



Prisoner Communication Services		
This instruction applies to :		Reference :
All public and contracted prisons and HMPPS operated Immigration Removal Centres		PSI 49/2011
Issue date	Effective Date Implementation Date	Expiry Date
Re-Issued: 04 November 2024	01 October 2011	N/A
Issued on the authority of	HMPPS Agency Board	
For action by	Governors/Directors of contracted prisons. In this document, the term Governor applies equally to Directors of contracted prisons. The term prison refers equally to Immigration Removal Centres operated by HMPPS.	
For information	Deputy Directors of Custody	
Contact	Operational Policy Team operational_policy1@justice.gov.uk	
Associated documents	Prisoner Communication Services Specification National Security Framework PSI 14/2005 - Healthcare Complaints PSI 49/2011 – Prisoner Communications Policy PSI 75/2011 - Residential Services PSI 52/2011 - Immigration, Repatriation and Removal Services PSI 01/2012 - Manage Prisoner Finance PSI 07/2015 - Early Days in Custody PSI 37/2020 Prisoners' Access to the Media Prison Public Protection Policy Framework Strengthening Prisoners' Family Ties Framework Finance Manual Policy Framework Incentives Policy Framework Authorised Communications Controls and Interception Policy Framework Prisoner Property Policy Framework Searching Policy Framework	

Provide a summary of the reason for the policy development /revision

Update November 2024 - The policy has been updated to reference the new Prison Public Protection Policy Framework

Update 05 January 2024 – This PSI has been amended to align with updates made to the Authorised Communications, Controls and Interception Policy Framework, Chapter 6 of the Prison Public Protection Policy Framework and references to the Prisons and Probation Ombudsman’s complaints investigation’s team known as the Independent Prisoner Complaint Investigations Team.

Update 20 September 2022 - This PSI has been amended to align with the introduction of the Authorised Communications Controls and Interception Policy Framework and to include the new digital barcode process for the ‘Send Legal Mail’ service (including confidential access). The specific paragraphs are set out in the executive summary below.

Update 04 October 2021 - Amendments have been made to paragraphs 2.24 & 6.20 to clarify when inter-prison contact should be allowed.

Unclassified

Update 06 November 2020 – The PSI has been amended to align with updates to associated policies and some policy guidance has been clarified where required. Specific updates are set out in the executive summary below. Improved guidance is also provided on the role of the Children and Court Advisory and Support Service (Cafcass), the process for service of court documents and approval of inter-prison mail. Contact details have also been updated. No other changes have been made to this PSI.

Update 15 November 2018 – Amendments have been made as per the Senior Leaders’ Bulletin to Governors/Directors of Contracted Prisons clarifying the policy set out in paragraph 9.1. Free five-minute phone calls for foreign national prisoners and those with close family abroad, are linked to unused social visits as set out in Prison Rule 35 (2)(b).

Contact details have also been updated. Following the HMPPS and Ministry of Justice (MoJ) organisational restructure, a new Operational Policy Enquires functional mailbox has been set up in the Deregulation and Operational Policy Team in MoJ.

Replaces the following documents which are hereby cancelled:-

PSO 4400 Chapter 4 – Prisoners’ use of telephones

PSI 06/2011 Prisoner Communications Correspondence

Audit/monitoring: Those responsible for contract management will monitor compliance with the mandatory actions set out in this PSI.

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Link to [MOJ directory of service specifications](#)

Executive Summary

Update 05 January 2024

This instruction has been updated:

- Alignment with the Authorised Communication Controls and Interception Policy Framework the [Prison Public Protection Policy Framework](#).
- 5.
- Updated references to the Prisons and Probation Ombudsman's complaints investigation's team to include the Independent Prisoner Complaint Investigations Team in paragraphs 2.2 (iv), 2.4 (h), 2.11 (c), 7.1 and 14.19.

Update 20 September 2022

This instruction has been updated:

- Alignment with the Authorised Communications Controls and Interception Policy Framework, in paragraphs 2.18, 2.20, 2.22, 2.24, 2.27, 2.28, 2.33, 2.34, 6.1,6.2, 6.4-6.9, 6.12, 6.20, 12.5, 12.10, Output 13, 14.1 – 14.5, Output 15-16, Annex A paragraphs 1-6 only), Annex C and Annex D paragraphs 1,3,7,9,15 and 17.
- To include the newly created 'Send Legal Mail' digital barcode service in paragraphs 14.3-14.7, 14.16 and paragraphs 12 and 14 in Annex D.

Update November 2020

This instruction has been updated to include:

- Alignment with the Authorised Communications, Controls and Interception Policy Framework, [PSI 01/2012 Manage Prisoner Finance](#), [Prisoner Property Policy Framework](#), [Prison Public Protection Policy Framework](#),, [Incentives Policy Framework](#), [Strengthening Prisoners' Family Ties Policy Framework](#) (paragraphs 2.16, 2.17, 2.18, 2.20, 2.21, 2.26, 2.28, 4.1, Output 6 communications compact, 6.12,11.3 (j)(i), 11.6, 12.4, 12.10, Output 12 Access to internet and social networking sites, 13.1, 13.2, Output 14 confidential access, 14.2 (f), 14.2 (c)(i), 14.2 (c)(ii), 14.2(g), 14.4, 14.6, 16.2, Annex A point 3 and 8, B point 6 and 7 and D point 1, 3 and 19)
- Clarified guidance on approval of inter-prison mail (paragraph 2.24)
- Clarified guidance on service of court document on prisoners (paragraph 2.36) • Clarified qualifying four-week time period for free phone calls (Output 9, paragraph 9.1).
- Role of Cafcass (paragraph 7.1)
- Clarified definition of an appellant (Annex B point 7)

Annex C no longer in use - revised telephone notices are set out in the Authorised Communications, Controls and Interception Policy Framework.

Background

1. This Instruction supports the implementation of the Prisoner Communication Services specification.

2. Prison Rules require prisons to actively encourage prisoners to maintain outside contacts and meaningful family ties. Prisoners also have a statutory entitlement to send and receive letters. Letters and phone calls assist in sustaining supportive relationships with family and friends. They also enable the prisoner to have access to justice through legally privileged correspondence with legal advisers and other support organisations with whom they may correspond confidentially.
3. Being able to communicate with those outside is part of providing a safe and decent environment for prisoners and contributes to a reduction in self-harm and suicide. Access to communication is also crucial in helping prisoners prepare for release.
4. The duty to encourage contact must be balanced against the risks which may be associated with the ability of prisoners to communicate with those outside. Communication must be managed to prevent the trafficking of unauthorised items, ensure the protection of the public and prevent escapes.
5. The BT PINphone system operates in every public sector prison and all but three contracted establishments. The system has been specifically designed to strike a balance between the security and good order of establishments, the need for prisoners to keep in contact with their families and friends and the protection of the public from unwanted telephone contact from prisoners.

Desired Outcome

6. Prisoners can communicate and maintain ties with family and friends and communicate confidentially with legal advisers and some other organisations in a manner which does not compromise safety. The process meets minimum statutory requirements and ensures that the security and good order of the prison is maintained.
7. Key outcomes for the Service;
 - All prisoners are able to communicate with family and friends
 - All prisoners are able to communicate confidentially with legal and professional advisers
 - The service supports the maintenance of family ties and outside contacts
 - The service supports the maintenance of security, order and public protection
 - All processes support the discharge of a prison's responsibility for the safeguarding of children and children's ability to contact their parents

Application

8. This PSI is applicable to all prison establishments, whichever PINphone system they contact using these forms of communication.

Mandatory Actions

9. *Governors must ensure that the Outcomes set out in the Prisoner Communication Services Specification and the mandatory actions – highlighted in italics within this Instruction - are delivered.*
10. *In delivering the Outputs set out in the Specification and this Instruction, staff must have regard to equality considerations and ensure that all services are delivered fairly and*

appropriately, having regard to the protected characteristics defined in the Equality Act 2010.

Resource Impact

11. This PSI does not introduce any new requirements so the financial impact should be minimal. Commissioners and Governors will recognise that whilst not mandated there may be potential savings in some establishments through adherence to the efficient operating models for these Services.

Contacts

12. For further information about this PSI please see contacts list on front cover.

signed

Digby Griffith Director of National Operational Services, NOMS

SERVICE ELEMENT: Prisoner Communications – General**Output 1 - All prisoners are able to communicate with family, friends and professional advisers (Written)**

- 1.1 Prisoners are actively encouraged to maintain contact with the outside world, which would include family, friends and where applicable professional advisers/bodies.
- 1.2 Prisoners may write to, and receive letters from, any person or organisation, subject to the acceptability of the contents and to the restrictions set out further in this PSI. Restrictions are necessary in order to protect the public, prevent crime and ensure the security of the prison. However, this does not necessarily mean that if a prisoner corresponds with any person or organisation, that he/she may be visited by that person or a representative of that organisation.
- 1.3 Prisoners may write letters in the language of their choice, but letters not written in English and which are subject to routine reading may be liable to delay while translations are obtained.
- 1.4 Prisoners can generally write as much as they wish. At establishments where routine reading of correspondence is in force, Governors may set a limit on the length of letters, subject to a minimum of four sides of A5 paper.
- 1.5 *Letters between prisoners and their legal advisers, as well as a number of statutory bodies/persons responsible for the welfare of prisoners while in custody, are treated as privileged and must be handled in confidence (see paragraph 14.1 below for a detailed list of those to which these provision apply).*

Output 2 - Minimum statutory requirements relating to the provision of letters, including special letters and other communications are met (Written)**Definitions**

- 2.1 Prisoners are entitled to send:
 - (a) **Statutory Letters (free to the prisoner/paid for from public funds)** - one that a prisoner is entitled to under Prison Rule 35 or Young Offender Institution Rule 10, and *must not be withdrawn or withheld as part of a punishment.*
 - (b) **Privilege Letter (paid for by the prisoner)** - one that a prisoner is regularly allowed to send over and above their statutory entitlement of letters.
 - (c) **Special Letter (in exceptional circumstances)** - one that is not counted against a prisoner's allocation of statutory or privilege letters and which he/she is given permission to send for some special reason (see paragraphs Special Letters below). The postage costs of some but not all of these will be paid for out of public funds.

Allowances

- 2.2 Unconvicted prisoners and those held under an Immigration Detention Warrant (see list of definitions contained in Annex A of PSO 4600 – Unconvicted, Unsentenced and Civil Prisoners) may send:
 - (a) two Statutory Letters per week;

- (b) as many Privilege Letters as they wish;
- (c) a Special Letter when;
 - (i) they are about to be transferred to another establishment or, if this has not been possible before transfer, on reception at the new establishment;
 - (ii) in connection with their defence, if they cannot afford the postage costs of a privilege letter for this purpose;
 - (iii) to enable a prisoner to notify the relevant Council Tax Officer of his/her reception into custody.
 - (iv) to enable a prisoner to write to the Prisons & Probation Ombudsman or its Independent Prisoner Complaint Investigations Team

2.3 Convicted prisoners, including those unsentenced, may send:

- (a) one Statutory Letter per week, the first letter to be issued immediately on reception;
- (b) as many Privilege Letters as they wish, except at establishments where routine reading is in force, in which case Governors have the discretion to set limits on the number of privilege letters prisoners may send, subject to a minimum of at least one privilege letter per week in the case of adults and two in the case of young offenders. Prisoners should be allowed to send as many privilege letters as practicable taking account of the staff resources available to examine and read correspondence;
- (c) Special Letters, in the circumstances set out below.

Special Letters

2.4 *Convicted prisoners must be issued with one or more Special Letters, in the following circumstances:*

- (a) when they are about to be transferred to another establishment; or on reception at the new establishment. The number of letters issued *must correspond to the number of outstanding visiting orders* but only in respect of those visitors who are scheduled to visit them immediately before transfer;
- (b) immediately after conviction if he/she needs to settle business affairs;
- (c) if necessary, for the welfare of the prisoner or his/her family, including where required as part of an at-risk prisoner's ACCT CAREMAP;
- (d) in connection with legal proceedings;
- (e) to enable the prisoner to write to a relevant offender manager or to an agency that is arranging employment or accommodation for him/her on release;
- (f) to enable a prisoner to notify the relevant Council Tax Officer of his/her reception into custody where this has not previously been done as an unconvicted prisoner;

- (g) on a discretionary basis, for additional contact with their Member of Parliament (MP) Member of the National Assembly for Wales (AM), Member of the European Parliament (MEP) or Consular representative;
- (h) to enable a prisoner to write to the Prisons & Probation Ombudsman or its Independent Prisoner Complaint Investigations Team.

Additional discretion

- 2.5 *In accordance with Prison Rule 35 (4) and Young Offender Rule 10 (3), a prisoner must be given an extra letter at public expense in place of any statutory visit which the prisoner does not wish to take or accumulate.*
- 2.6 A prisoner may be given a Statutory Letter in advance of the due date of their next statutory entitlement. The date of the next letter will be calculated from the due date.
- 2.7 A convicted prisoner may, to the extent that the Governor considers it reasonable, accumulate his/her allowance of statutory and privilege letters.

Letters received

- 2.8 At establishments where all or most correspondence is not monitored, there are no restrictions on the number of letters which prisoners may receive.
- 2.9 At other establishments prisoners are allowed to receive as many letters as they are allowed to send. However, if a prisoner receives an excessive number of letters either habitually or on one occasion, the Governor has the discretion to return excess letters to the sender(s) but the prisoner will be given the opportunity to select those which he/she particularly wishes to read. Similarly anyone who makes a practice of sending excessively long letters to prisoners may be asked to confine themselves to four sides of paper. If they ignore the request the Governor may return subsequent letters, in which case the prisoner should be informed accordingly.

Postage Costs

- 2.10 *Statutory Letters must be sent at public expense, but the postage costs of Privilege Letters are paid from the prisoner's spends account.*
- 2.11 The postage costs of Special Letters for convicted prisoners should usually be met from the prisoner's spends account. The Governor may decide to pay for a Special Letter in exceptional circumstances, but the prison *must pay for Special Letters in the following circumstances:*
 - (a) *letters on transfer;*
 - (b) *letters to offender managers or agencies helping with employment or accommodation arrangements;*
 - (c) *letters to the Prisons & Probation Ombudsman or its Independent Prisoner Complaint Investigations Team;*

(d) *letters to Council Tax Officers;*

- 2.12 *All Special Letters sent by unconvicted prisoners and those who may be held under an Immigration Detention Warrant must be sent by public expense.*
- 2.13 The cost of posting of celebratory cards may be met from the prisoner's spends account.

2.14 If prisoners pay for the postage costs of their correspondence, they have the option of choosing between First and Second Class and for overseas letters Air or Sea mail. Subject to the following paragraph, letters sent at public expense will normally be sent at the cheapest rate but a prisoner may pay the difference for a higher class of postage.

2.15 *Letters sent at public expense must be sent first class or by air mail if:*

- (a) they are Special Letters sent on transfer;
- (b) they are in connection with an appeal;
- (c) exceptionally, postage at the higher rate has been approved by the Governor.

2.16 The correspondents of some prisoners may wish to send them stamped addressed envelopes, bearing their return address, to encourage them to write letters and to help with the costs, *however this is only permitted in line with the 'Handing and Sending in' section of the Incentives Policy Framework.*

2.17 Additionally, correspondents may send in monies to prisoners in the form of cheques or postal orders only in exceptional circumstances and after obtaining the relevant exemption permission. Guidance covered in [PSI 01/2012 Manage Prisoner Finance](#).

Correspondents

2.18 A prisoner may write to, and receive letters from, any person or organisation, subject to the acceptability of the contents and to the restrictions set out further in this PSI. However, it does not necessarily follow that because a prisoner is in correspondence with a person or organisation that he/she may be visited by that person or a representative of that organisation or make contact via telephone. See further information in section 6 'The Restriction of Communications' and section 7 'The Banning of Visitors' of the [Authorised Communications Controls and Interception Policy Framework](#).

2.20 – 2.21 Correspondence with children (defined as someone under 18 years of age) – relevant policy and guidance is set out in the [Prison Public Protection Policy Framework](#)

Correspondence with young prisoners

2.22 Relevant policy and guidance is provided under Section 6 'The Restriction of Communications' of the [Authorised Communications Controls and Interception Policy Framework](#).

2.23 A close relative is defined as a spouse/partner (including a person - whether of the same or different sex - with whom the prisoner was living as a couple in an established relationship immediately prior to imprisonment) parent, child, brother, sister (including half or stepbrothers and sisters), grandparent, civil partner, fiancé or fiancée, or a person who has been acting in loco parentis to a prisoner, or a person to whom the prisoner has been in loco parentis i.e. where they have had/have parental responsibility for that person. Those who have clearly demonstrated the intention to register a civil partnership with the prisoner but have not yet done so may also be included within this definition of close relative for the purposes of correspondence.

2.24 **Inter-prison mail** – policy and guidance can be found in paragraph 6.7 in the [Authorised Communications Controls and Interception Policy Framework](#).

Ex-prisoner mail

- 2.25 Correspondence with ex-prisoners should be allowed, subject to any concerns there may be regarding threats to security (see below) and, if the ex-prisoner is under supervision in the community, to the views of his/her supervising offender manager, unless the Governor believes that it would seriously impede the rehabilitation of either.
- 2.26 **Victims and public protection issues** – see the [Prison Public Protection Policy Framework](#) for policy and guidance concerning prisoners wishing to correspond or have telephone contact with victims of their offence.

Threats to security

- 2.27 – 2.28 The Governor has the discretion to disallow any correspondence with a person or organisation if there is reason to believe that the person or organisation concerned is planning or engaged in activities which present a genuine threat to security or good order of the establishment or other prisons. See paragraph 9.2 and 14.5 of the [Authorised Communications Controls and Interception Policy Framework](#).

Penfriends

2.29 Any prisoner who wishes to place an advert for a penfriend(s) should first apply to the Governor for permission and approval of the text. Permission may be granted unless:

- (a) the advertisement invites respondents to write to a box number;
- (b) the prisoner is an adult and the publication concerned is aimed at, or read mainly by children or young people;
- (c) the advertisement is to be placed in a periodical which caters for tastes or interests which may have motivated the prisoners offence;
- (d) correspondence arising from the advertisement might place respondents in danger of harm from the prisoner after release.

2.30 *At establishments where all or most correspondence is monitored, it must be made clear to prisoners that Governors have discretion to withhold replies if an excessive number are received.*

PO Box numbers

2.31 *Prisoners must not normally be allowed to write to a PO Box number, but if the prisoner does not know the private address of the correspondent, the Governor may, if satisfied that security is not threatened, allow the letter to be sent (this would not normally be an issue where the person/organisation is a recognised body such as the Samaritans or Alcoholics Anonymous). Similarly, prisoners will not normally be allowed to receive anonymous letters, and the Governor has discretion to withhold letters which do not show the senders address.*

Prisoners on “dirty protest”

- 2.32 If a prisoner is participating in a “dirty protest” they are still entitled to send and receive mail. However, this will have implications for the health of both staff and the public, especially postal workers. Royal Mail will not under any circumstances handle contaminated correspondence so unless a prisoner can obtain the services of a delivery agent who is willing to deliver this type of correspondence (using suitable packaging) they will not be permitted to send out such mail. This also applies to Rule 39 correspondence. Staff should refer to the detailed guidance in Prison Service Order 1700 – Segregation Dirty Protests (Guide to Contents) – (8) Regime – (b) Communications – Letters. This is currently being revised and the revised Instruction will appear under Function 2 of the National Security Framework.
- 2.33 – 2.34 **Prisoners transferred or released from custody** - policy and guidance can be found in paragraphs 14.6 and 14.7 of the [Authorised Communications Controls and Interception Policy Framework](#).
- 2.35 *Any letters received for a prisoner after they have been transferred to another establishment must not be opened. The address on the front of the envelope must be amended to show the details of the new establishment and the envelope forwarded through the ordinary post. If the letter appears to be legal or from an official body, a telephone check must be made first, in order to establish that the prisoner has not moved again, and this must be forwarded as a mater or urgency. If the prisoner has moved again, the prison with the letter must identify and telephone the prison holding the prisoner to confirm he or she is held there.*

Service of court documents on prisoners

- 2.36 *Prisons are required to facilitate the service of court documentation on prisoners, where requested by a court, in compliance with Article 6 of ECHR. This applies to documents from UK courts as well as those from foreign jurisdictions. Rule 39 applies to correspondence from courts, which must only be opened and read if permitted by Rule 39. In addition, in respect of foreign court documents the Senior Master at the Foreign Process Section (FPS) at the High Court determines, under the Civil Procedure Rules, the method of service of documents from foreign courts – often done by instructing County Court Bailiffs to deliver the documents for service. Governors must ensure that arrangements are in place for staff to accept court documents which they must give to the relevant prisoner and thereafter provide an acknowledgement of service to the FPS. Prison staff should consult with the FPS if they wish to explore specific options for receiving the documents, such as via mail or email, and identify a Single Point of Contact such as the Offender Management Unit.*

Output 3 - Prisoners are able to send as many letters as they wish at their own expense (Written)

- 3.1 Prisoners are permitted to send out as many Privilege Letters (those paid for by the prisoner) as they can afford to unless there are restrictions placed on their correspondence which may limit the number being sent. This limitation would be set in those cases where active examination was required i.e. public protection or offence related monitoring or if in a High Security prison.

Output 4 - The service supports arrangements for prisoners to receive Private Cash by post (Written)

4.1 In accordance with Prison Rules 43(2) and 44 (2) and YOI Rule 48 prisoners are able to have money sent into them by family and friends from outside the prison and credited to their account where permitted by the Finance Manual Policy Framework and PSI 01/2012 Manage Prisoner Finance. This money should be processed in accordance with the guidance contained within the instructions/guidance found in the Finance Manual Policy Framework and PSI 01/2012 Manage Prisoner Finance.

Output 5 - Prisoners who have not had a social visit will be helped to maintain family ties and outside contacts by provision of a free letter, in lieu of that one visit (Written)

5.1 *In accordance with Prison Rule 35 (4) and Young Offender Institution Rule 10 (3), a prisoner must be given an extra letter at public expense in place of any statutory visit which the prisoner does not wish to take or accumulate.*

Output 6 - All prisoners are able to communicate with family, friends, legal advisers and professional contacts (Speech)

Reception

6.1 – 6.2 On first reception into prison, prisoners often need to make an early telephone call to family and friends to let them know their whereabouts. *The Governor must make local arrangements to allow a call to be made within the first 24 hours of reception.* See further policy and guidance in paragraphs 6.18 and 9.5 – 9.7 in the Authorised Communications Controls and Interception Policy Framework.

6.3 Where a prisoner is making the call a personal identification number or PIN will be required and the account credited with funds before a call can be made. A call made on reception or in the first night accommodation can be funded in two ways or a combination of both:

- (a) by the use of one generic PIN account, pre-funded with credits which are paid for from public funds to enable them to make a short call;
- (b) after signing the Communications Compact, the prisoner is put on the PINphone system with their own personal account and PIN credits are issued as an advance.

6.4 With both options the call will be recorded. If a prisoner wishes to make a legal call the onus will be placed on the prisoner to inform staff that they wish to make such a call. Further policy and guidance on access to legal and confidential calls upon reception can be found in paragraph 9.8 of the Authorised Communications Controls and Interception Policy Framework.

6.5 - 6.9 **Communications Compact** – policy and guidance can be found in paragraphs 12.1-12.6 under Communications Compact in the [Authorised Communications Controls and Interception Policy Framework](#).

General access

6.10 *Prisoners must be given access to the PINphone during association and at other such times as are reasonably practicable, depending on the nature of the establishments regime. The time available for using the phones must not normally be less than two hours each day.*

- 6.11 Phones can be scheduled to come on and off according to the prisons working day. Different schedules can be applied to different days, or the phones can be left switched on all the time. These schedules are applied centrally within the establishment.
- 6.12 Some prisoners on a call enabling regime will be required to have their numbers approved before the call can be made to that number. Further information on submitting and checking of legal numbers can be found under section 11 'Management of PIN Phone System' (paragraph 11.6) of the [Authorised Communications Controls and Interception Policy Framework](#).
- 6.13 Prisoners on a call enabling regime will be allowed up to:
- (a) 20 social numbers;
 - (b) 15 legal and confidential access numbers. If engaged in litigation prisoners may be permitted a second account of a further 15 legal numbers. Under exceptional circumstances, Governors will have discretion to allow a prisoner more than 30 legal numbers.

(6.14-6.16 Removed and relevant guidance provided in [Authorised Communications Controls and Interception Policy Framework](#).)

- 6.17 *Should a prisoner wish to amend his personal list s/he must not be charged for adding to or deleting legal numbers from their PINphone account. If a prisoner loses their PIN number or allows it to become compromised the Governor may charge for the issuing of a new PIN number.*
- 6.18 Prisoners are permitted to telephone business numbers but for the sole purpose of speaking to family and friends.
- 6.19 *Prisoners are not permitted to make any commercial enquiries or order goods using the telephone. Prisoners are not able to make calls to or via the operator, to other operator services and must not be given access to telephone directories. Should a prisoner need to know a particular number or an area code they must make an application to an Operational Manager, explaining why they want to call the person in question. Staff must look the number up on the prisoner's behalf.*

Inter-prison telephone calls – policy and guidance on inter-prison communication is covered in paragraphs 6.7 and 23.39-23.40 of the [Authorised Communications Controls and Interception Policy Framework](#). Further guidance on the process for inter-prison communications, is covered in 7.4 or the Interception and Restriction of Communications Operations Manual.

Additional guidance

- 6.20 **Annex A** contains guidance about the ways in which the PINphone system can be configured in order to restrict prisoner use and arrangements for discharge. **Annex B** contains some guidance for particular groups of prisoners.

Output 7 - Incoming phone calls from official bodies or the courts can be facilitated (Speech)

- 7.1 The PINphone system does not accept incoming calls. *Any arrangement to allow incoming calls must involve an official telephone. Prisoners will continue to receive prearranged calls on office phones from members of staff of the Prisons and Probation Ombudsmans Office (including the Independent Prisoner Complaint Investigations Team), the Criminal Cases Review Commission and the Children and Family Court Advisory and Support Service (Cafcass). For further information on Cafcass please see the Strengthening Prisoners' Family Ties Policy Framework.*

Output 8 - Prisoners can make urgent phone calls for domestic or legal reasons at public expense (Speech)

- 8.1 *Where there are urgent legal or compassionate circumstances, such as imminent court proceedings or a domestic crisis, Operational Managers have discretion to allow such calls to take place at public expense. Before agreeing to such an application, Operational Managers must satisfy themselves that the need could not adequately be met by means of a visit or letter. The Operational Manager must also be satisfied that the prisoner has insufficient credit within their PINphone account to make the call.*
- 8.2 *The costs of these calls must be at public expense. Such calls can be made either via an official telephone or a generic PINphone account, pre-funded with credits paid for with public funds.*

Output 9 - Prisoners with close family abroad who have not had a social visit in the preceding four-week period will be helped to maintain family ties and outside contacts by provision of a free five-minute phone call (Speech)

- 9.1 *Foreign national prisoners or those with close family abroad must be permitted a free five-minute call once in a four-week period where the prisoner has had no social visits during the preceding four-week period.*
- 9.2 *Consideration must be given to allowing such prisoners to have access to telephones outside normal hours to make calls to their country of origin where there is a significant time difference between their country of origin and the UK.*

Output 10 - Prisoners may communicate with members of the media (General)

- 10.1 *Staff must refer to PSI 37/2010 Prisoners' Access to the Media for further guidance on prisoners having legitimate access to the media.*

Output 11 Prisoners are prevented from sending and receiving illicit or unauthorised articles, information or data (General/Written/Speech)

- 11.1 *Letter paper and air letter forms should be stamped at the head with the name and address of the establishment before issue. However, Governors may allow a prisoner to write on plain paper which does not indicate its place of origin to his or her child or, at the Governor's discretion, to any other person or organisation, and greetings cards with only a simple greeting need not show the address of the establishment.*
- 11.2 *The private postal address of the establishment must be on the outside of air letter forms.*

Restrictions on correspondence – including publication on the Internet

11.3 Correspondence may not contain the following:

- (a) Material which is intended to cause distress or anxiety to the recipient or any other person, such as:
 - (i) messages which are indecent or grossly offensive;
 - (ii) a threat;
 - (iii) information which is known or believed to be false;
- (b) Plans or material which could assist or encourage any disciplinary or criminal offence (including attempts to defeat the ends of justice by suggesting the fabrication or suppression of evidence);
- (c) Escape plans, or material which if allowed would jeopardise the security of a prison establishment;
- (d) Material which would jeopardise national security;
- (e) Descriptions of the making or use of any weapon, explosive, poison or other destructive device;
- (f) Obscure or coded messages which are not readily intelligible or decipherable;
- (g) Material which is indecent and obscene under Section 85(3) of the Postal Services Act 2000;
- (h) Material which, if sent to, or received from, a child might place his or her welfare at risk;
- (i) Material which would create a threat or risk of violence or physical harm to any person, including incitement to racial hatred;
- (j) In addition to restrictions on access to the media (see PSI 37/2010 Prisoners' Access to the Media), material which is intended for publication or use by radio, television or the Internet (or which, if sent, would be likely to be published or broadcast on these media channels) if it:
 - (i) is for publication in return for payment, unless the prisoner is unconvicted. However, prisoners are permitted to receive payment for pieces of artwork or work of literary merit but only if they do not contravene any of the restrictions contained within paragraphs (ii)– (v) below and only if channelled through appropriate charitable organisations. This should not be done on a regular basis so as to constitute any form of business activity (i.e. being commissioned to write a series of books or a regular feature in a national publication). It would be for the Governor to decide if such material contravened any of these restrictions. Further guidance on this is at paragraph 3.31 of PSI 01/2012 Manage Prisoner Finance.

- (ii) is likely to appear in a publication associated with a person or organisation to which the prisoner may not write as a result of the restriction on correspondence in paragraph 2.26 above;
- (iii) is about the prisoners own crime or past offences or those of others, except where it consists of serious representations about conviction or sentence or forms part of serious comment about crime, the criminal justice system or the penal system;
- (iv) refers to individual prisoners or members of staff in such a way that they might be identified;
- (v) contravenes any of the restrictions on content applying to letters;
- (k) In the case of a prisoner against whom a deportation order is in force, material constituting or arranging any financial transaction unless the Governor is satisfied that there is a genuine need for such a transaction (i.e. if in relation to the financial support of a close relative or if seeking advice in order to petition against deportation). This restriction does not apply to a prisoner whose sentence includes a recommendation for deportation but where a decision has not been made by the Secretary of State to act upon the recommendation;
- (l) In the case of a prisoner in respect of whom a receiving order or confiscation order has been made or who is an undischarged bankrupt, material constituting or arranging any financial transaction except:
 - (i) on the advice of the Official Receiver;
 - (ii) to pay wholly or in part a fine or debt in order to secure the prisoners earlier release;
 - (iii) to defend criminal proceedings brought against the prisoner;
 - (iv) to meet the cost of communicating with or instructing a solicitor to act on the prisoners behalf in bankruptcy proceedings;
 - (v) to meet the costs of the prisoners production in bankruptcy proceedings.

11.4 A prisoner may not ask, in writing or otherwise, another person either inside or outside the establishment they are held in, to make on his or her behalf a communication which he or she would not be allowed to make direct, or which would contravene the restrictions in paragraph 11.3 or any other part of this Prison Service Instruction.

11.5 *On induction, prisoners at Open, Category C, Category B training establishments, female and young offender establishments must be informed that their correspondence will not normally be read. However, in each case it must be made clear to the prisoner that they are still required to observe the restrictions contained within this order, and that if they fail to do so, the Governor may order all their correspondence to be read or take appropriate disciplinary action.*

11.6 *Any incoming correspondence or parcel, which is recorded/signed for or special delivery must be signed for by staff at the gate as confirmation that the item has actually been delivered to the prison by Royal Mail; this also applies to other recognised delivery companies. Any parcel would also need to be processed in accordance with the 'Handing and Sending in' section of*

the Incentives Policy Framework and with the guidance found at paragraphs 2.64-2.66 of– Prisoner Property Policy Framework. *Unless covered by the arrangements for Rule 39 or Confidential Access mail, it must then be opened and examined in the normal way for any illicit enclosures, all items must be recorded on the appropriate property card and passed to the prisoner concerned as soon as is possible. In order to prevent complaints that a valuable item has been lost, it must be opened in the presence of another member of staff. A record must be kept of the receipt of all parcels and recorded signed for/special delivery letters and any prisoner who requests the original Royal Mail receipt should be given this to keep.*

- 11.7 *Prisoners must not communicate by telephone matters that they would not be allowed to communicate by letter under the terms of paragraphs 11.3 to 11.4 above*

Output 12 - Prisoner communications are facilitated in a manner which ensures:

- **Maintenance of security** • **The safeguarding of Children** • **Public Protection**

- 12.1 *Should staff hear a call, either through monitoring or by chance overhearing, which breaches the conditions of use set out in the Compact, the call must be ended and the matter reported to an Operational Manager. The system can be used to terminate the call.*
- 12.2 *Where there is evidence of a possible criminal offence, the matter must be referred to the Security Department for consideration of a referral to the police for investigation. Where a prisoner is subsequently found to have abused the telephone system, he or she should be charged with an offence under Prison Rule 51, paragraph 23 YOI Rule 55, paragraph 25.*
- 12.3 *The signed communications Compact may be produced in evidence at any subsequent adjudication. Governors may, in addition, as a separate administrative measure, prohibit the prisoner from using the PINphone for a period to prevent further abuse.*
- 12.4 *Where a prisoner who is assessed as either a PPRC or a potential PPRC wishes to have contact with a named child, staff must refer to the [Prison Public Protection Policy Framework](#)*
- 12.5 *Policy and guidance on ‘Restrictions on Telecommunications and Written Communications’ is covered the [Authorised Communications Controls and Interception Policy Framework](#) in relation to intelligence led restrictions on communications with children and the [Prison Public Protection Policy Framework](#) , in relation to public protection led restrictions.*
- 12.6 *Prison staff must be familiar with the procedures and restrictions that may apply to prisoners convicted of, or remanded in custody for, harassment offences, or are subject to a restraining or injunction orders. Detailed guidance is contained within the [Prison Public Protection Policy Framework](#).*
- 12.7 *Safeguards must be in place to restrict contact between unconvicted prisoners and any victims and witnesses who have been identified as potential at risk. Further policy and guidance can be found within the [Prison Public Protection Policy Framework](#) .*
- 12.8 – 12.10 *Circumstances in which prisoners will be allowed telephone victims of their offences and the Policy and guidance for non-contact communications requests are set out in the [Prison Public Protection Policy Framework](#) .*

Access to the Internet and social networking sites – policy and guidance can be found in paragraph 9.10 of the [Authorised Communications Controls and Interception Policy Framework](#).

Output 13 - Prisoners are aware that their spoken and written communications may be monitored (other than legal or confidential access calls) – all policy and guidance concerning monitoring of prisoner communications is set out in section 12 ‘Communications Compact’ of the [Authorised Communications Controls and Interception Policy Framework](#).

Output 14 - Confidentiality of legally privileged or confidential access communications is maintained (Privileged Communications).

Legal and confidential mail

14.1 Correspondence between prisoners and the organisations/individuals listed below are subject to confidential handling arrangements as follows:

RULE 39

- The prisoner’s Legal Adviser (which may just be the name of a firm or organisation such as Prisoners’ Advice Service where the prisoner does not know name of legal adviser)
- Courts
- Bar Council
- Law Society
- Official Solicitor

CONFIDENTIAL ACCESS – please see updated list of organisations, persons and bodies attracting confidential communication in Annex B of [Authorised Communications Controls and Interception Policy Framework](#).

14.2 Prison Rules 38 and 39 (1) and Young Offender Institution Rules 16 and 17 (1) provide for correspondence between prisoners and their legal advisers (defined as solicitor, counsel, or a clerk acting on behalf of either) or the Courts to be treated as privileged. This includes legally privileged material handed over on visits. For outgoing correspondence, letters may be addressed just to a firm of solicitors or organisation like the Prisoners’ Advice Service where prisoners are unsure of the legal adviser’s name.

Legally privileged correspondence must not be stopped, opened and/or read, except in specific circumstances outlined in the Prison Rules. Policy and guidance on the prevention and incorrect interference with this mail can be found in section 15 ‘Privileged Communications: Legal and Confidential’ (paragraphs 15.3-15.7) of the [Authorised Communications Controls and Interception Policy Framework](#). A comprehensive guide on how to handle both Rule 39 and Confidential Access correspondence is at **Annex D**.

14.3 *Correspondence between prisoners and their legal advisers and/or courts must be handled in accordance with the guidance contained in **Annex D**. Where the barcode service ‘Send Legal Mail’ is accessible, Rule 39/YOI Rule 17 correspondence should be sent in using this service. However, *legal advisers and courts are not obliged to use the service and where the service is not used, the envelopes of legal correspondence should be clearly marked ‘Prison Rule 39’ or in the case of YOIs and Juveniles ‘YOI Rule 17’ or ‘legal correspondence’*. Existing methods of sending in mail must continue to be accepted alongside the ‘Send Legal Mail’ service.*

- 14.4 'Confidential Access' correspondence is not covered by the Prison or YOI Rules but is entitled to the same privileged handling arrangements as legal mail and applies to correspondence with certain statutory bodies and individuals (a full list is in Annex B of the [Authorised Communications Controls and Interception Policy Framework](#)). The same handling arrangements apply to Confidential Access correspondence, except that the envelope should be marked 'Confidential Access' (as opposed to Rule 39 or YOI Rule 17) and should be clearly addressed to one of the qualifying bodies. The 'Send legal Mail' service should also be used where accessible for all incoming mail from these bodies. However, Confidential Access correspondents are not obliged to use the service and where the service is not used, correspondence from these bodies and individuals should bear the appropriate identifying mark that is commonly associated with that particular organisation. In some circumstances it may be appropriate for outgoing letters addressed to these organisations to be recorded in a Communications Log. *Existing methods of sending in mail must continue to be accepted alongside the 'Send Legal Mail' service.*
- 14.5 *If by oversight an outgoing letter does not bear the correct marking but is clearly addressed to an individual or organisation covered by paragraphs 14.1, it must continue to be treated as privileged and handled in accordance with the guidance contained in **Annex D**.* If incoming correspondence is without a barcode from the 'Send Legal mail' service **or** is not carrying the proper marking which identifies it as originating from one of the bodies listed in paragraph 14.1 it should also be handled in accordance with the guidance in **Annex D**.
- 14.6 It should be noted that only correspondence between a prisoner and their legal adviser or the courts is designated as Rule 39/ YOI Rule 17. Correspondence to other legal bodies generally falls under confidential access, but there may be instances where the content means that documents to other bodies would be counted as Rule 39/ YOI Rule 17 (e.g. copies of documents between a prisoner and his/her solicitor which are referred to the Solicitors Regulation Authority, Bar Council or Law Society).

Members of Parliament (MP), Members of the European Parliament (MEP) or Members of the National Assembly for Wales (AM)

- 14.7 *Correspondence between prisoners and their MP, AM and MEP must be treated as privileged but only where they are acting in a constituency capacity (not in a social capacity). This privilege does not extend to Members of the House of Lords, who have no constituency responsibilities, or to Local Councillors. All outgoing correspondence must be appropriately addressed i.e. to the particular Member at (i) the House of Commons, (ii) the National Assembly for Wales and (iii) the European Parliament and should also bear the prisoner's home or current (prison) address. All incoming correspondence should be written on and enclosed in officially recognised stationery and displaying an official identifying mark of the appropriate authority, unless the correspondence is sent in via the 'Send Legal Mail' service. However, if an MP, AM or MEP is writing to a prisoner in a purely social capacity, i.e. that individual is a personal friend or colleague, then the letter is not covered by this privilege and official stationery should not be used.*

Embassy or Consular Officials (also see [PSI 49/2011 Prisoner Communications](#) and [PSI 52/2011 - Immigration, Repatriation and Removal Services](#))

- 14.8 The Vienna Convention on Consular Relations, which has been supplemented by a number of bilateral agreements between the United Kingdom and other countries, guarantees

freedom of communication between Consular officers and their nationals. This applies to foreign nationals held in UK prisons.

- 14.9 On reception into prison, all foreign national prisoners should be informed of their right to communicate with the appropriate consular office or High Commission and an extra letter sent at public expense should be allowed if a prisoner wishes to notify either of their imprisonment.
- 14.10 However, the above paragraphs do not apply to a prisoner who is seeking asylum in the United Kingdom or who is detained under the Immigration Act 1971 and is making representations against their removal or deportation from this country on political, religious or ethnic grounds.
- 14.11 *If a person is a citizen of a country which does not have consular representation in the United Kingdom, they must be treated in the same way as a citizen of the country which looks after its interests here.* If there is no such country or the prisoner is stateless or a refugee, they should be given all reasonable assistance in communicating with any international authority charged with protecting the interests of such persons, such as the United Nations High Commissioner for Refugees.

Samaritans

- 14.12 Correspondence with Samaritans is subject to confidential handling. Prisoners may correspond with Samaritans in confidence by writing to a central service which has been established to respond to prisoner's letters. The current address is:

Chris PO Box No. 9090 STIRLING FK8 2SA

- 14.13 Freepost envelopes are available which are clearly labelled with both "Samaritans" and "Confidential Access"; and supplies of these envelopes can be obtained direct from Samaritans Correspondence Branch at the address above.
- 14.14 *Staff must not read correspondence from a prisoner to Samaritans (or vice versa), even when they think it might be necessary to assess the prisoner's risk of self-harm.* The fact that a prisoner is corresponding with Samaritans is a warning in itself that they may be at risk of selfharm or suicide and may need additional support.

Registered Medical Practitioners

- 14.15 *Correspondence between a prisoner and a registered medical practitioner must be handled in confidence but only to the extent that the registered medical practitioner is acting in a professional capacity and the correspondence directly relates to the treatment of the prisoner.*
- 14.16 In these circumstances, any outgoing correspondence should be addressed to the named registered medical practitioner at their official practice address and clearly marked "Confidential Access" with the words "Medical In-Confidence" also written on the envelope. It should also have the prisoners name and number clearly written on the back of the envelope. Likewise, incoming correspondence should be clearly marked "Confidential Access" with the words "Medical In-Confidence" written on the enveloped and clearly display the name and address of the treating medical practitioner and their official identifying marking (e.g. NHS Trust or hospital), unless the correspondence is sent in via the 'Send legal Mail' service. If a registered medical practitioner is writing to a prisoner in a social capacity, i.e.

that individual is a friend or colleague, then the letter is not covered by the confidential handling arrangements outlined above.

- 14.17 *If there are good grounds to suspect that the correspondence has not originated from a bona fide registered medical practitioner then staff must check with the individual concerned or if necessary with the General Medical Council (<http://www.gmc-uk.org/doctors/register/LRMP.asp>) for confirmation of their status.) However, if staff assess there is reasonable cause to stop and examine this mail, then the guidance contained in Annex D must be followed.*
- 14.18 *Prisoner complaints about the provision of the healthcare treatment they receive from the local Primary Care Trust (PCT) while in custody must be processed in accordance with the guidance contained in PSI 14/2005 Healthcare Complaints.*

Telephone Calls

- 14.19 *Unless an application has been made and approved in accordance with paragraph 14.2 (f) of this Instruction all calls from prisoners to their legal advisers and confidential access organisations such as the Criminal Cases Review Commission, the Prisons and Probation Ombudsmans Office (including the Independent Prisoner Complaint Investigations Team), Consular Officials and the Samaritans must not be recorded or monitored.*
- 14.20 Prisoners are required to provide these numbers so that they can be put on the restricted side of the PINphone system and it remains their responsibility to do so. However, if restricted numbers are placed for any reason on the open side of the system, it is possible for staff to inadvertently listen to the beginning of the conversation. Should this happen, staff must immediately stop listening as soon as it becomes apparent that the call is privileged. The matter should be reported immediately to the Head of Security so that appropriate action can be taken to prevent a recurrence.

Output 15 - A risk assessment is completed which determines the need for and, if required, the proportion of written prisoner correspondence to be randomly monitored (Written). All policy and guidance specific to the monitoring of prisoner communications, including random monitoring, is set out in section 16 'Types of Monitoring' and Section 17 'Cohort-Specific Monitoring' of the [Authorised Communications Controls and Interception Policy Framework](#).

Output 16 - A risk assessment is completed which determines the need for and, if required, the proportion of prisoners speech communications to be randomly monitored (Speech). All policy and guidance specific to the monitoring of prisoner communications, including random monitoring, is set out in section 16 'Types of Monitoring' and Section 17 'Cohort-Specific Monitoring' of the [Authorised Communications Controls and Interception Policy Framework](#).

ANNEX A

Restrictions applied via the PINphone system (previously point 1-6 below) can be found in section 6 (6.17) and in section 7 'Communication Restrictions' of The Interception and Restrictions of Communications Operations Manual.

Cash limits on PINphone accounts

7. Prisoners must have no more than £50 in telephone credits in their telephone account at any time, except for foreign national prisoners and those prisoners with close family abroad where no limit will apply. Prisoners to whom this exemption might apply will fund the cost of any additional balance (above £50) in their PINphone account from their Private Cash only.
8. *Governors must only set lower limits for PINphone account balances as part of their Incentives Scheme.*

Discharge

9. If an establishment has to clear the PINphone account each time a prisoner goes to court (which could happen more than once) a number of operational difficulties are likely to occur. With the need to gather the monies to go with the prisoner to court this will result in prisoners not being able to make calls the evening before their court appearance and a potential delay of at least 24 hours on return from court before the prisoner can have money credited to their PINphone account. There is also a concern that a delay in prisoner access to telephones on return from court could raise their risk of self-harm.
10. It is for these reasons that prisoners will not normally be permitted to take the money held on their PINphone account to court. *If prisoners insist on having the money with them it must be explained to them that they will not be able to make calls the evening before their court appearance and there will be a potential delay of at least 24 hours on return from court before the prisoner can have money credited to their PINphone account (or longer if the prisoner is returned on a Friday).*
11. If a prisoner is discharged from Court the money can either be sent on to them on request or they can return to the establishment to collect it. The balance on the account can be claimed up to one year after final discharge. If after one year no claim has been made, this money will be donated to NACRO.

ANNEX B GUIDANCE FOR PARTICULAR GROUPS OF PRISONERS

Disabled prisoners

1. *Governors must ensure that prisoners with disabilities are able to make telephone calls using the PINphone system.*
2. The BT PINphone handset contains an inductive coupler to help prisoners with hearing aids. In order to benefit from this the hearing aid needs to be switched to the 'T' position. If a prisoner is profoundly deaf, the inductive coupler may offer limited benefit.
3. To assist blind and partially sighted prisoners there is a raised dot on the number 5 button to help the prisoner navigate the keypad. While Braille or pictorial instructions are not provided, where the service is provided by BT, voice prompts are played as soon as the prisoner picks up the handset guiding them through the process of making a call. There are also voice prompts informing the prisoner how much credit they have left remaining in their PINphone account.
4. On request PINphone handsets can be permanently installed at appropriate levels for wheelchair users. Where the service is provided by BT portable units are available from BT where the PINphone unit is mounted on a trolley.

Foreign National prisoners

5. *Telephone calls by prisoners identified as potential, provisional, high and exceptional risk Category A, or E-list Heightened must be conducted in English. Local discretion may permit the use of another language, but the procedures in the Authorised Communications Controls and Interception Policy Framework (particularly paragraph 17.1) must be followed.*
6. Establishments may open a second PINphone account for foreign national prisoners (designated FN following the prisoner number) who wish to purchase additional PIN credits from their private cash under the terms of PSI 01/2012 Manage Prisoner Finance.

Appellants

7. *For all prisoners identified as appellants, establishments may open a second PINphone account for them (designated LG following the prisoner number) if requested by the prisoner. For this purpose, a prisoner is an appellant if they are engaged in litigation either civil or criminal; including initiating proceedings such as the pre-action stages.*
8. Prisoners who are identified as appellants may purchase additional PINphone credits from their private cash in order to consult with their legal advisers. *However, the Prison must be satisfied that the prisoner has used the private cash for the purposes of speaking to his/her legal team before approving further purchases of PINphone credits from private cash for this purpose.*

ANNEX C

Suggested text for notices to be placed adjacent to wing PINphones

No longer in use.

ANNEX D**FURTHER GUIDANCE ON THE HANDLING ARRANGEMENTS FOR PRISONERS' LEGAL AND CONFIDENTIAL ACCESS CORRESPONDENCE****Introduction**

1. The purpose of this annex is to provide detailed guidance on the handling arrangements for legal and confidential access correspondence between prisoners and their legal advisers, and with the courts. This correspondence is covered by Prison Rules 35A & 39 and YOI Rules 11 & 17 and applies to all prisoners, including Category A, young offenders and remand prisoners. It should also be read in conjunction with the guidance given in the Authorised Communications Controls and Interception Policy Framework, which covers the security procedures for dealing with legal/confidential access correspondence.
2. *All correspondence, including legally privileged documents/material which is handed over during the course of a legal visit, between prisoners, their legal advisers and the Courts (including the European Courts) must be treated as privileged by virtue of Prison Rules 38 & 39 and YOI Rules 16 & 17. Such correspondence/documents/material cannot be opened, read or stopped except in the specific circumstances set out in Rules 35A and YOI Rules 11.*
3. *Furthermore all correspondence between prisoners and the bodies listed in Annex B of the Authorised Communications Controls and Interception Policy Framework, must be given the same degree of confidentiality.*

Action for Governors

4. *There must be strict compliance with the rules regarding privileged and confidential mail. Any breach, even if accidental, is likely to lead to legal challenge in both the domestic and international courts. Governors should ensure that the guidance contained in this annex is brought to the attention of all staff that process prisoners' correspondence and take the necessary steps to ensure that the confidentiality of prisoners' correspondence under these provisions is maintained at all times. Governors should pay particular regard to ensuring that there are sufficient safeguards to avoid the possibility of such correspondence being opened inadvertently.*

Outgoing Correspondence – Examination/Opening

5. Prisoners should be informed that correspondence addressed to their legal advisers, or to any Court including the European Court of Human Rights and the European Court of Justice can be handed in sealed for despatch, provided that the words "Prison Rule 39" or "YOI Rule 17" and the prisoner's name are written on the back of the envelope. Non-legal letters addressed to bodies/individuals to which prisoners can write confidentially should be marked "Confidential Access".

6. There may be occasions where, due to oversight or lack of awareness, correspondence may not be clearly marked in this way or may be left unsealed. Nonetheless establishments should note that, where correspondence is identified as being addressed to a recognisable legal adviser or body to whom confidential access status applies, it should be treated in exactly the same way as if it were properly marked and sealed.
7. On receipt of a letter for despatch, the correspondence officer should check whether the name and address is that of a legal adviser or a court or a body listed in Annex B of the [Authorised Communications Controls and Interception Policy Framework](#). A legal adviser will usually be identifiable from the name and address of a sole practitioner or firm of

practitioners, but may also for example be employed by another advisory body such as the Prisoners' Advice Service, Liberty or Citizen's Advice Bureau or may even practice from their home address. However, in cases of doubt it may be necessary to contact the legal adviser concerned to obtain confirmation of their status or seek verification from the Law Society.

8. The Officer should also consider whether any examination for illicit enclosures is necessary. An "illicit enclosure" is defined in the Prison Rule 39(6) as including any article possession of which has not been authorised in accordance with Prison Rules and any correspondence to and from a person other than the prisoner, their legal adviser or a court (including the various European courts). However, prisoners may include relevant enclosures in Rule 39 mail to third parties e.g. to the Legal Services Commission that they wish their solicitor to transmit on their behalf.
9. In any case where there are reasonable grounds to suspect that the letter contains an illicit enclosure, arrangements should be made to open the letter in the presence of the prisoner concerned unless that prisoner declines the opportunity to be present (in which case the prisoner should be asked to sign a waiver). *This must be decided on a case by case basis (see paragraphs 15.3-15.7 in the Authorised Communications Controls and Interception Policy Framework). If the envelope is then found to contain an illicit enclosure, this should be removed and referred to the Governor for further action.*
10. *Where an illicit enclosure has been removed from a letter, the prisoner must be informed. He or she should then be provided with another envelope in which to place the correspondence, minus the removed illicit enclosure. The prisoner should be asked to address it to the legal adviser and seal it in the presence of a member of staff, ready for despatch. The correspondence officer must not read the letter, which should be despatched unless it is passed to the Governor under paragraphs 16 to 20 below.*
11. *Both the decision and the reasons for examining the correspondence must be recorded clearly on the prisoner's record.*

Incoming Correspondence – Examination/Opening

12. Where possible, incoming correspondence should be sent in using the [Send Legal Mail](#) service requiring individuals to register with a Criminal Justice Secure Mail Service. The service will create a barcode and address label that can be inserted into a windowed envelope. Where the sender does not use the digital service, the incoming correspondence should be in a double envelope enclosing a letter sealed in an unstamped envelope, the outside of which will be annotated with the prisoner's name and prison number (if known); the name, address and telephone number of the law firm and a reference number; the words "Prison Rule 39" or "YOI Rule 17"; and the signature of the legal adviser or his or her clerk (or appropriate official in the case of confidential access correspondence). Alternatively, this information may be given in a covering letter to the Governor rather than written on the envelope addressed to the prisoner. All mail received from the European Commission or the European Courts is readily identifiable, i.e. the envelope is clearly stamped, bearing the words "European Commission, Strasbourg" or "European Court of Justice" in both English and French.
13. There will be occasions when, due to oversight or lack of awareness by the author, an incoming letter may not be clearly marked in this way. Nonetheless where incoming correspondence appears as if it has come from a legal adviser (for example by a solicitor's stamp on the envelope or by some other marking such as "legal correspondence – privileged") or from an organisation entitled to confidential access, it should be treated in

exactly the same way as if it were properly marked. In those cases where mail is received from a legal adviser employed by organisations such as Prisoners' Advice Service, Liberty or Citizen's Advice Bureau the same procedure will apply.

14. Where there is reason to believe that the letter has not originated from a genuine source, the prison should check directly with the firm or body or individual concerned. Prison staff can override the 'Send Legal Mail' system if they have any suspicions about the physical piece of mail. In the event of the letter being found to be from a source other than the one which would be covered by Prison Rule 39, YOI Rule 17 or Confidential Access, the rules relating to inspection of prisoner's ordinary correspondence apply.
15. In all cases, staff responsible for processing prisoners' correspondence should consider whether there is reasonable cause to believe that the letter contains an illicit enclosure. If so they should follow the procedures set out in this Annex at paragraphs 8 and 9 plus paragraphs 15.3-15.7 in the [Authorised Communications Controls and Interception Policy Framework](#) relating to the examination of the contents. Where an illicit enclosure is found, it should be removed and the prisoner informed accordingly. The letter should then be passed to the prisoner unless it is passed to the Governor under paragraphs 16 – 20 below. *However, staff must not read the letter.*

Special Instructions for reading legal correspondence

16. The reading of a prisoner's correspondence to or from a legal adviser, or body/individual to which confidential access applies is permitted only in exceptional circumstances; where the governor has reasonable cause to believe that the contents of the letter would endanger prison security or the safety of others or are otherwise of a criminal nature.
17. *The decision to read correspondence, which purports to be privileged, must be taken by the Governor personally on a case by case basis – see paragraphs 15.3-15.7 in the [Authorised Communications Controls and Interception Policy Framework](#).* If a member of staff considers that a letter should be read and has already opened the envelope in the prisoner's presence in order to examine its enclosures in accordance with paragraphs 9 and 10 of this Annex, it should be placed in another envelope and resealed in the prisoner's presence so that the prisoner can be sure that the letter is not read before the governor sees it. The prisoner should be given the opportunity to address the new envelope themselves.
18. *Any decision, in terms of Rule 39, to read the contents of a letter claiming to be privileged must be taken in relation to a particular item of correspondence.* It will not be appropriate to issue a blanket instruction in respect of all prisoners or any class of prisoners in any establishment. Neither will it be appropriate to instruct that all correspondence to or from a particular source should be opened and read. *Each letter must be considered on its own merits.*
19. Any letter which, when read, discloses evidence of a threat to prison security or the safety of others or matters of a criminal nature should be referred immediately to the Duty Governor for further consideration. *The prisoner must be informed that their correspondence is being read.*
20. *Both the decision to read the letter and the reasons for it must be clearly recorded in the prisoner's record.*