



Investigating disciplinary adjudications as potential rehabilitative opportunities

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Rehabilitation efforts in prison will work best when all aspects of prison life are informed by an understanding of rehabilitation and desistance. The rehabilitative culture of prisons, promoted and sustained by staff skills, is central if prisons are to encourage behaviour change for those in custody. The aim of this small scale exploratory research was to investigate one daily aspect of prison life where a greater focus on rehabilitation might be possible: the disciplinary adjudication. Transcripts of 13 adjudications were analysed using content analysis. Particular attention was given to the rehabilitative skills of the adjudicator and the ways in which prisoners responded to differing adjudicators' behaviours. Recommendations for future larger-scale research are made.

Key findings

- Some adjudicators incorporated behaviours and skills that may facilitate learning and positive behaviour change in the prisoner. These adjudicator behaviours contribute to the rehabilitative potential of the everyday interactions of adjudications.
- The use of these rehabilitative skills was not consistent, with some of these skills observed only rarely. Some adjudicators used rehabilitative skills much more often than others.
- Rehabilitative effort from the adjudicating governor was not always successful but the analysis showed that these skills can help to facilitate reflection, new learning and insight, and plans for behaviour change in prisoners.
- Many opportunities for rehabilitative interactions and skills were missed. In particular, adjudicators did not always take opportunities for questions that help prisoners to think about their past and future behaviour differently, and opportunities for reinforcing and praising progress or positive change. Identifying and using these opportunities is not easy, but if achieved could increase the rehabilitative potential of adjudications.
- Using adjudications as potential rehabilitative opportunities does not need to detract from their primary purpose. Many of these skills can be integrated simply and quickly, and can complement the remit of investigating charges and, if proven, issuing appropriate sanctions.

The views expressed in this Analytical Summary are those of the author, not necessarily those of the Ministry of Justice (nor do they reflect Government policy).

Background

Imprisonment alone does not seem to have a deterrent effect on reoffending (Smith, Goggin, & Gendreau, 2012). However, there have been suggestions about ways to make prisons more rehabilitative through focussing on their culture (Cullen, Jonson, & Eck, 2012; Smith & Schweitzer, 2012). This includes, amongst other features, greater importance being placed on how staff interact with prisoners. These interactions, and the skills used by staff, are central to achieving rehabilitative outcomes.

The Prisoner Discipline system aims to help maintain order, control, discipline and a safe environment in establishments, and ensure that authority is used lawfully, reasonably and fairly. Adjudications – disciplinary hearings that take place after a prisoner has been charged with breaking a prison rule – occur daily in prisons and provide mini-opportunities to discuss and resolve the reasons for rule-breaking that could have longer term rehabilitative potential. The Ministry of Justice issues central policy, instructions and guidance to prisons to ensure that adjudications are conducted lawfully, safely and within the principles of natural justice (NOMS, 2013). The rehabilitative skills of adjudicators can vary, however, and as a consequence so may the response of the prisoner to the adjudication event. This study investigated variations in adjudication conduct, with a particular focus on the potential for rehabilitative interactions and outcomes.

Approach

Thirteen adjudications from four prisons were included in the study. The prisons included a male High Security prison, male Category B Local prison, male Young Offender Institute, and a female prison. Adjudications were recorded (audio-only) and observed by a researcher who made observational notes. Transcripts of the adjudications were analysed using content analysis. Content analysis is a technique for systematically and objectively identifying and quantifying characteristics in material. The behaviours (mainly verbal, i.e. speech) of prisoners and adjudicators were coded and counted. Particular attention was given to the rehabilitative skills of the adjudicator and the ways in which prisoners responded to differing adjudicators' behaviours.

Existing research was used to formulate the initial coding frame, specifically behaviours that may be help to bring about rehabilitative change or the opposite, and behaviours that would indicate rehabilitative change or movement towards this, or the opposite. Discussion with, and independent coding by, a second researcher led to amendments. The final coding frame was applied to all

transcripts. Four transcripts (31%) were second coded to check agreement between the researchers. The agreement in ratings (using Cohen's Kappa inter-reliability statistic) was for the most part good or very good – nearly all were at least moderate.

Adjudicators and prisoners were also interviewed after the adjudications to assess the intentions of the adjudicator, and prisoners' perceptions of their treatment and possible learning achieved.

Results

Adjudicators displayed both those behaviours that research has shown can assist rehabilitative change and also those likely to inhibit such change. Some prisoner responses indicated learning or a move toward positive behaviour change – other responses indicated no such change.

Some adjudicator behaviours were more common than others. Table 1 shows the average number of times each adjudicator behaviour was observed per adjudication. Adjudicators used active listening and collaboration more often, whereas developing problem solving and skill building, or being empathic were rarer. The frequency of each behaviour also varied across the 13 adjudications, meaning that some adjudicators used skills that might facilitate change more frequently than other adjudicators.

Prisoners also showed some behaviours more than others, both overall and during individual adjudications. For example, they took responsibility for their behaviour, believed their treatment was unfair, and excused, minimised or blamed others much more frequently than voicing pro-criminal attitudes, or using consequential thinking and perspective taking. Table 2 shows the average number of times each prisoner behaviour was observed per adjudication.

Seven themes capture the different types of adjudicator and prisoner interactions. The anonymised extracts in the following sections have been taken from the 13 adjudications; AG signifies 'Adjudicating Governor' and P signifies 'Prisoner'.

Table 1: Adjudicator behaviours

Adjudicator Behaviours	Total	Mean
Collaborative working	175	13.5
Active listening	110	8.5
Dignity and respect	67	5.2
Open or open and Socratic questions	61	4.7
Closed questions	57	4.4
Praise and reinforcement	47	3.6
Reframing	27	2.1
Preventing comments or discussion	24	1.9
Confrontational, adversarial or disrespectful	17	1.3
Warmth	16	1.2
Problem-solving and skill building	11	.9
Concern/care about well-being	11	.9
Advising and raising concern without permission	10	.8
Empathy and/or understanding	10	.8
Warning	10	.8
Not responding to well-being concerns/distress	7	.5
Emphasising choice/control	5	.4

Table 2: Prisoner behaviours

Prisoner Behaviours	Total	Mean
Engaging with the adjudication*	413	31.8
Believing treatment or punishment is unfair	48	3.7
Responsibility taking	40	3.1
Excusing, minimising or blaming others	38	2.9
Non-criminal identity or intent	37	2.9
Defiance	36	2.8
Lack of personal agency, helplessness	28	2.2
New learning, reflections, insight	21	1.6
Change talk and pro-social intent	20	1.5
Pro-social behaviour or change	17	1.3
Apology	13	1.0
Cognitive thinking skills	13	1.0
Pro-social behaviour planning	12	.9
Pro-criminal attitudes or beliefs	11	.9
Sustain talk	10	.8
Lack of engagement/ disengagement	1	.1

* This included behaviours such as asking or responding to questions and giving their account. The adjudication process naturally lends itself to these occurring frequently.

Change oriented behaviours elicited through questioning

'Change oriented' is used here as a collective term to describe prisoner behaviours that indicate change or learning, or movement towards this. Adjudicator questions that elicited engagement and change oriented behaviours were open and either Socratic or non-Socratic. Socratic questions shape the thought process,

facilitating independent thinking, analysis and learning. Non-Socratic questions gather information but do not facilitate thinking.

Non-Socratic open questions were most common, engaging prisoners but rarely facilitating insight into the rule-breaking. Socratic questions were less frequent, but they were more often followed by change oriented responses (such as perspective taking, identifying consequences or apologising). The example below shows a Socratic question which promoted perspective taking from the prisoner:

AG: How do you think the officer felt?
P: She's not happy, innit? Scared. Shock of her life.

Particularly effective were the rarer questions asked by adjudicators designed to help prisoners think about how they could have acted, or how they could act in future:

AG: Erm, so with all that in mind, how do you think you could have done things differently to avoid this scenario?
P: Erm, I should, I shouldn't have took it out on Mr. X, to be honest. Erm, erm, when he opened my door, I should have just accepted that he opened my door and just got my inhaler (inaudible) and just calmed down, yeah, and I'm sorry if you felt threatened, Mr. X, man, because Mr. X is all right, man. Like, he's all right with me, man.

These sorts of questions moved the adjudication from solely an occasion to prove and punish rule-breaking to an opportunity to understand that rule-breaking and promote behaviour change. Prisoners whose adjudications included more open and Socratic questions, and praise and reinforcement, gave more examples of learning in the interviews following the adjudications.

Change oriented behaviours occurring without questioning

Change oriented behaviours by prisoners sometimes occurred without any facilitation by the adjudicator. This may reflect natural variations in talkativeness or readiness to engage, the cumulative effects of adjudicator behaviours, or deliberate attempts to reduce the severity of sanctions.

Absence of change oriented behaviours after questioning

Adjudicators asked closed questions (which are questions that naturally result in yes/no responses, such as 'is that correct?') almost as often as open questions, but these almost never elicited change oriented responses from prisoners. These types of questions can

be useful to gain clarification and avoid misunderstanding. However, they risk inhibiting further elaboration or reflection, and limit the possibility of prisoners achieving new learning.

Reinforcing change oriented behaviours

In approximately half of the adjudications, the adjudicators used praise and reinforcement at some point. They typically used these in response to prisoner progress or positive custodial behaviour, and when prisoners identified new ways of behaving or coping, apologised or showed intent to behave differently. These reinforcements were often simple but effective statements.

AG: The thing here, P, and I accept that you, you, you know, you've stated quite clearly you've, you know now that it's not, it's not acceptable.

P: Yeah, I understand. I understand.

AG: And you've apologised. I, I fully accept that and I appreciate you seeing that.

Adjudicators much more rarely sought out or created behaviours that they could then reinforce. For example, they only occasionally demonstrated a wider interest in the prisoner's life and behaviour (such as by asking about work or education, or progress being made in other areas) and praised or reinforced this.

Adjudicator responses to prisoner engagement or disengagement

Adjudicators responded differently to what prisoners said, and in how they facilitated ongoing engagement and discussion. They commonly used active listening; usually demonstrated by nodding, or indicators such as 'uh huh', 'ok' and 'go on'. They also often used simple reflections of the prisoner's words or showed a willingness to discuss topics further. In contrast, and much less frequently, at times adjudicators prevented or inhibited discussion; most commonly by interrupting.

When prisoners disengaged or became defiant (such as by interrupting or arguing), adjudicators usually dealt with this skilfully, remaining calm, listening, asking questions or offering clarification. The use of humour was particularly effective in diffusing difficult and emotional interactions, although this was observed only once.

AG: --- And so sometimes, and, and maybe in that sense you have to be more conscious of that because you may, may come across as intimidating or threatening when you really don't want to be [referring to a previous discussion about P's height and how this can contribute to how others view him which has resulted in P becoming frustrated and defiant].

P: Mm, I understand that.

AG: And that, that's unfortunate. I don't have that problem because I'm not that big --- *Said with humour, self-deprecating*

P: Yeah. *Smiles and laughs*

AG: --- apart from me stomach. *Everyone smiles.*

Style of adjudication

The style of adjudication, and how adjudicators treated prisoners, varied across the adjudications. Adjudicators demonstrated collaborative working by explaining process and content, offering reasons for decisions, checking understanding, offering help and being transparent. These behaviours were common, and resulted in adjudications being 'done with', rather than 'done to', prisoners.

Adjudicators generally treated prisoners with dignity and respect. This involved adjudicators introducing themselves (occurring rarely overall), saying please and thank you, and showing an interest in the prisoner as a person, rather than just as a 'rule-breaker'. Much rarer was warmth, which included friendly greetings, use of appropriate humour, and acknowledging existing relationships between prisoners and adjudicators

Adjudicators were rarely confrontational, antagonising or adversarial in their behaviour, although this kind of behaviour was observed in six adjudications. Most of these occasions were coded as a consequence of the tone, rather than words used, which sounded sarcastic, patronising or aggressive, rather than respectful or collaborative.

Demonstrations of concern and care, empathy and understanding by adjudicators were rarely observed. When seen, this was usually quite superficial (such as asking "are you ok?") rather than consisting of more in-depth and sincere enquiries or discussions. However, it was rare to see adjudicators lacking care or concern about the prisoner's well-being (occurring seven times, in three adjudications).

P: ...I did admit to it and I was wrong for doing that but if I could have walked away, I would have. I'd rather do that. I was in that situation. It was out of my hands. I couldn't (inaudible) get out the door (inaudible). *Head in hands, tears in eyes.*

AG: OK. P, you've admitted to grabbing the prisoner, erm, and that is unlawful force. That is an assault. So based on, erm, what you've told me and what Mr. X [Reporting Officer] has told me, I find the charge proven. Is there anything else you want to say in mitigation?

P: No. Like I said, I don't go round doing things like that. It was out of my, my control, because the situation I'm in here. ...I don't like confrontation. I do not. [Another prisoner] said some really hurtful things and spiteful things. ... *Tears in eyes, distressed, looking for eye contact from anyone in the room.*

AG: OK, but that's not, erm, an excuse to assault somebody. *Continues to focus on paperwork, does not make eye contact.*

AG: But you can understand by lighting stuff you're endangering by setting fire alarms off?

P: Yeah. I, I've had a thing, I have a thing for fire, though, innit?
Alternative: what are the possible consequences, for you or others, of setting fire to something in your cell?

Socratic questions might have been particularly valuable in exploring and carefully challenging prisoners when there was an absence of, or resistance to, change. For example, when prisoners spoke of rule-breaking as reasonable or positive, or viewed change or behaving differently as out of their control.

Secondly, when change oriented behaviours were demonstrated, opportunities for reinforcing and praising these were available but often missed.

Limitations and future research

A small sample size prohibited analysis of causal relationships between adjudicator behaviours and prisoner responses, and subsequently the analysis is largely descriptive. Long-term outcomes were not measured, so it cannot be known whether apparent learning or positive change seen at the point of adjudication translated into lasting change. Attempts were made to minimise the impact of the researcher on participant behaviour, however, these attempts may not have always been successful.

Further research, with larger sample sizes and a focus on the longer-term rehabilitative impact of adjudications, would be valuable and allow for causal relationships to be assessed. Comparison of rehabilitative outcomes by adjudication charge would also be possible with larger sample sizes.

Implications

The findings show that adjudicators can, and some do, use skills that facilitate or support rehabilitative change, despite adjudications being a punishment-focussed process by design. The use of rehabilitative skills was not consistent across adjudicators, with some using rehabilitative skills more frequently than others, and some effective skills being used infrequently by all participants. Similarly, prisoner behaviour varied, and rehabilitative attempts were not always successful. Particularly important is the finding of many missed rehabilitative opportunities. These were opportunities in which adjudicators could have questioned rule-breaking behaviour in more depth to facilitate learning and insight, or could have reinforced and supported progress.

If adjudications can be delivered in a way that supports and facilitates rehabilitative change, then a regularly occurring event, which by definition involves prisoners whose behaviour is concerning (i.e. involves alleged rule-

Very rarely (five times) did adjudicators emphasise that the prisoner had freedom of choice or control over their future actions, whereas warning or advising without permission was observed more often (although still infrequent overall). Telling a person what to do in these situations is unlikely to facilitate learning or effectively help the person to make changes.

On 48 occasions prisoners made statements that indicated they believed their treatment in prison or their punishment was unfair. However, only five of these complaints related to the adjudication specifically. On most of these occasions, adjudicators openly discussed the concerns raised, and three of the five adjudications in question were later dismissed. In their interviews, adjudicators emphasised the importance they placed on conducting a fair and transparent process. Most prisoners reported afterwards that they felt they were treated fairly, were offered the chance to speak, and were listened to.

Missed rehabilitative opportunities

Throughout the adjudications there were numerous occasions where alternative adjudicator behaviours could have potentially enhanced the rehabilitative potential of the adjudications. Identifying and acting on these opportunities is not simple or easy. However, this finding highlights the potential for adjudications to be more rehabilitative than they currently are, even within their remit of investigating and punishing rule-breaking. Two types of missed opportunities were observed: for open and Socratic questions, and for praise and reinforcement. First, using open and Socratic questions, instead of closed questions, provides prisoners with opportunities to reflect on their behaviour and hopefully learn from this.

breaking), could have important beneficial outcomes for prisoners and prisons. The adjudication context could contribute to a rehabilitative prison climate or environment, which has been proposed as a way to make prisons more effective in achieving their goals of reducing reoffending and protecting the public. The effects of rehabilitative adjudications are also likely to be greater and more durable if they form one component of a broader focus of rehabilitation throughout a prison.

Adjudications have rehabilitative potential if adjudicators use the skills that research identifies as central to such interactions. This does not need to detract from the primary purpose of adjudications: investigating charges and (if proved) conveying punishment. Rather, these aims can be complementary, with rehabilitative skills being used whilst investigating charges, considering and giving sanctions, and in looking to the future by facilitating learning and behaviour change.

Her Majesty's Prison and Probation Service is committed to evidence-based practice informed by high-quality social research and statistical analysis. We aim to contribute to the informed debate on effective practice with the people in our care in prisons, probation and youth custody.



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