**Update on Court Attendance Procedures During COVID-19**

**November 2020 v2**

*This document aims to clarify the guidance to establishments for the production of prisoners to court during COVID-19, particularly those who are symptomatic or COVID-19 positive. It updates existing guidance issued earlier in the pandemic.*

HMPPS have a crucial role in supporting the wider Criminal Justice System by ensuring that prisoners are produced for court as directed by HMCTS. The COVID-19 pandemic and lockdown context is a significant concern that requires additional precautions and measures to be taken, but do not constitute a reason for prisons to stop this essential service. HMPPS, PECS and HMCTS have worked in collaboration to ensure that we are able to safely facilitate prisoners’ court appearances.

Despite the number of procedures being introduced in receptions, transport services and courts, video link appearances are still considered to be the safer solution as they involve less transmission risks. They also cause less strain on prison resources. For these reasons, HMCTS have  [increased capacity for video hearings](https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak) as an alternative to face-to-face hearings which will be used when deemed appropriate by the judiciary. HMCTS have also implemented arrangements to ensure that vital work is prioritised. However, essential hearings that must be held in person can still go ahead while complying fully with public health advice.

Where prisoners are required to attend court in person (it is a decision made by the court), prisoners must be produced and processed through Reception/other suitable area. PECS and HMCTS have adapted their processes to provide a safe working environment for defendants, staff and visitors to the courts. HMPPS must follow our own processes and policies to ensure the safety of prisoners and staff. Prisoners within the RCU cohort are not necessarily a risk to one another or staff.

Prisoners who are not already on RCU and need to attend a one-off day court case can remain in their normal location upon return. Where prisoners are required to be regularly out of the establishment for a trial undertaking movement back and forth, prisons should locate them on the RCU for the duration of their period out. Following the end of this period, they should commence a 14 day RCU period before being integrated back in to the main residential wings or transferred to another establishment.

Shielding prisoners can still attend in person but Courts should be informed about their shielding status and their advice can be sought as to whether a video-link alternative can be arranged. If not, the shielding prisoner must be produced for Court with particular consideration given to their safety.

The depicted processes will help to ensure that all prisoners who are required by Court can attend their case, either through virtual or physical hearing. This is a mandatory action. If establishments have any concerns around this, they should raise it with their PGDs or Courts/Contractor point of contact.

PECS do not routinely transfer prisoners to court who are required to isolate because they are either **symptomatic or confirmed positive** with COVID-19, or are required to isolate as an identified contact of a person with Covid-19 with the exception of those in the group defined below:

Prisoners who have been identified as a close contact of a confirmed case can be produced to court under the following circumstances:

1. The prisoner has been double vaccinated;
2. The prisoner has a negative Covid-19 test as part of the daily prison testing regime;
3. There are no other medical or risk considerations which would lead the prisons Healthcare Professional to determine they are not fit for travel.

***NB: The court does not require any proof of vaccination or testing. The court will assume that if a prisoner has been cleared as fit for travel, they have met the conditions agreed above.***

This principle has been shared with the Judiciary and is in line with HMCTS guidance.

Where an establishment verifies or suspects that someone is COVID confirmed or symptomatic (including those who are Asymptomatic but have a positive test result) they must inform the prison healthcare provider to make an assessment (healthcare also need to alert the prison where they suspect someone is COVID19/symptomatic/awaiting a test). The healthcare practitioner must then make a judgement as to whether that individual is “fit for court” and record this on the PER in the normal way.

Decisions must be based on the individual meeting one of the published ‘eligibilities’. Residing in an outbreak site is not considered to be sufficient reason to not produce an individual. Where the prisoner is declared unfit for court, the prison must notify the court immediately and explain that this is due to a confirmed or suspected COVID-19 case. Discussions should then begin to determine a suitable alternative to physical production of the individual.

We expect that as a standard, courts will not expect production of such individuals, however if the judge confirms that the individual is required to be produced, the prison must escalate this to PECS immediately via their local designated Contract Delivery Manager. PECS will then liaise with the Court in question

As a standard, establishments are requested to inform receiving courts when prisons have declared a local outbreak.