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| Stage One Regime: FAQOctober 2021 |
| **Please see attached a list of the most common questions which have been asked during regular engagement.****If there are any additional questions you think should be added to this document then please email** **paul.archer1@justice.gov.uk** | Question topics[Prison rules](#contents)[Purposeful](#_Article_Two_(Heading) activity and structured on-wing activityVisitsSecure social video callingPrisoner PayMandatory Drug TestingCommunal WorshipCompartmentalisationFace MasksTrade Union Engagement  |

# Prison rules: changes to legislation

**Q. Does being in Stage 1 mean that the COVID exemptions to prison rules have ended?**

A. No. The Prison Rule Covid Exemption ends on the 20th October, followed by three months of transition.

Therefore, Prison Rules must be fully applied by 20th January 2022, irrelevant of what stage the establishments are operating at.

**Q. Would there be any consideration given by courts if prisons were not fully meeting these requirements?**

A. The current legal expectation is that prison rules will be in place by January 20th 2022 and followed by every prison.

Q. Is there the potential for an extension to the Prison Rules Covid Exemption?

A. Significant uncertainty remains about the trajectory of the pandemic over the winter and we will review the situation in December.

The prison rules that have been amended are outlined on [gov.uk](https://www.legislation.gov.uk/uksi/2020/508/2020-10-26)

# Purposeful activity and structured on-wing activity

**Q. Where can I find our more detail on what is meant by purposeful activity and SOWA?**

A. A Gold Brief was issued on the 21st September with SOWA examples and guidance. We are currently gathering more examples of good practice as more prisons move into Stage 1 regimes and will continue to share these.

[Link to SOWA guidance and examples](https://hmppsintranet.org.uk/ersd-guidance/Stage-1/)

# Visits

**Q. Will COVID testing for visitors so they may have physical contact still be required in Stage 1?**

A. The Stage 1 SOP outlines a standard mandatory baseline of COVID measures which still need to remain in place at Stage 1. Visitors will still need to provide a negative LFD test before they have physical contact and prisoners should also be tested where resource allows. This follows the advice from health authorities on preventing COVID coming into the prison.

**Q. Will visitors still need to wear face masks?**

A. Both official and social visitors will need to wear a face mask or covering while moving around the prison. They can only remove them when they sit at the visit table

**Q. When will these additional measures be reviewed**

A. There are no current plans to change the guidance for visitors in Stage one, but all HMPPS guidance around COVID remains under constant review. We will also respond to any changes in health advice issued by the Government.

# Secure social video calling

**Q. What is the future for funding secure social video calling as this is currently provided from a central rather than local budget?**

A. The longer-term policy for secure video calling is still under review so calls will continue to be funded centrally. A Gold Brief issued on October 1st outlined plans to move away from maximising usage and return to offering one call per prisoner per month for prisons at Stage 2 or 1. These calls will continue to be funded centrally and any additional calls will be expected to be funded locally.

**Q. There are additional costs caused by escorts, monitoring and supervision of social video calling. Where will this funding come from?**

A. There is ongoing work to establish what the resource requirements will be for social video calling and how that will impact the longer-term policy.

**Q. Will there be specific provision for Foreign National Prisoners who cannot get visits within the funding?**

A. Currently, any additional provision for FNPs would need to be met locally. The guidance issued on October 1st deliberately allowed governors to offer more calls on a discretionary basis and was deigned to support scenarios where prisoner cannot have regular face to face visits. Provision for FNP is being considered as part of the longer-term policy review.

# Prisoner Pay

**Q. What is the current prison pay policy and is this expected to change, particularly for prisons increasing part time work or offering 50% work and 50% activities?**

A. The Prisoner Pay Policy sets out the national minimal rates of pay but gives governors discretion to set pay rates above this.

* Minimum employed rate of pay is £4-00 per week
* Minimum unemployed rate is £2-50 per week
* Refusing to work – Nil pay

A basic pay was introduced as part of the COVID mitigation measure to reflect the lack of work opportunities, but this is now being phased out along with other mitigations.

Governors can use their discretion around pay, particularly unemployed pay, but should be aware of producing adverse effects such as making part-term work less attractive or as a consequence of regime changes imposing significant financial hardship on their prisoner population.

We are collating example of best practice around payment for part time work from establishments that already have plans in place.

Queries relating to the central pay policy can be sent to operational\_policy1@justice.gov.uk .

# Mandatory Drug Testing

**Q. Is the expectation for MDT to restart at Stage 1?**

A. When prisons reach Stage 2 of their EDM there is an expectation that all forms of testing should begin again but this is down to the governors’ discretion and this is the same in Stage 1. Link to EDM – open in Firefox - [EDM-14-Drug-Testing-August-21-13.08.21.docx](http://pogp.hmppsintranet.org.uk/wp-content/uploads/2021/08/EDM-14-Drug-Testing-August-21-13.08.21.docx)

**Q. Can there be a gradual reintroduction?**

A. The expectation is that all forms of testing should be carried out and that the role should be resourced accordingly.

In the long-term, MDT will be reviewed.

# Communal Worship

**Q. Should every prisoner be offered weekly face to face pastoral services during Stage 1?**

A. This expectation outlined in the PSI is that all prisoners can access one hour of face to face corporate worship and while prison rules are temporarily suspended, it is considered reasonable that it is offered at Stage 1.

**Q. Will there be changes to the rules on face to face pastoral services once the temporary suspension on prison rules is lifted?**

A. This requirement will not be altered when the temporary suspension on prison rules ends.

**Q. Are there any alternatives we could consider that would not be in breach of the policy, such as via a live TV broadcast which may be beneficial to those who don’t want to mix**? **Could we alternate between face to face and broadcasted services?**

A. Virtual services are an excellent additional provision, but they cannot be used to replace the one hour of face to face services.

**Q. Can we run two services back to back to address concerns about safety and security due to attendance numbers?**

A. Corporate worships means there needs to be some meeting of the community of that faith.

It is acceptable to run back to back services or services simultaneously in two different locations if the size of group worship is a genuine security risk or there is a cohort of vulnerable prisoners who are particularly at risk.

However, we cannot expect Chaplains to run numerous different services in order to avoid any mixing of cohorts because the burden is too great. We also need to be mindful of services which have to happen at a set time.

Before COVID, the vast majority of corporate worship services were well ordered and without incident, even when large numbers attended. Under Article 9 of the ECHR, restrictions can only be placed on a prisoners’ right to religion where this is necessary and proportionate.

If you feel there was a particular problem in your establishment pre-COVID please email paul.archer1@justice.gov.uk with further details.

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# Compartmentalisation

**Q. What is the Stage 1 expectation for reception arrivals from court?**

A. All new receptions will need to be placed in an RCU as per the current compartmentalisation guidance which is v6. This is being reviewed and v7 will be published once the review is complete.

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# Face Masks

**Q. What is the current policy position for face masks and fluid resistant surgical masks in Stage 1?**

A. We have worked with the public health authorities to come up with a safe operating model for FRSM wearing in Stage 1. Prisons are required to list an inventory of local two metre close contact tasks and use FRSM for these tasks. Staff and prisoners will need to be told what these tasks are.

FRSM, aprons and gloves should continue to be worn in all tasks where the prisoner has been identified as symptomatic/pending results/positive COVID test.

**Q. Can a governor risk assess to retain or increase the use of fluid resistant surgical masks if they wish?**

A. As part of local risk assessments, governors have the flexibility to increase PPE where necessary to manage potential COVID risks.

**Q. Can private contractors mandate face protection in their workshops?**

A. Companies such as DHL have a worldwide COVID policy in place. As an employer, DHL can mandate the use of measure to their staff in the same way we do. The Health and Safety Act provides the employer the ‘authority’ to direct measures to keep their staff safe and while the workplace may be within the prison, the responsibility for the employee in this case sits with DHL.

# Trade Union Engagement

**Q. When do I engage with union representatives who may not be on site such as NTUS?**

A. It is good practice to send plans early for them to see or comment on as soon as you can. For formal endorsement, you should give a minimum of five days for consideration. All engagement with unions should be done before you submit your Stage 1 plans to your PGD.

You can find out more about NRUS consultation [on the intranet](https://hmppsintranet.org.uk/ersd-guidance/stage-1/)