



**The Professional Trades Union for Prison,
Correctional & Secure Psychiatric Workers**

National Chair: Mark Fairhurst
General Secretary: Steve Gillan

Headquarters:
Cronin House
245 Church St.
Edmonton
London N9 9HW
t. 020 8803 0255
f. 020 8803 1761
e. general@poauk.org.uk
w. www.poauk.org.uk

North Regional Office
1 Linden House
Sardinia St.
Leeds
LS10 1BH
t. 01132 428833
f. 01132 429075
e. adminnro@poauk.org.uk

Northern Ireland
Castell House
116 Ballywalter Rd.
Millisle Co Down
BT22 2HS
t. 02891 861928
f. 02891 861839
e. adminni@poauk.org.uk

Scotland
21 Calder Rd.
Edinburgh
Scotland
EH11 3 PF
t. 0131 443 8105
f. 0131 444 0657
e. adminscot@poauk.org.uk

POA Circular 013/2020

Action		Information	
England/Wales	<input checked="" type="checkbox"/>	England/Wales	<input checked="" type="checkbox"/>
Scotland	<input type="checkbox"/>	Scotland	<input checked="" type="checkbox"/>
Northern Ireland	<input type="checkbox"/>	Northern Ireland	<input checked="" type="checkbox"/>
Special Hospitals	<input type="checkbox"/>	Special Hospitals	<input checked="" type="checkbox"/>
Private Sector	<input type="checkbox"/>	Private Sector	<input checked="" type="checkbox"/>
IRC	<input type="checkbox"/>	IRC	<input checked="" type="checkbox"/>

13th February 2020

Dear Colleagues

PAVA ROLL OUT

I wish to update you on the roll out of PAVA in the adult closed male estate and would ask you to take note of the enclosed guidance if you await the roll out of PAVA.

Committees in all establishments should take note of the information about the roll out of Rigid Bar Handcuffs.

The POA have engaged constructively with HMPPS in an attempt to relinquish the criteria in place that guides the PAVA roll out. Please be aware of the following confirmation from HMPPS:

There is no intention to change the approach to roll out for most of the adult male estate, including the need for prisons to be signed off on key work and to have completed a satisfactory readiness assessment. To depart from this criteria would jeopardise the successful roll out by making HMPPS more vulnerable to legal challenge.

HMPPS is satisfied that the risks in High Security prisons are such that mitigating steps are necessary, and that it is legitimate for that to include alternative approaches to PAVA deployment in this part of the estate. Therefore, the PAVA roll out timetable has been revised to bring forward the six High Security prisons as a priority.

In addition, Dedicated Search Team (DST) staff at the High Security prisons are being prioritised for PAVA training, and have been authorised to be issued with PAVA as soon as the local DST have been trained, rather than applying the usual 50% minimum for staff training before PAVA is issued.

There is a further important step HMPPS are taking across the wider adult male closed estate. HMPPS are now setting a minimum weekly delivery expectation in local training plans of 30 staff per week for each site to meet.

The POA will continue to push for a speedy roll out of PAVA throughout the entire estate. Rigid bar cuffs are not subject to any restrictions and can be ordered immediately and issued once staff are trained in their use.

If you feel you need PAVA due to levels of violence and the threat your members face, please ensure you take note of the guidance contained within this circular and work constructively with your SMT to accelerate the roll out in your prison.

For and on behalf of the NEC.

A handwritten signature in black ink, appearing to read 'Mark Fairhurst', with a long horizontal stroke extending to the right.

MARK FAIRHURST
National Chair

ENCLOSURE



The Professional Trades Union for Prison,
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Please take note of the following guidance:

PAVA and Rigid Bar Handcuffs Roll out

The POA have never agreed any criteria or stipulations that have delayed the roll out of PAVA.

The POA have insisted that once C&R instructors are trained in PAVA, SPEAR and Rigid Bar Cuffs they should then train local staff in these new techniques and all aspects should then be rolled out immediately and issued to staff.

The POA wish PAVA to be rolled out to the adult closed male estate immediately and without delay and are actively working to ensure all operational staff are issued with PAVA throughout the entire prison estate. This would include Prisons that are presently training staff in the use of PAVA but cannot issue it until 50% of staff have been trained in its use. The POA do not agree with the 50% target.

In relation to rigid bar handcuffs all local committees should ensure that they are ordered and rolled out once staff have been trained if they have not already done so. There have been no conditions placed on the issue of RBH.



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Protocol in relation to Health and Safety concerns

In Circular 121/2019 we announced the agreement of a legally binding Protocol in relation to Health and Safety concerns. It provides a route for ensuring that we can provide you with health and safety advice without it resulting in either injunction or contempt proceedings. It also provides a mechanism which the SMT must follow to seek to resolve any health and safety issue which arises.

It is therefore important that we are all familiar with it so that it can operate as intended.

To that end local branch committees are invited to hold a branch meeting within the next 14 days in order to inform branch members of the contents of the protocol and how it can protect their health and safety rights. POA members are asked to become familiar with it whether they can attend that branch meeting or not.

In particular the protocol sets out guidance as to what you as an individual should do if you decide that your workplace is not a safe place for you to inhabit for any reason, and whether or not any danger is perceived to be serious and imminent. In non-emergency situations you should immediately inform your line manager and ensure that the agreed protocol is observed.

Your local POA committee will then engage with your SMT to resolve your individual concerns as per the agreed protocol. If those individual concerns suggest that it would be sensible to do so, local committees may wish to review the Safe systems of Work and Risk Assessments in order to raise with the SMT any control measures which could be put in place to make the workplace safer.

Please do not hesitate to contact your area NEC representative or myself if you wish a member of the executive to visit your branch in order to address the membership or offer advice and guidance in assuring the safety of frontline staff is prioritised.

Thank you in anticipation of your continued support.

Protocol in relation to Health and Safety concerns

Her Majesty's Prison and Probation Service ('HMPPS') and the Prison Officers' Association ('POA') agree to work to the following Protocol when there are health and safety concerns.

1. Management role

- 1.1. It is for HMPPS management to determine what regime should apply in each establishment, taking into account any health and safety concerns, where appropriate in consultation with the local POA branch committee.
- 1.2. If a prison officer has concerns about health and safety whilst on duty, the first steps to be taken should be in accordance with HMPPS procedures, which set out the actions officers should take.
- 1.3. If an officer is unsure as to how to proceed when they are concerned about health and safety, they should in the first instance consult with their line manager as to what they should do.

2. Officers and the POA

2.1. HMPPS and the POA agree that, in circumstances where any prison officer or group of prison officers seek advice from the POA about their rights and obligations in relation to concerns about health and safety which the officer(s) believe make it unsafe for them to enter a prison or particular part of a prison and/or to undertake any particular activity or set of activities within a prison, POA officers and/or officials may provide the following advice and, provided they go no further, HMPPS will not regard the provision of such advice as an inducement to take industrial action or to commit a breach of discipline for the purposes of section 127 of the Criminal Justice and Public Order Act 1994:

- (a) Officers have a right to a reasonably safe place and system of work. The Prison Service and local management at each prison have a duty to take reasonable care for officers' health and safety and not to place an officer at unreasonable risk of harm.

- (b) Officers also have a duty to take reasonable care for their own safety and that of others, so officers should not do anything that would place themselves or others at unreasonable risk of harm. It is for the officer to exercise their own judgment about what steps to take to comply with the duty and the POA cannot advise you as to any particular course of action. In reaching that judgment, officers must make their own individual decision, and not seek to induce any other officer to withhold any of their services.
- (c) Officers are entitled to seek advice from the POA and to ask your POA branch committee (or other appropriate POA official) to raise any health and safety concerns that they have with management. HMPPS has agreed that if an officer asks the local POA branch committee (or other appropriate POA official) to raise urgent health and safety concerns on their behalf, local prison managers will meet with the committee (or other appropriate official) as soon as reasonably practicable and will endeavour in good faith to agree a resolution to the issues as quickly as possible.
- (d) It is unlawful for the POA or any other person to induce an officer not to perform any services as a Prison Officer or to commit a breach of discipline. This includes inducing officers to refuse to follow the reasonable instructions of local managers about the regime applying in the relevant establishment, even if the officer[s] and/or the local POA branch disagree with local management about what regime should apply. Any refusal to follow the reasonable instructions of local managers would also lead to HMPPS considering whether disciplinary action is appropriate.
- (e) If an officer reasonably believe that there is serious and imminent danger to themselves or others, the officer is entitled to take appropriate steps to protect themselves or others from that danger without being subjected to any detriment or dismissed for doing so. In such circumstances, it is for the officer to make an assessment of what steps are appropriate and the POA cannot advise the officer as to any particular course of action.

3. Procedure for the resolution of urgent health and safety concerns

3.1. HMPPS and POA further agree that the POA is entitled to make representations to management in relation to any concerns that its members may have about their health and safety. HMPPS agrees that, if the POA branch committee at a prison (or other

POA official with authority to discuss the issues) notifies local prison management that they wish to raise urgent health and safety concerns on behalf of any member or members, local management will take the following steps, which the parties intend shall be legally enforceable for the purposes of section 179(1)(b) of the Trade Union and Labour Relations (Consolidation) Act 1992:

- (a) Local management will arrange to meet with members of the POA branch committee (and/or other POA official(s) with authority to discuss the issues) as soon as reasonably practicable;
- (b) Local management will endeavour in good faith to agree a resolution of the concerns with the POA branch committee (or other official(s)) and will in any event take account of those concerns when deciding what regime should apply, what instructions should be given to officers and/or any other relevant actions or steps;
- (c) Local management will afford reasonable facilities for the POA branch committee (or other official(s)) to communicate with its members in order to seek their views about any proposed resolution of the matters in question.

4. General

4.1. For the avoidance of doubt, relevant HMPPS policies and procedures in relation to health and safety, and in particular, advice given and decisions made about what regime should apply, must take into account the obligations of HMPPS in relation to the health and safety of prison officers, other staff and prisoners.

4.2. Also for the avoidance of doubt, if the POA adheres to the guidelines set out in paragraph 2 above, it is acknowledged by HMPPS that the POA's actions would not breach section 127 of the Criminal Justice and Public Order Act 1994.