**Advice on COVID document retention within HMPPS business areas**

The main focus of HMPPS’s response to COVID-19 risk has been to protect HMPPS staff and those in our care by implementing reasonable steps to minimise the spread of infection. This has involved the development and promulgation of a variety of COVID-19 related policies, guidance documents and safe operating procedures. These documents have been produced by specialists from the Operational field and various professionals including Health and Safety, UK Health Security Agency and HR for implementation within HMPPS business areas. All this work has been developed in extremely demanding circumstances, with decisions often made at pace due to the unpredictable nature of the pandemic as well as the uncertainty and revisions to scientific/medical advice.

It has been recognised by various sources that the work undertaken by HMPPS has had a positive impact on operational delivery and significantly contributed to the overall stability within prisons and wider business areas. Throughout this time however it has been inevitable that our COVID response would be challenged from a variety of sources including:

* Government led Public Inquiries;
* Individuals bringing Civil Litigation Claims;
* Coroners Inquests;
* the Health and Safety Executive (HSE);
* the Police;
* Parliamentary and Ministerial questions;
* Freedom of Information requests;
* and also via various Media outlets.

Some of these challenges are already being managed and others may be brought concurrently and potentially impact on one another. There is also a risk that if we do not collate information in a timely manner we will lose our corporate memory. A number of specific prison and central HQ COVID teams have been developed throughout the pandemic. Many staff have been part of these teams within the organisation and have been key within a variety of roles. The length of the COVID response has resulted in staff moving to other roles or leaving the organisation. It is therefore essential that all areas of the business responds with consistency and are able to quickly provide supporting documentation. All those responsible for specific interventions and decisions during the pandemic should be identified, including those who have already left or are about to leave. Their emails and personal files must be accessible and retained.

**What constitutes information?**

* Any electronically produced COVID related documents i.e. any relevant MS Office or equivalent files;
* E-mails;
* Meeting minutes;
* Photographs;
* Electronic records stored on computer systems i.e. NOMIS, Mercury, MyDetail etc.
* Paper documents – Use of force, PER forms etc.
* Published internet or intranet articles, documents and guidance;
* Text and WhatsApp messages;

The following provides some suggested areas to consider when securing COVID related documentation. These may not be applicable to all nor is the list exhaustive:

**HMPPS HQ – particularly Gold and Silver command as well as those developing policies/procedures and providing advice**

Note it is the responsibility of the team who created the document to ensure it is kept safe along with an supporting advice and rationale. This should include

* Any COVID related policies and procedures developed (all versions must be identified, including drafts that were not published);
* Any supporting advice which influenced the development of the policy/procedure, along with any changes in advice which resulted in an amended version being published;
* Evidence of any consultations with other parties, organisations or Trade Unions;
* Evidence of how legislation was interpreted and how knowledge of changing medical advice was kept up to date, understood and implemented within policy and advice;
* Procurement and distribution of PPE & Hygiene Products – including any problems and mitigation;
* Central development of any training, how this was developed and delivered elsewhere;
* Any specific communications and promotional campaigns;
* Logs and documentation of heatmap panels;
* Central risk assessments and rationale for change;
* Relevant meeting minutes and action plans.

**Governors and senior management with responsibilities for practical implementation and management of COVID risk within their areas of responsibility**

Some of the following will be recorded on specialist systems. It is therefore essential that Governors seek assurance that these records have been maintained and are up to date.

* Local decision logs and influencing material;
* The routine COVID returns;
* Staff training records in relation to the use of PPE, hygiene procedures (IPC), COVID inspections, monitoring reports and application of SOPs;
* Records of OCT meetings and any specialist advice provided by various professionals during the management of COVID;
* Staff detailing records throughout the pandemic including bed watches and escorts;
* RCU, compartmentalisation and cohorting arrangements including dates, rationale for decisions and changes;
* Any internal comms which were used to raise awareness amongst staff and those in our care;
* Any records that provided assurance of SOPs being implemented effectively, along with any evidence of action being taken when issues were found;
* Minutes of any senior management meetings focusing on COVID;
* Local operating procedures (LOPs), EDM assurances, Stage progression returns and COVID workplace risk assessments;
* Evidence of communications with local hospitals and trusts in relation to bed watches and emergency response procedures;
* Copies of PER forms and escort logs;
* Any planned Use of Force (COVID) incidents;
* Witness statements.

**Where to store information**

For HQ staff with access to MSTeams, it is advised that dedicated functional COVID team channels are created. This way any of the above documentation can be uploaded securely into one location. Where this isn’t possible restricted access shared drive should be used.

As not all prisons have access to MSTeams it may be more appropriate to store prison data on restricted access shared drives.

Were applicable data has been stored on personal drives there is risk of losing this information or key personnel not being aware of its existence.

The following embedded document advises on naming conventions that can be used to assist the prompt future retrieval of information.



**As all prisons go through the IT refresh, it is important that Governors ensure that migration teams are alerted to the names and locations of stored COVID information. Checks should be carried out after migration to ensure all data has been successfully transferred.**

**Some types of anticipated challenges**

It is essential that all types of challenges are dealt with in a coordinated and consistent manner. Making assumptions on why something was decided or produced will create contradiction and significant risk. Those with responsibility for producing official documents as well as those responsible for their implementation should be the ones who provide rationale and context. Dedicated legal professionals have been appointed to cover each of the identified challenges, their regular dialogue will provide consistency in legal advice. Any support required can be coordinated by Regional Litigation Managers, leigh.perry-quinn@justice.gov.uk or ian.oakes@justice.gov.uk

***Litigation cases***

It is likely that litigation claims will be brought against HMPPS in relation to a wide range of COVID-19 aspects (such as personal injury claims, employment tribunals and judicial reviews). Robust policies and procedures have been continually produced and revised throughout the pandemic for implementation within the operational field. The way in which these have been developed, introduced and enforced are likely to be areas of challenge by lawyers representing clients. The access to some of the information above will help HMPPS and our Legal Advisors assess risk and make decisions on case directions.

***Public Inquiry***

The Government has announced a Public Inquiry into the management of COVID and the MoJ has been informed of inclusion. As the terms of reference have not yet been drafted, it is unclear what level of information will be required nor which key individuals these will be directed at. A central team within the MoJ is currently being introduced and dedicated legal teams are being appointed. Specific advice on Inquiry documentation will be circulated once more information is known. It should be noted however that although certain information may not be relevant or applicable to the Inquiry, this may be important to other types of challenges. Likewise, any documentation disclosed as part of the Inquiry may have an impact or strong influence on other types of challenges, particularly litigation.

**Coroners Inquests**

These are likely to focus towards the practical application of procedures within the working environment and what happened in practise.

**HSE and/or Police**

These are likely to focus on legislative compliance, its practical application, assessment of risk and supporting documentation and what reasonable steps we introduced for the safety of those within our environment. Such focus could potentially be at the organisational level or specifically at a local prison.