

Serious Crime Act 2015

Fact sheet: Unauthorised mobile phones in prison

Background

1. Unauthorised mobile phones in prisons have been used by serious organised criminals to import firearms and drugs, coordinate escapes and to arrange murder. In January 2015, a serving prisoner received a life sentence for using a mobile phone to import machine guns into the UK. In 2013, the use of a mobile phone was instrumental in the escape of two prisoners near Salford, who were subsequently recaptured and sentenced to over 20 years in prison. In 2009, a prisoner was sentenced to 18 years for organising the importation of a large quantity of cocaine using a mobile phone from his prison cell. And in 2006, a mobile in prison was used to organise the killing of a gang leader.
2. The National Offender Management Service (NOMS) uses a range of measures to prevent unauthorised phones getting into prisons, as well as measures to identify and seize phones in the possession of prisoners. In 2013/14, NOMS seized over 7,400 SIM cards and phones in prisons in England and Wales. All prisoners have access to approved fixed-line phones and are able to telephone the Samaritans free of charge.

Current position

3. Despite the success of measures to detect and seize phones in prison, mobile phone technology continues to advance and the size of handsets to decrease. This is making it easier for prisoners to conceal illicit phones and move them around the prison estate. Whilst it is a criminal offence to possess or use a mobile phone in prison without authorisation (section 40D of the Prison Act 1952), it is often not possible to attribute handsets and SIMs to specific individuals and prosecutions are rare. It is also a criminal offence to convey a mobile phone into a prison (section 40C of the Prison Act 1952).
4. However, before the enactment of the Serious Crime Act there was no legal obligation on Mobile Network Operators to disconnect unauthorised phones in prisons.

The new powers

5. Section 80 of the Act will enable the Secretary of State (and the Scottish Ministers) to make regulations which will confer a power on the County Court (in Scotland, a Sheriff Court) to make an order to compel Mobile Network Operators to disconnect mobile phone handsets and SIM cards found by the court to be operating in prison without authorisation. This new power will allow NOMS and law enforcement agencies to disconnect mobile phones without the need to first take possession of and then attribute the handset or SIM to an individual.
6. Before applying for a court order, NOMS will take robust steps to ascertain that the phones are being used without authorisation inside a prison. The court would need to be satisfied, on the balance of probabilities, that the phone is in prison and being used without authorisation, before ordering its disconnection. When a phone is disconnected from the network, the user will be able to make calls to the emergency services, should that need arise. This is an important safeguard.

7. In the unlikely event that someone's phone is disconnected in error, that person will be able to request an expeditious reconnection of their service, if it can be shown that the phone is not in use in a prison, or not in use in a prison without authorisation. Reconnection of their service can commence without the need to return to court to vary the order.
8. The details of the scheme, including provision conferring rights on affected persons to make representations and provision about appeals, will be set out in regulations which must be debated and approved by each House of Parliament (or, in Scotland, by the Scottish Parliament) before they can come into force.

Home Office
March 2015