Gold briefing: Prison Regime Response to Rising Infection Levels

The growing community infection levels have seen the country move to Tier 3 or Tier 4, with many at the highest level. This is a response to the surge in infections linked to the new variant, the anticipated rise in transmission from social mixing over the Christmas period and the increasing pressure on our NHS with hospitals reaching critical occupancy rates. This rising prevalence is also having a significant impact on prisons with continued outbreaks, staff and service user deaths and staff absences. The vast majority of our prisons are now in Tier 4 areas and prisons in Wales in Alert Level 4. Even in prisons not experiencing outbreaks at present the rate of community infection suggests that without action we will soon see this change. In accordance with our National Framework our priority is a safe environment for staff and those in our care. We will continue with our data and evidence-based approach to delivering this, informed by public health advice.

HMPPS is therefore **temporarily directing all adult prisons located in Tier 4 / Alert Level 4 areas to move into regime Stage 4 with effect from Saturday 2 January 2021 for an anticipated four-week period.** Where there are exceptional local circumstances that mean this is not appropriate, this must be approved by Gold (see below). This is an exceptional and temporary response, required due to the critically high infection levels identified at this time. It is accepted that to safely transition to Stage 4 this may take a few days, but all prisons should aim to be in Stage 4 by the beginning of next week. Prisons in Tier 3 should continue to operate to their current regime stage but may continue to revert to Stage 4 regime level if their local risk requires this action through the normal approval route. This is an operational command decision that applies consistently to adult prisons across England and Wales, and across public and private sectors.

YCS sites will continue to operate at their current regime levels in recognition of the need to maintain the well-being, education and critical support services for children, where this can be safely provided. Considering the impact on children of heavier regime restrictions and the lower risk of serious illness and death than the adult estate and we with the controls in place presently to protect staff groups Stage 4 restrictions for children in custody cannot be justified at this time. The continued delivery of education also provides some parity to the community. This will be kept under continued review in conjunction with PHE with a close focus on maintaining the controls we have in place to operate safely.

Tier 4 areas referred to throughout this document should be read to apply also to Alert Level 4 in Wales unless stated otherwise.

The remainder of this briefing outlines regime requirements for adult prisons reverting to Stage 4.

Stage 4 Regime

Governors of prisons in Tier 4 areas will temporarily revert back to their Exceptional Regime Management Plans (ERMP) deployed in March 2020 but through learning and further development of our National Framework Governors must check that these are in accordance with the lockdown regime below. We know that heavier regime restrictions can have an impact on the mental and physical wellbeing of prisoners in our custody. Therefore, in reverting to Stage 4, establishments must be focused on safety and well-being.

Establishments must deliver the following under a refreshed ERMP:

Priority regime element (as per ERMP)	December 2020 expectation
Enablement of **healthcare services** – access to medication and ongoing priority treatments	As per ERMP however establishments must also continue to deliver Health EDMs. Establishments must also continue to enable routine testing for staff and prisoners and must also enable vaccinations for identified and prioritised individuals.
Enablement of **family contact** – access to telephones and in-cell technology for keeping in contact	As per ERMP however establishments must also prioritise access to Purple Visits and enhance delivery where technology and staffing resources allow. Social visits remain suspended but establishments can continue to offer exceptional social visits under compassionate grounds (all visits to children in YCS sites will continue to be provided).
Enablement of **welfare services** – prioritisation of ACCT checks and support for complex cases, key worker contact	As per the ERMP however establishments must ensure an enhanced model of welfare support, ensuring daily interactions with every prisoner, continuation of services that can be facilitated in cell including in-cell activities and prioritisation of key worker support, notably for the highest risk/complex cases.
Continuation of **core residential services** – meals, domestics and time in the open air	As per the ERMP however establishments can expand the fitness offer beyond their original ERMP where suitable outside space exists. Establishments must suspend indoor gym access (including for staff) but can provide structured socially distanced activities in exercise yards or other suitable spaces. Structured activities for prisoners to follow in-cell and via education provider delivery should continue, including access to library books. Establishments must continue to deliver essential work only such as prison kitchens, laundries, canteen warehouses and those workshops included on the PSPI prioritisation list. Establishments wanting to operate workshops or activities beyond this can only do so via Gold approval. Establishments must continue to provide access to legal visits, either face to face or remotely, throughout the period of restrictions.

Specific regime guidance:

Open prisons within Tier 4 areas will revert to Stage 4 regime. However, we recognise that the risk profile and facilities are significantly different in open prisons, meaning that sites cannot impose restrictions in the same way. Therefore, Governors of open prisons can determine the local regime model they maintain at Stage 4 in order to limit close contact between residents indoors and between different staff groups. Essential work in the prison and the community should continue as must enablement of key services including health (as above). Fitness activity should take place in outdoor areas only where possible. Governors must similarly ensure that the wellbeing of residents is supported with regular welfare checks. Social visits remain suspended but arrangements for contact with families via telephone, video call and visits in exceptional compassionate circumstances must continue.

ROTL (release on temporary licence) must be suspended in all Tier 4 area prisons. As per measures in place during the November national restrictions; "essential workers" in employment in the community can continue to attend work. Establishments must determine whether specific placements that are permissible under the "essential worker" definition should continue and may deem that individual placements create an additional risk and therefore suspend them temporarily.

Compassionate ROTL remains an option for the release of suitable prisoners where their vulnerability and risk supports this. Governors should continue to consider whether this is appropriate for eligible cases.

Communal worship must be suspended though pastoral services must be maintained. We previously asked establishments to prioritise provision of faith services over the festive period in guidance issued following cessation of national restrictions in November. Based on Public Health England (PHE) advice communal worship cannot continue though individuals may be provided access to faith spaces at times of crisis or heightened risk. Movements off and between wings and areas must be minimised for all other parts of the regime this includes gymnasium, education and library access.

Prison movements and inter-prison transfers will not automatically change. Movements between regions that are essential for capacity management and will continue in a COVID safe way, this includes movements into and out of Tier 4 areas. We must though act to minimise these wherever possible and Gold still oversees movements. All prisons in Tier 3 and 4 locations will need to reverse cohort every prisoner arriving for a period of 14 days (or less with reception testing in place). This includes those prisoners received on inter prison transfers. In moving to Stage 4 it is expected that this will allow to redouble our efforts to deliver effective reverse cohorting controls, as well as shielding protection, at this critical time, whilst maintaining spaces for the CJS.

Face masks and face coverings - The HMPPS face mask and covering policy remains unchanged however Governors of establishments in Tier 3 or Tier 4 areas must widen the deployment of face masks and face coverings during this heightened risk period if not already routinely operating in this manner. In maintaining regime elements, the use of face masks and coverings is expected. The FRSM face mask when worn correctly remains a key mitigating factor for the safety of our staff and prisoners.

Cross-site working and staff cohorting - Though keyworker travel to HMPPS workplaces is permitted in Tier 4 areas, all non-essential travel should cease. As such all non-essential cross-site working or non-essential work should cease in Tier 4 areas and be minimised in Tier 3. We cannot eliminate all cross-deployment that is vital to operational delivery such as regional healthcare services or redeployments of staff. Equally we must still continue to operate permitting access to essential

maintenance, testing staff, probation staff and key delivery partners. In all cases we should mitigate these risks as much as possible.

Welfare support- Establishments entering Stage 4 should again focus on providing enhanced welfare support to safeguard the mental and physical health of prisoners who will be confined to cells for longer periods. Every prisoner should have a key worker allocated and staff should have quality interactions or make welfare checks to every prisoner daily. Many establishments have developed informal in-cell activities to alleviate boredom alongside more formal education delivery. Third sector partners can also be engaged in supporting the provision of in cell materials. As per the Key work EDM we should focus on higher risk groups and always consider exceptional arrangements for those at most risk. The risk to self-harm in the women's estate is particularly known and may require some flexibility in delivery whilst staying aligned with our main controls, reducing physical contact.

We have previously issued guidance that the use of Basic under the IEP scheme should be exceptional. Under Stage 4 this is even more of the case and removal of TV would be very hard to justify and would need a very clear defensible decision recorded from the Governor if undertaken.

Governance arrangements - Establishments wishing to deliver any enhancement to their original ERMP that comes under the four regime priority areas above can do so with PGD approval following local engagement including with trade unions. However, any changes or proposals to enhance regime in other areas, not covered by ERMP and regime above must be referred to Gold. This includes, that if a Governor feels that exceptional circumstances warrant their prison operating at Regime Stage 3 despite being located in a Tier 4 area. This request for review must be approved by the PGD and Executive Director before submission to the Gold regime panel. This should be immediately highlighted if there is a case to do this to prevent any unnecessary regime changes to Stage 4 and back again. These would be very exceptional, but prisons would need to demonstrate a sustained low level of infection, high level of control and be supported by community data in the immediate local community (available to Gold).

We have previously operated prisons at Regime Stage 4 despite the community Tier being at a lower level. This remains the case going forwards and we will continue to determine the Regime Stage in a prison separate to the Tier of the community. It is not therefore envisaged that all prisons will need to remain in Stage 4 for the full duration of Tier 4 arrangements in the community. The level of community infection which informs the Tier system remains important but is not the only criteria used to determine the Regime Stage in a prison. The local outbreak status and views of the OCT continue to be critical and through our heat mapping approach we will continue to take into account the full range of relevant local factors within the prison including open cases and vulnerability.

This move to nationally regress regimes is a response to a critical point in seeking to manage the pandemic considering all factors and is therefore an exceptional step. We have used the Tier 4 areas as a proxy to allow us to quickly identify some of the highest risk sites and implement this change.

A formal review of the Stage 4 national regime restriction will be held at the end of January; however, we will keep this under continual review. Over the coming weeks we will use our 'heat-mapping' panel to consider the risks at individual sites, informed by public health advice to further inform any changes to Regime Stages, locally or nationally.

Action:

- Governors must review their regimes in accordance with this guidance and implement an appropriate regime by early next week (unless choosing to make a case for exceptional consideration to not move to Stage 4).
- Governors should ensure that appropriate communications are put in place to inform why we are making this regime change to prisoners, staff, stakeholders and families and be alert to safety and stability concerns in doing so (reporting these back through the command line appropriately).

HMPPS Prison COVID Gold Command
(31 December 2020)