

Information sheet for people Maintaining Innocence

What is meant by maintaining innocence?

'Maintaining Innocence' is a term used for people who do not admit to the offence for which they have been convicted.

It is often used by people who have been convicted of serious crimes such as sexual and violent offences, but it can also be used by people who are convicted of other offences.

Use of the term 'in denial' instead of 'maintaining innocence'

Although Ministry of Justice and HMPPS policies have now started using the term 'maintaining innocence' more often, some policies still use the term 'in denial' instead.

We often receive requests for legislation or case law which says that prisons have to use the term 'maintaining innocence'. We are not aware of anything that supports this.

Prisoners sometimes reference the Taplin case. The Taplin case is about doing offending behaviour programmes whilst maintaining innocence, and does not speak to the use of the term 'in denial'.

Distinguishing between being an 'appellant' and maintaining innocence

Prison policies, such as the *Incentives Policy Framework*, often distinguish between people who are maintaining innocence and those who are 'appellants'.

You are an appellant if your conviction is the subject of review by a higher court. This is most often the Court of Appeal, but if you were convicted in the Magistrate's Court the appeal would be heard by the Crown Court. This might be an appeal against the finding of guilt immediately after sentencing, or it might be after having your case referred to the Court of Appeal by the Criminal Cases Review Commission (CCRC).

You are NOT an appellant if you have just asked the CCRC to examine your case, because the CCRC does not have the power to overturn a conviction itself.

To prove you are an appellant you will usually be asked for your criminal appeal number to show your case is pending.

Maintaining Innocence and Incentives Schemes

Maintaining innocence should not automatically result in a reduction to your Incentive level or stop you progressing.

Paragraph 7.27 of the *Incentives Policy Framework* states the following:

Where prisoners refuse to accept their guilt and have either had an appeal refused or are not appealing, Governors can consider eligibility for Enhanced status considering their response to personal progression, progress on their sentence plan and constructive engagement in prison life.

Governors can also consider whether Enhanced status would be appropriate if the prisoner's denial results in them not being able to engage in rehabilitative activities, even if they are demonstrating suitable behaviours.

Governors are entitled to take account of the indirect effect on those prisoners who are willing to engage in their sentence plan, in determining the best approach for their prison to those prisoners who refuse to accept their guilt but who are not officially recognised appellants.

Although maintaining innocence should not have an automatic effect on your Incentive level, it can be difficult to demonstrate some of the criteria to progress, such as commitment to rehabilitation, particularly for Enhanced.

If you are an appellant, refusal to engage in offender behavior targets should not be detrimental to your Incentive status or automatically prevent you progressing to Enhanced status. Each case should be considered independently in line with the criteria for each level.

You should be given reasons for decisions made about your Incentive level. If you think the decision has been made unfairly because you are maintaining innocence then you may wish to make a complaint through the internal complaints system. If the outcome remains unsatisfactory after the appeal stage you can then pass the complaint to the Prisons & Probation Ombudsman, PO BOX 70769, London SE1P 4XY.

There is more information about this in the *Incentives Policy Framework*

Sentence Planning and Offender Behaviour Courses

PSI 19/2014 *Sentence planning* states that 'Plans must be realistic and attainable in order to be effective in providing offenders with an opportunity to address offending related factors and reduce risk.'

If you are maintaining innocence and a course requires admission of the offence, an objective can still be added to your sentence plan to take part in an assessment of suitability for that course. You may then be assessed as eligible for the course but not ready because it requires talking about the lead up to offences.

If you are assessed as not ready for such a course, it can still remain on your sentence plan as a future target. Other objectives may be included in the meantime aimed at addressing your readiness or other identified issues.

Changes to courses in recent years

One of the main courses which previously concerned people maintaining innocence was the Sex Offender Treatment Programme (SOTP) which required admission of guilt.

In 2018 HMPPS stopped the use of SOTP and introduced new courses.

Horizon is an accredited group work programme for men aged 18 and over who have a conviction for a sexual or sexually motivated offence/offences. It is suitable for males who are medium risk and above of reconviction

Kaizen is an accredited offending behaviour programme for adult males who have been convicted of sexual or violent offences and who are high or very high risk.

These courses are designed to be as inclusive as possible and do not require participants to talk about their offending – rather areas of their lives that have caused them problems. This means that those maintaining their innocence can take part, although participants do need to be willing to talk about those problem areas.

Other courses include the Thinking Skills Programme (TSP), which is about decision making and is not offence specific so you can also do this without admitting guilt.

The prison may also include engagement in substance misuse programmes if they have been identified as relevant.

Please contact our advice service if you would like more information about Horizon, Kaizen or other Offending Behaviour Programmes

Recategorisation and Maintaining Innocence

Some people who are maintaining innocence find that it affects their recategorisation and can prevent them progressing. Though it may be more difficult to progress if you have been unable to complete things on your sentence plan, the prison should take wider risk evidence into consideration when reviewing your category.

PSI 39/2011 *Categorisation and Recategorisation of Women Prisoners* state the following:

- *Prisoners who deny their guilt may have refused to undertake any relevant offence-related work. While the establishment must proceed on the basis that the prisoner is guilty of the offence for which [they] has been convicted, the recategorisation review should consider whether there is other evidence available which might indicate that the risk has been reduced sufficiently to justify recategorisation to a lower security establishment. This consideration should be fully recorded on the RC1 form.*

The *Security Categorisation Policy Framework* replaced PSI 40/2011 and PSI 41/2011 as the main policy for adult male and young adult male prisoners. It does not contain a specific reference to maintaining innocence as above. However, it does contain the following which may be helpful:

'8.16 Recategorisation to a lower security category is not an automatic progression or right but must be based on an assessment that the individual can safely and securely be managed in lower security conditions'

'8.17 All available information and positive aspects of behaviour must be taken into account as part of the risk assessment, including the extent to which the individual engages successfully with the prison regime, work and training opportunities. Good behaviour on its own is not, however, sufficient reason to recategorise to a lower security category.'

'8.19 In some cases, risk reduction and suitability for lower security conditions can be evidenced by successful completion of offending behaviour work, but where this hasn't been available or appropriate, staff must look to other sources of information regarding suitability for the lower security category. In assessing recategorisation from B to C consideration should be given to whether outstanding offender behaviour work can be completed in a lower category prison where there is other evidence of appropriate risk reduction.'

You should be given reasons for any categorisation decision and can request a full explanation in writing. If you think your categorisation is wrong or has not fully considered all evidence you can appeal via the internal complaints system. If the outcome remains unsatisfactory after the appeal stage you can escalate the complaint to the Prisons and Probation Ombudsman, Third Floor, 10 South Colonnade, London E14 4PU.

Parole and Maintaining Innocence

The Parole Board has to accept the court's verdict. They cannot assess whether someone is guilty or not guilty, they have to assess risk.

The Parole Board cannot refuse to release someone just because they are maintaining innocence. However it can be more difficult to show evidence of a reduced risk of re-offending if the person has not been able to fully engage with their sentence plan as a result.

The Parole Board Information Booklet for Victims, includes the following:

What if the offender maintains that they are innocent?

If an offender continues to maintain their innocence, the Parole Board must assess whether their risk is still high enough that the public can only be protected by their continued imprisonment against the fact that they are unlikely to show any remorse, while they continue to deny their guilt.

The Parole Board does not treat such offenders any differently or more leniently; we accept the Court's verdict that they are guilty and assess them on the basis that they are guilty. However, denial of guilt is not a lawful reason by itself for the Board to refuse to release an offender, or assess them as suitable for open conditions.

When the Board is assessing the risk of offenders who maintain their innocence, it looks at the circumstances of the offence, how and why it happened, what sort of life the offender was living at the time, whether there were things like drugs or alcohol involved and so on. If there are factors like anger management, as an example, offenders can still undergo offending behaviour courses, even though they deny the offence. With all of those sorts of issues under consideration, it's possible to assess what has changed about the offender and whether that change is a lasting one and one that means they are less or as likely to re-offend in the same sort of way again.

If you have an upcoming parole we advise you to get a solicitor with experience in this area.

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):

- PSI 39/2011 *Categorisation And Recategorisation Of Women Prisoners*
- PSI 19/2014 *Sentence planning*
- *Incentives Policy Framework*
- *Security Categorisation Policy Framework*

Information sheets

- PAS information sheet: *Criminal Appeals*
- PRT *Information booklet for people on licence for a sex offence* (last updated October 2017)
- *HMPPS Horizon – Programme Information June 2018*
- *HMPPS Kaizen – Programme Information June 2018*
- *The Parole Board Information Booklet for Victims*

Articles

- Terry McCarthy, *How Do I Maintain my Innocence and Get Parole?*
- Matt Evans, *The Dilemma of Maintaining Innocence.*

Other organisations

Progressing Prisoners Maintaining Innocence (PPMI)

Organisation which aims to challenge the policy and practice through which prisoners who maintain their innocence are reviewed and progressed. They offers information and support to prisoners and their families.

Please note PPMI cannot advise on appeals or applications to the CCRC, but welcome hearing from prisoners who are maintaining innocence to help inform their work.

Write to:

PPMI, C/o Compass House, 57 Meridian Centre, North Street, Havant, PO9 1UW

SAFARI (Supporting All Falsely Accused with Reference Information)

A non-profit organisation that researches, collates, and shares information about the issues surrounding false accusations to raise awareness with those in a position to make changes to systems that they consider to be failing the innocent.

They publish a quarterly newsletter containing advice, articles on successful appeals, and other information which may assist those who have been falsely accused.

They cannot usually reply to letters, but they may research and publish details of issues you raise in a future newsletter. SAFARI are unable to contact people on your behalf or directly assist with your case.

To join the free postal mailing list, write to:

SAFARI, c/o: 170 Poplar Road South, Merton Park, London, SW19 3JY or safari.editor@icloud.com.

FASO: False Allegations Support Organisation.

FASO is a voluntary organisation dedicated to supporting anyone affected by false accusations of sexual offences, including people maintaining innocence in prison

Phone: 0844 335 1992

Monday to Friday, 18:00 to 22:00.

Please note, due to FASO being a non-profit organisation, this is a premium rate number.

Write to:

FASO c/o 176 Risca Road, Crosskeys, Newport, NP11 7DH

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.