**Gold Brief – 14.01.2022 Update to Staff Testing in Prisons:**

**Introduction of Daily Staff Testing and Mandatory Staff Testing implications for Non- Directly Employed Staff.**

**Purpose**

The purpose of this briefing is to provide updates to Staff Testing in Prisons. Primarily this briefing confirms the details of the mandatory requirement for all HMPPS directly employed (DE) staff to undertake **daily** testing (whenever working in the prison). This briefing introduces the testing requirements for non-directly employed staff (NDE Staff), and requirements for all others entering a prison, under the application of Prison Rule 73. It also covers additional accepted evidence for mandatory testing assurance and a reminder on the test kit distribution process.

**Daily Testing for all Directly Employed HMPPS Staff**

This testing is being introduced to increase the identification of a positive case at the earliest opportunity and therefore, limit the risk of transmission into the prison. Daily mandatory testing will be subjected to a two week roll out period, with all sites expected to be live and reporting by 02.02.2022, however prisons will be expected to implement this as soon as possible. ‘Daily’ means a test will be undertaken on any day working in a prison establishment or youth custody site and this should be completed prior to commencing work inside the prison, be that at home or at the prison testing facilities (subject to the local model adapted). If using prison testing facilities, this test is not expected to take place before an allocated shift start time.

Mandatory testing will continue to be subject to fortnightly review. The introduction of daily mandatory testing is a temporary change following government guidance and will also be kept under review to determine whether the risk presented continues to require this additional control.

For directly employed HMPPS staff- Testing at the beginning of the working day or shift overrides the established testing rhythm, made up of 2 LFD and 1 PCR test weekly. Now, an LFD test is required at the beginning of every day/shift and the weekly PCR test remains as a mandatory requirement. Self-collect kits can now be used on site, this will cover staff working on night and any other irregular shift who cannot access an ATS during the day.

In some cases, Governors will have already made significant changes to facilitate mandatory staff testing. They may have re-deployed staff to complete testing or may have set up multiple Asymptomatic Testing Sites (ATS) within the prison. These resources should now be extended to support this daily testing wherever required. All information and guidance on Staff Testing, including test kit distribution and infection prevention controls, remains relevant.

**Test kit stock**

For this extension to daily testing, only self-collect test kits have been allocated, but can be used by and in prisons for this purpose. This means that throughout this exceptional period of daily testing, prisons should not use the ATS LFDs for daily staff testing. However, Self-Collect Test kits can be used at the ATS. A note on stock control and emergency test kit orders will be issued shortly.

For daily testing purposes only: the self-collect test kits on site can be split and issued to individuals for testing at the ATS as long as each individual has access to the Instructions for use (either photocopy for single use or laminate)

Test kits issued for use at home MUST be properly recorded and one box of 7 kits must be issued to one person.

There have been reports that some establishments have been leaving self-collect testing kits in unsecure areas for staff to collect to use at home with no control in place. This provides no assurance on who is taking the tests. Establishments are reminded that the Staff Testing Manual and clinical SOP provide clear guidance on the required process to record the distribution of self-test kits through a collection point using covid safe procedures.

**Testing**

There may be individuals who are medically exempt from testing. If this is the case, they should provide evidence from a medical professional.

**LFD testing:** Throughout this time of increased testing, LFD testing should be completed using the allocated self-collect test kits at the member of staff’s home, or by using the self-collect kits at the prison’s ATS at the beginning of the shift/day’s work. If the test is taken on site, testing teams can support in a bulk registration of LFD tests using the Record Keeping Spreadsheet in the usual way.

Staff can choose to take and register their test at home, and will be supported in doing so, but should note that it will not be possible to grant overtime in either PP or TOIL if they choose to do so. They are also required to provide evidence to support assurance checks as outlined in ‘Additional Accepted Evidence for Mandatory Testing Assurance ‘below. Staff should be prepared to provide evidence through the same process even when working outside of their own establishment, for example when working on an external bed-watch.

When conducting LFD tests on site, wherever possible, staff should not commence work until a negative LFD test result is provided (between 15-30 minutes from swabbing). A waiting area permitting social distancing should be provided to staff whilst they wait for the result.

**PCR testing:** Staff will also undertake a weekly PCR test as per current processes.

**Mandatory Staff Testing for Non-Directly Employed Staff and others entering Prisons**

From 17.01.21, all those entering a prison, Directly Employed or Non-Directly Employed, will be required to test with an LFD test at the beginning of their working day (either prior to or when attending the prison for work.) They must be offered the same access to testing as Directly Employed staff, detailed above.

**Acceptance of Risk for non-compliance with testing for Non – Directly Employed Staff and others**

The request for prisons to return to Stage 2, and further to Stage 3 in December 2021, outlined the suspension of all non-essential movement through the prison gates. However, non-directly employed staff, contractors and others working in prisons will still be coming into establishments for essential requirements and Governors/Directors still have some discretion on their continued entry. Their requirement to engage with testing programs or demonstrate a recent negative result as part of the 10% assurance check is to protect all the people within our establishments the same as HMPPS staff. However, as these staff members or ad hoc visitors to the site are not managed directly through the prison, line managers may not be on hand to assist with managing staff compliance or exemption from testing and these staff members are covered by the HR policies of their own employer. Nevertheless, under Prison Rule 73, Governors may (with the delegated authority of the Secretary of State) prohibit or restrict entry to any persons presenting a risk to the prison by not complying with this public health requirement to engage in testing, against the interest of all others living and working in the prison. This cannot legally be applied to Independent Monitoring Board Members or legal advisors or justices of the peace (though they should also be encouraged to engage in the testing requirement).

Some acceptance of risk will be expected by the Governor / Director when permitting the entry to non-directly employed staff and contractors etc who have not agreed to test balanced with the critical reason for the entry of the person into the prison (this is not unlike acceptance of risk with vetting). There may be an urgent requirement to admit some entry to the prison without requesting them to test (e.g. An ambulance crew or fire service crew); equally the risk presented by where the person is working/area of the prison they are accessing, duration of the time in the prison, other control measures/mitigations in place etc may allow the Governor not to require testing. Discretion therefore should be exercised however it is expected that those entering and working alongside our staff and prisoners do undertake testing. A test should be provided if the person has not had prior access to one. Consideration should be given to the escalation of cases who refuse to test on multiple occasions, to their relevant line manager or employer prior to prohibiting entry in some instances as would be expected for directly employed staff, to allow any issues to be addressed.

The principles outlined under ‘Additional Accepted Evidence for Mandatory Testing Assurance’ will apply to all staff. Consideration should be given that staff who visit multiple sites in one day, will only be expected to test once a day and evidence this in the various sites, if asked, rather than undertake multiple tests.

All staff should continue to take responsibility for their own health and safety in relation to Covid-19 and comply with all measures implemented to help ensure the safety of those around them. A requirement to test supported by guidance and local risk assessments is a reasonable instruction to maintain covid-19 secure workspaces and protect others.

Governors should refer to existing policy lines on mandatory testing when faced with non-compliance, refusal to test, or queries about mandatory staff testing from directly employed staff.



 Any additional queries should be directed to COVID19.Regimes&OpsGuidance1@justice.gov.uk

**Repeat Testing and Exemptions**

All staff should be aware of the below rules for where testing exemptions no longer apply.

* For **routine testing**, individuals who have had a positive test in last 90 days can undertake LFD tests but should not undertake PCRs.
* For **contacts of a positive Covid19 case** (i.e. those who are undertaking DCT, DTCC or RMT Wales) who have tested positive in the last 90 days- should not test using PCR tests through the 90-day period but can test using LFDs. If any LFD is positive, they should isolate.
* For those **who have tested positive,** LFD tests can be used initially on days 5-10 in order to leave isolation. (See ‘Staff Testing in Prisons to clarify- Change Outline 14.01.22 v0.1’)

**Actions to be taken on results**

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| **Result** | **Response** |
| Void | The individual should repeat the test |
| Negative | Those who received negative results can attend work as planned, but they must continue to practice any covid safe measures in place at the time |
| Positive | If an LFD result is POSITIVE the individual must isolate in line with Government guidelines. If any PCR result is POSITIVE the individual must isolate in line with Government guidelines.All Positive cases remain under a legal duty to self-isolate regardless of vaccination status or age.  |

**Additional Accepted Evidence for Mandatory Testing Assurance**

Recent updates outlining the move to mandatory testing contained instructions for prisons and approved premises in gaining assurance that self-collect testing was being undertaken. This outlined how staff should be asked to take a photograph of a completed test so that they can show the time/date stamp of the photo if asked during an assurance check.

Guiding Principles on Assurance of tests taken at home:

* Sites should conduct 10% sample checks of this evidence on a weekly basis to gain assurance that home testing is being conducted as reported.
* Staff should continue to register all LFD tests taken at home
* Staff will not be asked to email their photographic evidence to anywhere other than their own secure work email account

We have been advised that some areas are experiencing difficulty in receiving photos and so an **additional option** can now be used to confirm testing has been undertaken by an individual. This method has been assessed as appropriate and proportionate. **Individuals will now have the option of forwarding the email received from NHS Test and Trace confirming that the test** [**has been registered**](https://www.gov.uk/report-covid19-result). The following principles must apply:

* As with the photos, staff should send these only to their own personal work email address
* They will not be asked to forward this on to anyone else or any functional mailbox
* If requested to show this on a 10% assurance check, they can show this email on the screen to the manager conducting the check

Whichever method is used to confirm the test has been carried out, the following will also apply:

* Assurance checks should be carried out weekly
* This assurance check should cover 10% of staff that are using the home testing route
* The site must take steps to ensure that the checks undertaken are randomised to ensure that no individuals are disproportionately sampled
* The assurance check simply needs to record the person’s name and whether or not they are compliant (i.e. have been able to show a time stamped photo or email confirmation of test registration)
* The checks must be recorded and stored securely
* These assurance checks should be recorded, retained and maintained locally to support assurance to regional or national colleagues upon request. They will not be asked to provide any names of staff
* Sites should not be asking for any information/evidence to be sent to functional mailboxes or managers mailboxes
* Staff should email the evidence (photo or registration email) to their official work personal email accounts so that they have these on hand when required for assurance checks. They should retain these for 10 days to allow the checks to take place after which they can be deleted