

Service	Prisoner Discipline and Segregation – Prisoner Discipline Procedures	Version	P2.1
Document	Service Specification	Sign-off Complete	14-06-10



National Offender
Management Service

Service Specification for

Prisoner Discipline and Segregation – Prisoner Discipline Procedures

Service Specification Document

This document defines the service, including the required outcome(s) and outputs. As part of a Service Level Agreement or Contract, the national minimum outputs in this document are mandatory for all providers. The document can also contain optional outputs that are available for Commissioners to commission.

1. Service Specification Document	2. Operating Model	3. Direct Service Costs & Assumptions Document	4. Cost Spreadsheet
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Version Control Table		
Version No.	Reason for Issue / Changes	Date Issued
P1.0	Preview Publication	18-03-2011
P2.0	Go-Live publication references updated in line with new Prison Service Instructions	01-10-2011
P2.1	Supporting documents: reference to operating model, cost spreadsheet and direct service costs and assumptions removed, as these are now outdated.	14-01-2014

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Introduction to Prisoner Discipline Procedures Specification

1	<i>Service Name</i>	Prisoner Discipline Procedures
2	<i>Key Outcome(s) for Service</i>	<ul style="list-style-type: none"> • The use of authority in the establishment is proportionate, lawful and fair • A safe, ordered and decent prison is maintained • Prisoners understand the consequences of their behaviour – they also consider and address the negative aspects of their behaviour as a result
3	<i>Definition of Service</i>	<p>The aim is to provide fair and just treatment for prisoners (and victims) within the prison discipline system by ensuring all prisoner discipline procedures (adjudications or minor reports) are conducted in accordance with the principles of natural justice and without discrimination.</p> <p>In all prisoner disciplinary hearings the adjudicator must be satisfied beyond reasonable doubt the accused committed the offence(s) with which s/he is charged before deciding the charge is proved.</p> <p>Much misconduct in Prison Service establishments can be dealt with informally through good management or good staff/prisoner relations. However, the formal discipline system is central to the maintenance of good order and discipline. Prisoner discipline procedures are provided for by Prison and Young Offender Institution Rules which set out all prisoner disciplinary offences and punishments. They empower Independent Adjudicators, Governors and Directors of contracted out prisons to investigate all charges. Prison Rules require prisoners to have a full opportunity to hear what is alleged against them and to present their case.</p> <p>Where alleged indiscipline amounts to a serious criminal offence, the police may be asked to investigate and a prosecution may result.</p>
4	<i>Service Elements In Scope</i>	<ul style="list-style-type: none"> • Placing the prisoner on report • Initial documentation (once prisoner is placed on report) • Prison Manager Adjudication Administration, Schedule and Conduct Hearing • Independent Adjudication Administration, Schedule and Conduct Hearing • Post-Hearing Administration

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		<ul style="list-style-type: none"> • Restoration of Added Days • Minor Reports (Young Offenders) Administration, Schedule and Conduct Hearing • Escort of Prisoners to any adjudication hearing
5	Out of Scope	<ul style="list-style-type: none"> • Mandatory Drug Testing (MDT) • Incentives and Earned Privileges Scheme (IEPS) (part of the Residential Services Specification) • Subsequent police investigations (for serious charges or charges of a criminal nature) • Legal Aid Services
6	Related/Dependant Services and Service Elements	<ul style="list-style-type: none"> • Segregation of the prisoner prior to a hearing (see Segregation of Prisoners specification and Prison Rule 53(4)). • The application of any subsequent punishments for example added days, cellular confinement, stoppage of earnings etc (see the Segregation, Residential Services, Manage Prisoner Finance specifications). • Subsequent amendments to a prisoner's release date, as a result of additional days (see Manage the Custodial Sentence specification) • Searching, other than when entering the adjudication room, forms part of the Segregation or Residential Services specification.
7	Strategic Context	<p>The Prison Rules and Young Offender Rules (as amended) and the Offender Management Act 2007 provide the legislative framework for the disciplinary arrangements in establishments.</p> <p>Case Law</p> <p>There is extensive case law (Tarrant, Leech, Keenan, Ezeh and Connors) which has shaped the disciplinary process and outcomes over the last thirty years. The most significant judgment relating to adjudications was <i>Ezeh and Connors</i> (2002 and 2003), where the European Court of Human Rights ruled Article 6 of the Convention on Human Rights (the right to a fair trial by an independent tribunal, with legal representation for the accused) applied to the punishment of additional days. This</p>

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resulted in Governors losing the authority to impose additional days and the setting up of the Independent Adjudication System with Independent Adjudicators (District Judges) being appointed to hear the more serious disciplinary charges (but only those against determinate sentence prisoners, since ‘lifers’ are not liable to be punished with additional days.

Procedure and Guidance

The Prison Discipline Manual and supporting Prison Service Instruction (PSI) amendments provides detailed procedural guidance to staff on Prisoner Discipline Procedures, much of which is underpinned by legislation and case law. Levels of punishment should be consistent within an establishment and this is achieved through Local Punishment Guidelines. The Offender Safety, Rights and Responsibilities Group publishes a quarterly newsletter with updates and FAQs from establishments relating to the application of prisoner discipline procedures. Prisoners are able to access information through standard publications - Prison Rules, Discipline Manual and the Prisoners Handbook which are available through the Prison Reform Trust.

Race Equality

The Equality and Human Rights Commission (EHRC) 2008 Race Review (five year review of findings from the Mubarek Recommendations) - makes direct reference to the use of Systematic Monitoring and Analysis of Race Equality Template (SMART) monitoring for the establishment’s Race Equality Key Performance Targets (KPT) and continued concerns regarding “negative perceptions of BME prisoners regarding the application of discipline systems”.

HM Inspector of Prisons (HMIP)

There are a number of expectations/measurements covering disciplinary procedures to ensure their application is fair and reasonable. It is also expected that prisoners understand why they are being disciplined and can appeal against any sanctions imposed on them. Refer to HM Inspector of Prisons (HMIP) Expectations document – ‘Discipline Procedures’ for more details.

Incentives and Earned Privileges (IEP)

The adjudications process is a separate process to that of the IEP Scheme and effective application should ensure that prisoners do not suffer ‘double jeopardy’ for acts which are deemed detrimental to the order, safety or control of an establishment. Legal advice has confirmed that an adjudication punishment followed by an IEP review does not amount to double jeopardy.

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		<p>Women's Estate</p> <p>During 2008/9, the NOMS Women's Team issued a protocol across the female estate following a report into 'Deaths In Custody' while segregated. Reference to this protocol is important here to assist the provider in understanding the varying needs of women prisoners. Women in prison are more likely than men to be charged with a disciplinary offence. Staff must balance women prisoners' emotional, mental health and social needs with the requirement to take appropriate action to deal with anti-social behaviour in prisons.</p> <p>Further considerations are also to be given to self harm issues and the impact of cellular confinement in particular when considering proportionality between the punishment and the offence, as well as vulnerability of the offender. This is not to downplay vulnerability issues regarding young/adult male prisoners, but it is important to recognise the difference between the two groups and the severity of charges/punishment when considering the impact it may have on the prisoner's well-being.</p> <p>The guidance issued alongside this specification will provide clear reference to the considerations prior to imposing punishments which may potentially increase the prisoner's risk of self harm/suicide.</p>
8	<i>Flexibility</i>	All the outputs in this specification are mandatory – referred to as the National Minimum .
9	<i>Reference to Supporting Documents</i>	None.

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10	Example Measurement/ Assurance Method for Commissioners	<p>The specification identifies examples of methods for Commissioners to measure/obtain assurance on the delivery of the outputs/output features. Where an output/output feature does not have Performance Indicator(s) or Management Information associated with it, then it is proposed that it should be covered by Assurance Statements and Contract/SLA Management and/or more specific audits of the service.</p> <p>Assurance Statements will be one of the means by which Commissioners can get assurance that providers are delivering outcomes and outputs of the Service Specification. Contract/SLA Management refers to the Commissioner, under the terms of the Contract/SLA, exercising appropriate oversight and monitoring of Contract/SLA compliance against the service as a whole, including site visits, file inspections and review meetings. Internal Audit may refer to individual reviews of compliance commissioned by Commissioners or to service wide reviews, by Internal Audit and Assurance, of a key process contributing to the delivery of an outcome in a Service Specification.</p> <p>Security Audit, Race Equality Prisoner Audit and Self Harm Audit all feature as separate elements within the Prison Rating System (PRS).</p>
11	References for Detailed Mandatory Instructions	<p>Prison and Young Offender Institute Rules (as amended)</p> <p>Offender Management Act 2007</p> <p>European Convention on Human Rights, including, but not limited to, Article 6 ‘Right to a Fair Trial’ and Protocol 7 ‘Crime & Family’</p> <p>PSI 47/2011 Prisoner Discipline Procedures</p> <p>PSO 4800 Women Prisoners</p> <p>Safer Custody PSI [to be revised]</p>
12	References for Non-Mandatory Guidance	<p>Safer Custody PSI [to be revised]</p> <p>PSO 4800 Women Prisoners</p> <p>Draft Framework Protocol (Management of prisoner relationships and decency)</p>
13	Review Cycle	<p>Review cycle to be determined</p>

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Specification

National Minimum

Row No.	Service Element	Outputs/Output Features	Applicable Offender Types	Policy Theme	Example Measurement/ Assurance Method for Commissioners	References for Detailed Mandatory Instructions	References for Non-Mandatory Guidance
1	Placing the Prisoner on report	Alleged offences against Prison Rules are reported.	All Prisoner Types	Safety, Order & Control Health & Safety	Self/ Independent Assessment MQPL	PSI 47/2011 Prisoner Discipline Procedures PSO 4800 Women Prisoners	
2	Initial Documentation (Once prisoner is placed on report)	Prisoners understand the initial charge/s laid against them Prisoners have access to further information and receive necessary support to understand the adjudication process.	All Prisoner Types	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment MQPL	Prison Rule 54 (2) YOI Rule 59 (2) PSI 47/2011 Prisoner Discipline Procedures PSO 2855 Prisoner Disabilities 6.26 PSI28/2009 Care & Management of Young People	HMIP Expectations - Disciplinary Procedures
3	Prison Manager Adjudication Administration, Schedule and Conduct Hearing	Hearings are scheduled within correct timescales and staff and prisoners are aware of their requirement to attend scheduled adjudication hearings.	All Prisoner Types	Safety, Order & Control Health & Safety	Self/ Independent Assessment MQPL	Prison Rule 53 (1 & 3), YOI Rule 58 (1 & 3) YOI Rule 59(2) PSI 47/2011 Prisoner Discipline Procedures PSO 4800 Women Prisoners	

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4	Prison Manager Adjudication Administration Schedule and Conduct Hearing	Prisoners have access to further information and receive necessary support during the hearing.	All Prisoner Types	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment MQPL	Prison Rule 54 (2), (3), YOI Rule 59 (2), (3) PSI 47/2011 Prisoner Discipline Procedures	HMIP expectations - Disciplinary Procedures
5	Prison Manager Adjudication Administration Schedule and Conduct Hearing	Adjudication punishments are fair, safe and proportionate to the charge. Prisoners understand the outcome of the adjudication and the review process, if necessary.	All prisoner types	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment Measuring Quality of Prison Life (MQPL)	Prison Rule 55B (2), 61 (1). YOI Rule 60B (2), 64 (1) PSI 47/2011 Prisoner Discipline Procedures Safer Custody PSI to be revised	HMIP expectations - Disciplinary Procedures PSO 4800 Women Prisoners Safer Custody PSI to be revised
6	Independent Adjudication Administration, Schedule and Conduct Hearing	Hearings are scheduled within correct timescales and staff and prisoners are aware of their requirement to attend scheduled adjudication hearings.	All prisoner types	Safety, Order & Control Health & Safety	Self/ Independent Assessment Measuring Quality of Prison Life (MQPL)	Prison Rule 53 (3) (b), YOI Rule 58 (3) (b) PSI 47/2011 Prisoner Discipline Procedures Prison Rule 53A (2) (a).YOI Rule 58A (2) (a)	HMIP expectations - Disciplinary Procedures

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7	Independent Adjudication Administration, Schedule and Conduct Hearing	Prisoners have access to further information and receive necessary support during the hearing.	All prisoner types	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment Measuring Quality of Prison Life (MQPL)	Prison Rule 54 (3). YOI Rule 59 (3) PSI 47/2011 Prisoner Discipline Procedures	HMIP expectations - Disciplinary Procedures
8	Independent Adjudication Administration, Schedule and Conduct Hearing	Adjudication punishments are fair, safe and proportionate to the charge Prisoners understand the outcome of the adjudication and the review process, if necessary.	All prisoner types	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment Measuring Quality of Prison Life (MQPL)	Prison Rule 55B (2). YOI Rule 60 B (2) PSI 47/2011 Prisoner Discipline Procedures Safer Custody PSI to be revised	PSO 4800 Women Prisoners Safer Custody PSI to be revised
9	Post Hearing Administration	All relevant departments are aware of and, where necessary, act on the outcome of the hearing.	All prisoner types	Safety, Order & Control Health & Safety	Self/ Independent Assessment Measuring Quality of Prison Life (MQPL)	PSI 47/2011 Prisoner Discipline Procedures	
10	Restoration of Additional Days	Eligible prisoners are able to apply for Remission of Additional Days.	All prisoner Types	Safety, Order & Control Health & Safety	Self/ Independent Assessment MQPL	Prison Rules 61 (2) PSI 47/2011 Prisoner Discipline Procedures	

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11	Minor Reports (Young Offenders)	A minor report system for Young Offenders is in place at the discretion of the Governor.	All Young Offender Types (18-21 years old)	Safety, Order & Control Health & Safety Mental Health	Self/ Independent Assessment MQPL		