by NHS Test and Trace or by the NHS Covid-19 app. Where an individual is under a legal duty to self-isolate, it will remain an offence not to self-isolate in breach of the duty.

Where an individual has been instructed to self-isolate by NHS Test and Trace, it is ultimately for those enforcing the duty to determine what is and is not a “reasonable excuse”. However, it is our firm opinion where an individual leaves self-isolation for the purposes, and in accordance with the terms set out in this letter, they will have legitimate ground for arguing that they have a reasonable excuse. We will provide a letter to be sent to the named individuals explaining this for them to show an enforcing body if necessary.

To mitigate against the risk of onward transmission, the following conditions will apply:

* The individual will self-isolate until a negative PCR test result is obtained. It may be reasonable if strictly necessary to go to work before receiving the results of the PCR test, but only if the individual has taken an LFD test just before doing so and received a negative result.
* The individual will take daily LFD tests, report the results daily to the line manager and self-isolate immediately if they test positive.
* The individual will have to self-isolate if they show any Covid-19 symptoms, no matter how mild.
* The individual will only leave self-isolation to attend – and travel to and from – work for specific, named purposes.
* The individual may, if strictly necessary, travel on public transport or with others to and from work but should wear a face covering at all times.
* Social distancing should be optimised and, wherever possible, maintained at all times in the workplace and face coverings should be worn at all times.
* Individuals should have only limited/essential access to shared areas, such as canteens and staff rooms.

At all times the employer remains responsible for assessing all health and safety implications of permitting the individual to attend work.

This position will be reviewed on [insert date no more than 7 days after date of issue]

On Behalf of Michelle Jarman-Howe, Chief Operating Officer, HMPPS