

Prisoner adjudication information sheet and prisoner's statement

What happens at an adjudication?

1. If you are accused of committing a disciplinary offence, the officer making the charge (the 'reporting officer') completes a form DIS1 Notice of Report setting out brief details of the alleged incident, the relevant Prison Rule, and when your case will be heard. The charge should be laid within 48 hours of the discovery of the offence, and the hearing, known as an 'adjudication', takes place on the following day but not normally on a Sunday or public holiday.

2. Prisoner Discipline Procedures (PSI 05/2018) explains how adjudications work, and you will be given access to a copy if you make a request. You can ask your wing staff for PSI 05/2018 or access it in the library. You should also be able to look at other reference books if you wish, so that you can properly defend yourself against the charge, and you should be allowed at least two hours prior to the hearing for this.

3. If you want to write in your own words about what happened please do so in the space at the end of this form and if you need to, you may continue on a blank sheet of paper. You will be given the opportunity to read this out to the adjudication governor (or equivalent in a contracted prison) in the adjudication and explain what happened from your point of view.

4. The adjudication will take place in a room set aside for this purpose. Adjudications are important events which must be conducted in an orderly but fair manner. You will be allowed to take notes if you find this helpful. The adjudicating governor in charge of the hearing will confirm your name and other details and check that you have been given your copy of form DIS1 and any other written evidence.

5. You will be asked whether you understand what happens in an adjudication and what the charge against you is, whether you have had enough time to prepare your defence to the charge, and whether you have written down your version of what happened.

Arrangements will be made to provide you with assistance, if you have difficulty understanding the proceedings or presenting your case due to disability, including mental health impairments and learning difficulties, or if you have an insufficient knowledge of English.

Referral to the Police

6. If the adjudicating governor believes that the charge against you is so serious that it should be referred to the police for further investigation, they will adjourn (postpone) the adjudication until the outcome of police enquiries is known. You will be informed that the police are dealing with the charge.

Independent Adjudications - referral to the Independent Adjudicator

7. If the charge is a serious one but the case is not referred to the police or there is no prosecution, the

adjudicating governor will decide whether it should be referred to an Independent Adjudicator (District Judge), who can give a punishment of additional days to serve. If you are serving an indeterminate sentence you would not be given a punishment of additional days to serve (for more information of who is not eligible for additional days, please check PSI 05/ 2018 (Annex A, paragraph 2.73). If the charge is not referred, the adjudicating governor will continue to hear the adjudication.

8. The adjudicating governor can decide whether to refer your case to an Independent Adjudicator at any time during the adjudication process, and up to announcing the punishment, if they think that the charge against you is serious enough for a punishment of additional days. If the case is referred, an Independent Adjudicator will start again from the beginning, with all the evidence being re-heard; this is called being 'de novo'.

The Hearing

9. The adjudicating governor will ask the reporting officer to read their written evidence and to describe the allegation against you. You may also ask questions about their evidence. If the reporting officer is not available, the evidence could be read in their absence, but the hearing will be adjourned if you wish to question the reporting officer. The reporting officer can call witnesses in support of the allegation, and may present physical or written evidence, for example, unauthorised items said to have been found in your possession, or a positive mandatory drug test (MDT) result. You will have an opportunity to explain what happened and offer a defence.

Pleading guilty or not guilty

10. You will be asked whether you plead guilty or not guilty to the charge. A guilty plea will normally result in a reduction in any punishment given and will be taken into account by the adjudicating governor alongside other relevant factors when deciding what punishment to give you, if proved guilty.

Witnesses

11. The adjudicating governor will ask whether you want to call any witnesses, and what evidence they might give. Witnesses will normally be called but may be refused if the adjudicating governor believes their evidence would not add anything. For instance, if you wanted prisoners to give evidence and they would say the same thing, only one would be called. You, the reporting officer, and the adjudicating governor can question the witnesses. Prison staff may be required to appear as witnesses and give evidence as part of their duties.

Legal advice and legal representation

12. The adjudicating governor will ask whether you want legal advice or legal representation, or to be helped by a friend, known as a 'McKenzie friend', (such as a fellow prisoner, or if you are a young person a member of an advocacy service, such as Barnado's). If you want legal advice the initial hearing may be adjourned, if there has

not been sufficient time for you to contact a solicitor. If you want legal representation at the hearing and you have been allowed legal representation (that is, a solicitor to attend and put your case for you) the adjudicating governor will consider your request, using the guidance set out in PSI 05/2018 (Annex A paragraph 2.14). Legal representation is rarely allowed in cases heard by adjudicating governors, but if agreed, the hearing will be adjourned to give you time to arrange your own legal representative.

13. You are entitled to be legally represented if your case is referred to an Independent Adjudicator as there is a potential for a punishment of additional days. For further details see PSI 05/2018 (Annex A paragraph 2.8).

Verdict

14. After hearing all the evidence and your defence the adjudicating governor will decide whether the charge has been proved beyond reasonable doubt, or whether it should be dismissed. If you are found guilty the adjudicating governor will ask whether you have anything to say about why you should be treated leniently ('mitigation') and will hear reports on your general behaviour in prison (this is called a 'conduct report') and about any previous adjudications you may have had.

Punishments

15. The adjudicating governor will then decide on the punishment(s) for your offence and, if you are required to pay a compensation requirement for any damage to prison property, which will take effect immediately. You will be given a form DIS7 giving you details of your punishment(s) and explaining what to do if you want to ask for a review of the decision (also outlined in paragraphs 18 and 19 below).

16. If the adjudicating governor is considering cellular confinement, they will ask a doctor or nurse to assess whether there are any medical reasons why this would not be appropriate for you on this occasion. This is called an 'Initial Segregation Health Screen'.

Virtual hearings for Independent Adjudications

17. Due to the effects of Coronavirus on the ability of an Independent Adjudicator being able to attend the prison, your hearing may be held virtually. This will mean that you will still attend the adjudication hearing room, but the Independent Adjudicator will speak to you on video through a laptop or other device. You will be provided with a 'Template C' form beforehand which will inform you of when your hearing will take place and will give you the opportunity to supply the details of your solicitor, if you would like them to attend the virtual hearing. Staff will need their name, legal firm and email address in advance of the hearing in order to arrange their virtual attendance. You will be given the opportunity to speak with your

solicitor in advance of the hearing by telephone. The adjudication process outlined in this information sheet remains unaffected and you should expect the hearing to follow this format even if held virtually.

How to ask for a review of your adjudication

If your Adjudicator was an Independent Adjudicator

18. You cannot ask for a review of the guilty decision. If you or your solicitor on your behalf wish to apply for a review of punishment and/or any non-punitive compensation requirement, form IA4 must be completed and sent to the Governor within 14 days of the end of your adjudication who will send it to the Chief Magistrate's Office.

If your Adjudicator was an adjudicating governor (or equivalent in a contracted prison)

19. If you are not satisfied with the outcome of your adjudication you may ask for a review of the findings, including any compensation requirement that may have been imposed, and/or punishment by completing a DIS8 - Request for review form, which will be sent to HMPPS Headquarters. You may also contact your solicitor for advice.

20. You should note that if your case is taken up your solicitor, MP or any special interest group, it will still go through the same review procedure although you do not need to complete a DIS 8 Request for review form.

21. You may write to the Prisons and Probation Ombudsman when the above review procedure has been completed.

22. You must ask for your review within six weeks of the end of your adjudication.

Restoration of Additional Days

23. If you have received a punishment of additional days you may, subject to conditions, apply to have some of them given back to you. You can make this application six months since the date of the offence (not the date of your adjudication), or four months if you are a young offender, whatever the punishment was. You may also apply again if your last application for restoration of additional days was over six months ago, or four months if you are a young offender.

PRISONER’S STATEMENT

If you wish to write a statement about the disciplinary charge(s) against you please use the space below. Ask for more paper if you need it.

Prisoner’s signature

Date