

Prison Rules and Adjudications

Prison Rules apply to every prison but the governor may have local rules as well.

When you break Prison Rules it is called an offence. These offences are listed in Prison Rule 51 and Young Offender Institution Rule 55.

You can be charged for an offence and given a punishment. This happens through the adjudications system which we describe in this information sheet.

The Prison Rules can be difficult to understand. More information can be found in *Prisoner discipline procedures (adjudications) Policy Framework*. There should be a copy this in the library.

Prison offences

If you do any of the things below, it means you have broken Prison Rules and committed an offence.

Behaving in a way that could offend, threaten or hurt someone else

- If you offend or hit anyone or get into a fight with anyone
- If you offend anyone or hit them because of their race
- If you say anything or do anything that could upset, threaten or frighten anyone else. And if you do this because of someone's race
- If you keep someone away from other people, if they do not want this. For example, if you lock them up somewhere
- If you behave in a way that could put someone else in danger or damage their health
- If you are rude to anyone who works at the prison or young offender institution or anyone who is visiting there

Stopping prison staff from doing their jobs

- If you stop anyone who works in the prison from getting where they need to go in the prison. For example by building a barricade to stop someone coming into your cell
- If you stop anyone who works at the prison from doing their job

Escaping from prison

- If you escape from prison or custody. For example, if you run away from an escort.
- If you do not come back when you have been allowed out of prison for a short time. This is called absconding

Drugs and alcohol

- If you are ordered to have your urine tested and it shows you have taken any drug you are not allowed to take, even if you have taken it while you were out of prison for a short time
- If you choose to drink alcohol or are found to be drunk after drinking alcohol

Sexual/indecent offences

- If you sexually assault anyone
- If you expose yourself or any other indecent act
- If you sexually harass anyone

Causing damage to the prison or young offender institution

- If you set fire to any part of the building or anything in it
- If you damage or destroy any part of the building or anything in it that is not yours
- If you put up anything on the walls or write or draw anything that could upset, threaten or frighten anyone

Things you can and cannot have

- If you have something you should not have. For example, a mobile phone, a knife or drugs.
- If you have more of something than you are allowed to have
- If you accept something you are not allowed to have from someone who visits you
- If you sell or give something to a person that you are not allowed to have
- If you sell or give a person something only you can have
- If you take or steal anything that is not yours from another person or from the prison

Being in a place in the prison you should not be

- If you leave a place you should be in
- If you go to a place you should not go to

Not doing what prison staff tell you to do

- If you are asked to do work and you do not do it properly or at all
- If you do not follow an order or a rule that you should follow
- If you break any of the prison rules or try to help someone else to

Breaking the rules while you are out of prison for a short time

- If you break the rules if you are let out of prison for a short time, for example when you are Released on Temporary Licence (ROTL)

More information about offences, including how it should be written on the nicking sheet, can be found in Section 7 of *Prisoner discipline procedures (adjudications) Policy Framework*.

What happens if staff think I have broken prison rules?

1. You will be put on report. This means a prison officer will tell you that they think you have committed an offence and what offence they think you have committed. They should tell you straight away, or within **48** hours.

They will give you two forms:

- **DIS 1 form – also called a ‘nicking sheet’.** This tells you about the offence the prison officer thinks you have committed. The offence you are accused of is also called a charge.

You must say if you do not understand what is written on this form.

- **DIS 2 form.** This tells you what will happen at the hearing.

On this form you can write a statement about what you think happened. Do this on the back of the form. Ask for more paper if you need it

Write the name of any witnesses you want to come to the hearing, if you know who they are at this stage. You can say at the hearing who you want your witnesses to be if you prefer.

2. You must go to a hearing, also called an adjudication. This is where you and prison staff talk about the offence and what you all think happened. The hearing will be run either by the governor or by someone from outside the prison called an independent adjudicator.
3. At the hearing, you have to say whether you are guilty or not guilty of the offence.
4. The governor or the independent adjudicator will decide if you are guilty or not guilty of the offence. They will do this after listening to you and other people who know about what happened.
5. If you are found guilty, you will be given a punishment. If you are found not guilty, nothing more will happen

What happens before the hearing?

- The hearing will usually happen the day after you are put on report (unless it is a Sunday or a Public Holiday).
- You should have at least 2 hours to get ready for the hearing.
- You may have your health checked by a doctor or nurse before the hearing to make sure you are well enough to go to the hearing.
- You may be kept apart from other prisoners until your hearing

What to do before the hearing

Think about what you want to say at the hearing.

Read form DIS2. On this form you can write a statement about what you think happened. Ask for more paper if you need it.

Think about whether anyone else saw what happened. They could be a witness for you at the hearing.

Ask prison staff for all copies of paperwork relating to the charge.

It may be useful for you to look at the *Prisoner discipline procedures (adjudications) Policy Framework*. There should be a copy of it in the prison library. Ask to see a copy of it if you cannot get to the library.

You could ask for the hearing to be put back to a later date if you do not get to see The Policy Framework before your hearing.

If you find it difficult to read or write, or do not understand something then ask a prison officer or your solicitor for help.

The Hearing / Adjudication

- You will have to go to a prison hearing to talk about the offence. Hearings are also called adjudications
- The hearing will usually happen the day after prison staff tells you about the offence they think you have committed.
- The hearing will be run by either a governor or a district judge from outside the prison (called an independent adjudicator).
- You will have a chance to say what you think happened.
- You can also get witnesses to come and talk at the hearing.
- You may be able to get some other people to help you. For example, a solicitor or someone called a McKenzie friend. See page 8 for more information.
- Speak to a prison officer or your solicitor if you do not understand what is happening or need to ask questions.

What will happen at the hearing?

1. The governor will check:
 - if you are well enough to take part.
 - the forms have been completed properly and time limits have been followed.
 - you have got forms DIS1 and DIS2.
 - you understand why you are at the hearing and what will happen.
 - if you have had enough time to get ready for the hearing. For example, to think about what you want to say.
 - if you want any help, like legal advice or an interpreter.
 - if you have written a statement for the hearing.
2. Someone will read out the charge. The charge is the offence the prison staff think you have committed.
3. You will be asked to say whether you are guilty or not guilty of the offence.

If you plead guilty

- The prison officer who put you on report will read out a statement about what happened.
- You then have to say what you think about this. You can also ask questions.
- Say if you do not agree with what the prison officer has said. You can also ask to call witnesses if you do not agree with what the prison officer has said. The governor must consider anything you say you do not agree with.
- The governor may decide that the facts are right and that there is nothing more to consider. If so, they will ask you if you want to make a plea in mitigation. This is where you can tell the governor anything you think would make your offence look less serious.
- A member of prison staff will then read out information about how you have behaved since you came to prison. And about any hearings you have had before. You can then say what you think about the information they have read out.
- The governor will then tell you what your punishment is. Then you will be given a copy of a form that tells you what your punishment is. The form is called DIS7.
- At any point, if the governor thinks your offence is serious enough for you to get extra days, they will ask an independent adjudicator to look at your case.
- You may have to wait up to 28 days to see the independent adjudicator.

If you plead not guilty, or if you are not sure how to plead

- The prison officer who put you on report will read out a statement about what they think happened.
- You can say what you think about this or ask any questions.
- The governor will ask the prison officer some questions. They may also ask to hear from some witnesses.
- Then you will be asked to say what you think about the charge (what prison staff think you have done) and the evidence they have given.
- You can call witnesses to speak in your defence if you want to (unless the governor thinks there is a very good reason why not).
- You, the prison officer and the governor can ask the witnesses questions.
- You will be able to say the main reasons why you think you are not guilty.
- The governor will then tell you the decision they have made. This is called the verdict. The governor must be very sure that you have committed the offence before they find you guilty.
- If you are found guilty, the governor will tell you what your punishment is. The governor will then give you a copy of a form that tells you what your punishment is. The form is called DIS7.
- At any point, if the governor thinks your offence is serious enough for you to get extra days, they will ask an independent adjudicator to look at your case.

Can the hearing take place without me?

A hearing can still go ahead if you refuse to attend, or if the adjudicator does not allow you to attend because they think your behaviour is too disruptive.

You should be given a 'Refusal to attend form' and given the opportunity to give reasons for refusing. This form should be given to the adjudicator.

After the hearing you should be told what the outcome is and should be given the completed DIS7 form.

Other help you can get at the hearing

You may be able to get these types of help at your hearing

- legal advice
- legal representation (a solicitor comes to the hearing to represent you)
- a friend or adviser to come along (this person is called a McKenzie friend). This person can come and take notes for you and give you advice. But they cannot represent you and can only talk if the governor says it is ok. Your McKenzie friend could be someone like the chaplain, a prison officer or another prisoner.

If the hearing is run by a governor

You can get legal advice. This could be by telephone, letter or at a visit with your solicitor.

You cannot get legal representation unless the governor says you can have it. They may let you have it because of things like:

- how serious the offence is and the punishment you could get
- possible questions about the law that may come up
- how much you understand about what is happening
- things that may slow the case down or cause any problems. For example, if you have had problems getting your defence ready because you have been kept apart from other prisoners.

You cannot usually have a McKenzie friend or an advisor at this type of hearing.

But you may be able to have a McKenzie friend or advisor if you do not understand what is happening, if the case is very difficult or the governor thinks it is fair to allow this.

If the hearing is run by an independent adjudicator (a district judge)

- You can always get legal representation (a solicitor comes to represent you).
- The governor or legal services officer can help you with any problems you have getting legal representation.

Punishments

The punishments you could get are included in Prison Rule 55 & 55A and Young Offender Rule 60 & 60A.

The punishment you get depends on how serious the offence is. The prison may get the police involved if they think the offence is serious.

If you commit more than 1 offence you can be punished for each offence. The punishments may run one after the other.

A governor can give you any punishment apart from extra days. An independent adjudicator (a district judge) is the only person who can give you extra days.

The adjudicator should think about the following things when deciding which punishment you should get:

- The circumstances and seriousness of the offence
- The effect on any victims
- The impact any punishment would have on you, including to your health or welfare
- Any risks included in an open ACCT or an ACCT that has been closed in the last 3 months
- Your age
- Your behaviour in custody
- How long until you are released
- The effect of the offence on the order of the prison
- Whether you have pled guilty or not guilty
- If you have made a plea in mitigation (this is where you tell them anything you think would make your offence look less serious).

Suspended punishments

Any punishment other than a caution or payback punishment may be suspended for up to six months. There are two types of condition that can be attached to a suspended punishment:

1. No further offence – that you are not found guilty of a further offence during the period of suspension.
2. Rehabilitative activity - you can be required to undertake a rehabilitative activity during the period of suspension. This can only be given by a governor.

There is more information about rehabilitative activities on page 13

Here is a list of punishments you could get for committing an offence

- You could get a caution.
- Your privileges (like having a TV in your cell) could be taken away from you for up to 42 days. Or up to 21 days for young offenders.
- Up to 84 days' worth of any money you earn could be stopped. Or up to 42 days' for young offenders. But you will get enough money to buy stamps and make phone calls to keep in touch with your family.
- You could be locked in a cell by yourself away from other prisoners for up to 35 days. Or for up to 16 days for young offenders over 18. This is called cellular confinement. You will have a check first by a doctor or nurse to make sure you are well enough to do this.
- You could be stopped from doing work with other prisoners for up to 21 days.
- If you are on remand, your privileges could be taken away.
- You could be taken away from the prison wing or living unit for 28 days. Or for up to 21 days for young offenders.
- You could be given a payback punishment. There is more information about this on the next page.
- You could get extra days in prison. There is more information about this below.

These punishments are for **young offenders only**

- You could be stopped from taking part in activities for up to 21 days.
- You could have to do 2 hours extra work a day for up to 21 days.

Extra days

If the offence is serious enough, you may be given as many as 42 extra days in prison as well as any of the other punishments.

Extra days are not part of your sentence but you will spend the extra time in prison.

Only independent adjudicators (they are district judges) can give you extra days.

If you are on remand, you will serve your extra days only if you are convicted and given a sentence.

You will not be given extra days if you are a life sentence prisoner, an imprisonment for public protection (IPP) prisoner, a civil prisoner, or a foreign national being held in prison while your immigration is sorted out.

Payback punishments

What is a payback punishment?

Payback punishments are unpaid time-limited project(s) in the prison which you can be required to complete following an adjudication.

The payback punishment must achieve one or more of the following aims:

- Teach prisoners/children to take personal responsibility for their actions and work towards being rehabilitated through helping others.
- Make amends for their behaviour by undertaking projects that benefit the prison community.
- Encourage the prisoner's/child's personal development to support them to behave positively in prison and encourage their sense of community and pride in their space.

Payback punishment is available for all offences heard by a governor, but cannot be given by Independent Adjudicators (IAs).

The maximum period of payback punishment that can be imposed is 12 hours.

Who can be given payback punishment?

Children or prisoners of 14 years of age and over are eligible for payback punishment, including prisoners of retirement age

Payback punishment must not be given to an unconvicted prisoner or immigration detainees, as they cannot be required to work.

What should be considered?

Governors must consider your personal circumstances before making a decision to give a payback punishment, including thinking about:

- your mental and physical wellbeing;
- your safety and that of others in the prison;
- neurodiversity and any associated reasonable adjustments;
- any protected characteristics; and
- any other factors of note.

If there is not a project suitable for your circumstances, alternative punishments should be considered. More detail about considerations for different groups are included in the Policy Framework.

What kind of punishments are suitable?

Payback punishments must be relevant to the charge and proportionate to the severity of the offence. For example, if the offence had a detrimental effect on the community, such as causing a noise disturbance, the payback punishment could involve giving back to the prison community.

Payback punishments must not be demeaning, degrading, or humiliating.

The policy gives the following examples of possible payback punishments:

- repairing items (excluding building services such as plumbing, or fabrics of the building such as wall plaster);
- improving physical aspects of the prison environment through rearranging and clearing community or disused spaces;
- short-term projects to improve the grounds such as litter picking; and
- maintaining prisoner notice boards or completing artwork for display around the prison.

Do I need to agree to the payback punishment?

The policy says that a payback punishment should not be forced upon you, and that you should willingly agree to engage for it to be given.

You will be asked to sign a payback punishment compact to show you understand what you have agreed to.

How does payback punishment affect other work and activities I am involved with?

Payback punishment should be arranged for a time which does not conflict with your work, education, or existing rehabilitative commitments.

You may receive a punishment of loss of earnings at the same time, but you must not suffer any indirect financial consequences as a result of any absence at work caused by a payback punishment, such as loss of wages or loss of placement.

For children of compulsory school age, they must ensure that the payback punishment does not interfere with the legal requirement to participate in education or training courses for a minimum of 15 hours per week.

What happens if I don't comply with the punishment?

If you fail to complete or comply with a payback punishment, you can be charged with PR 51(23A)/YOI R 55(26A) ('fails to comply with any payback punishment').

Rehabilitative activities

Rehabilitative activities can be given as a condition of a suspended punishment (see page 9).

Rehabilitative activities should provide opportunities for you to address the root cause(s) of behaviour which led to the offence you are being adjudicated for.

The rehabilitative activities should focus on:

- Teaching new skills to help stop behaviour that led to breaking prison rules.
- Providing support to understand their behaviours and make lasting changes.
- Encouraging you to make amends with the prison community and/or victims and to demonstrate positive behaviours.

Activities must be linked to the reason behind the offence that led to an adjudication.

For example:

- If the offence includes interpersonal conflict, such as threatening or aggressive behaviour, activities such as engagement with psychology services or pastoral support may be appropriate to help with impulse control or emotional regulation.
- If the offence had a negative impact on another person, activities like mediation or restorative justice may be appropriate.

What kind of rehabilitative activities could be included in this condition?

Rehabilitative activities could include:

- Engagement with substance misuse services.
- Engaging with prison psychology services.
- Undertaking informal courses or engaging with other peer or pastoral support.
- Restorative Justice activities such as mediation or letter writing.
- Engaging with debt management support.
- Undertaking recreational, social, or specialist activities, such as artwork, peer group work, or prisoner-led enterprises.

Do I need to agree to a rehabilitative activity?

The policy says that a rehabilitative activity should only be given if you willingly agree to it.

You will be asked to sign a payback punishment compact to show you understand what you have agreed to.

What should be considered when setting a rehabilitative activity?

Before setting a rehabilitative activity, governors should consider your needs, including:

- your mental and physical wellbeing;
- your safety and that of others in the prison;
- neurodiversity and any associated reasonable adjustments;
- any protected characteristics; and
- any other factors of note.

How does a rehabilitative condition affect other work and activities I am involved with?

Rehabilitative activity should be arranged for a time which does not conflict with your work, education, or existing rehabilitative commitments. If this is not possible, governors must decide which of these you will benefit more from.

You may receive a punishment of loss of earnings at the same time, but you must not suffer any indirect financial consequences as a result of any absence at work caused by the rehabilitative activity, such as loss of wages or loss of placement.

What if I transfer during the suspended period?

If you are transferred to another prison before you have begun or completed a rehabilitative activity, the receiving prison will decide whether you will need to continue with it.

What happens if I breach the rehabilitative condition?

If you breach the conditions of a suspended punishment, the adjudicator can:

- Activate the suspended punishment in full.
- Activate part of the suspended punishment.
- Extend the period of suspension by up to a further six months.
- Do nothing about the suspended punishment.

Can I appeal?

If you think the hearing was done in the wrong way or your punishment was too harsh you may be able to appeal.

If your hearing was run by a governor

- You can appeal by completing a DIS8 form and submitting it to the governor within 6 weeks of the hearing.
- The prison should forward this to the HMPPS Prisoner Casework Section. They make an initial decision about whether anything was wrong about the way the adjudication was done.
- If Prisoner Casework Section do not uphold your appeal, they will tell the prison.
- If Prisoner Casework Section think your appeal should be upheld they will make a recommendation to the Prison Group Director (PGD) for your prison, who will make the final decision.
- The prison should be told the outcome of an appeal within 20 working days. If you are serving a punishment of cellular confinement this should be fast tracked and responded to within 48 hours.

If your hearing was run by an independent adjudicator

- Ask a prisoner officer on your wing for a form called form IA4.
- Fill in the form and send it to the governor within 14 days of the hearing.
- Your paper will be sent to a judge called the senior district judge to look at. The judge is from Westminster Magistrates' Court.
- The senior district judge can decide to change your punishment. But they cannot change the fact you were found guilty.

If you are not satisfied after the appeal

You can write to the Independent Prisoner Complaints Investigations (IPCI) if you have tried to solve your complaint with prison staff and you are still not happy. IPCI are part of the Prison and Probation Ombudsman (PPO).

Write to IPCI at:

IPCI,
Third Floor,
10 South Colonnade,
Canary Wharf,
London
E14 4PU

A judicial review

You could ask a judge to look at your case. It is a good idea to speak to your solicitor for advice on this.

You may not be able to get a judge to look at your case. It may be best to make a complaint in the ways described above first.

There is more information in Prisoner's Advice Service information sheet '*Judicial Review*'.

Getting extra days back

- You can apply to get some of the extra days back you were given.
- You can normally apply to get up to half of the days back.
- You can apply to get the extra days back 6 months after you were last found guilty of committing an offence. Or 6 months after the last time you applied to get the extra days back.
- If you are a young offender, you can apply 4 months after.

How do I apply to get extra days back?

Speak to a member of staff on your wing. The member of staff will check to see if you may be able to get the extra days back.

You will then be asked to put something in writing to say why you think you should get your extra days back.

A member of staff on your wing will then write a report about you and send it to the governor. They will also send information about any offences you have committed with the report.

You will probably not get all the days back. But you may be able to apply again later to get more back.

Further information

The following may be of interest to you. If you are unable to access them elsewhere feel free to contact our Advice and Information Service and we will be happy to send you a copy.

Useful policy documents (these should be available in the library):

Prisoner discipline procedures (adjudications) Policy Framework

Other

Prisoners' Advice Service information sheet '*Adjudications*'

Prisoners' Advice Service information sheet '*Judicial Review*'

Contact our Advice and Information Service

We are a small service which provides information and advice for people in prison. We are independent of the prison service.

Our freephone information line is **0808 802 0060**.

This number is **free** and you do not need to put it on your PIN.

This number is open:

Monday	3pm – 5pm
Wednesday	10:30am – 12:30pm
Thursday	10:30am – 12:30pm

When we are not taking calls you can still leave a short voicemail. Please give your name, prison number, the prison you are in and what information you are looking for. Voicemails will be checked during working hours Monday to Friday and we will respond as soon as possible by post or email a prisoner.

You can write to us at:

**Prison Reform Trust
FREEPOST ND 6125
London
EC1B 1PN**

You do not need to use a stamp.