

Young Offender 15-17 years

YOI ADJUDICATIONS

Independent Adjudicator's Punishment Guidelines for YOI

Award of added days remains at 42 days.

1. Adjudicators should first decide the provisional sentence for the punishment by reference to the starting point in the guideline. This starting point will normally be within the guideline range. The starting point suggested is for a prisoner (i) with no previous findings of guilt on adjudications and (ii) following a not guilty plea. An adjustment from the starting point, upwards or downwards, may then be necessary to reflect particular features of culpability and/or harm identified by the Adjudicator (but avoid double counting if taking into account as aggravating or mitigating features at the next step)
2. Once a provisional sentence is arrived at the Adjudicator should take into account factors that may make the offence more serious and factors which may reduce seriousness or reflect personal mitigation.
3. **Specific aggravating factors will be (non-exhaustive):**
 - **Other than where there is a specific aggravated offence the offence motivated by or demonstrating hostility based on any protected characteristic or presumed protected characteristic of the victim;**
 - **Previous Adjudication history for recent and relevant offences against discipline;**
 - **Incident of substantial duration and disruption to prison regime including attendance of emergency services or national resources;**
 - **Impact on victim (eg injuries or sick absence of prison staff)**
 - **any evidence items have been delivered into prison by drone;**
 - **significant impact of any damage on prison capacity;**
 - **repeated offending targeted at particular prison officer / prison member of staff or prisoner;**
 - **offence committed under influence of drugs/ alcohol;**
 - **evidence of alcohol being distilled in the prison.**

Specific mitigating factors will be (non-exhaustive):

- Age and / or lack of maturity;
- Positive conduct or wing reports;
- Remorse;
- Evidence the prisoner tried to initially diffuse incident;
- Provocation;
- Incident short-lived with no significant impact on prison regime or resources;
- Low level involvement or peripheral role in group incident;
- Learning disability or mental disorder;

****Adjudicators must also consider an individual prisoner's risk factors and triggers outlined in any open ACCT plan or in an ACCT closed within the past three months. Wherever a prisoner is at risk of self harm, Adjudicators must record all relevant considerations in the record of hearing. An Adjudicator must take into account a prisoner's state of mind at the time of the incident. Where a prisoner's risk of harm comes to light during an adjudication it may be appropriate to seek advice from healthcare or the safety team before proceedings further. See 6.13 of the Frameworks Agreement.***

4. Identify whether any combination of these, or other relevant factors, should result in a further upward or downward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified range.
5. If multiple charges ensure award is just and proportionate to the overall offending behaviour in accordance with totality.
6. Finally the punishment should then be reduced by a third to reflect a discount for a TIMELY plea of guilty if that has been entered. This may reduce the award below the range.
7. There is a power to suspend additional added days not exceeding 6 months. You should state your reasons for suspending the term imposed.

Guidance – generally exceptional circumstances (relating to the disciplinary offence or prisoner) should be found for suspending any award where violence has been used towards a prison officer / prison staff member or any weapon has been used in the commission of the offence.

8. In all cases the IA can consider the imposition of other punishments under PR 55 & YOI Rule 60. These Guidelines only apply to added days.

Independent Adjudicators may award any other punishment(s) available by virtue of Rule 55 (1) YOI & Rule 60 instead of or (with the exception of a caution) in addition to, added days but must, if additional punishment is imposed, bear in mind proportionality:

Awards under Prison Rule 55 and YOI 60 and:

- Forfeiture for a period not exceeding 21 days of any privileges (Must be specified. Check with individual prison / YOI which incentives operate under their local incentives scheme)
- Exclusion from associated work for period not exceeding 21 days.
- Removal for a period not exceeding 21 days from any particular activity or activities of the young offender institution (YOI only) – not word, education or training or PE.
- Extra work outside the normal working week for a period not exceeding 21 days and for not more than two hours on any day (YOI only)
- Stoppage of or deduction from earnings for period not exceeding 42 days.
- Cellular confinement for period not exceeding 10 days
- Removal from wing or living unit for a period of 21 days.
- *Forfeiture or restriction of social visits do not apply to under 21 year olds.*

Cellular Confinement – must only be imposed on prisoner receiving support through an ACCT plan in exceptional circumstances. Must not be imposed until Doctor / Healthcare have completed Health Screen and IA must take into account any advice received.

When sentencing children or young people (those aged under 18 at the date of the finding of guilt) an the Adjudicator must have regard to:

- **the principal aim of the youth justice system (to prevent offending by children and young people); - s.37(1) Crime and Disorder Act 1998**
- **the welfare of the child or young person - s.44(1) Children and Young Persons Act 1933**

[Note: These Guidelines only apply to added days. Independent Adjudicators may award any other punishment(s) available by virtue of Rule 60 (1) instead of or (with the exception of a caution) in addition to, added days but must, if additional punishment is imposed, bear in mind proportionality.]

Rule 51 para (or YOI Rule 55 para)	Disciplinary Offence	Starting Point Days	Range
1	Commits any Assault:		
	(a) Upon Staff		
	Push	5	3 - 10
	Deliberate Blow	18	13 - 26
	Weapon (inc spitting)	24	21 - 26
	Sustained / Group attack	21	19 - 26
	(b) Upon inmate		
	Push	3	2 - 6
1 A Or YOI (2)	Commits any assault aggravated by a protected characteristic	+ 4	+ 4
1 B Or YOI (2A)	Commits any sexual assault	22	18 - 26
	On prison officer / prison staff	28	24 - 42
1 C or YOI (2B)	Exposure or indecent / obscene act	11	10 - 23
	On prison officer / prison staff	16	12 - 28

1D or YOI (2C)	Sexual harassment	17	13 - 27
	On prison officer / prison staff	24	16 - 34
2 or YOI (3)	Detains any person against their will	21	18 - 26
3 or YOI (4)	Denies access to any part of the prison to any officer or other person (other than a prisoner) who is at the prison for the purpose of working there	18	12 - 26
4 or YOI (5)	Fights with any person	9	4 - 18
	Multiple person / sustained	21	19 - 26
5 or YOI (6)	Intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered.		
	Intentional (inc netting offences and dirty protest)	21	18 - 26
	Reckless	13	9 - 21
6 Or YOI (7)	Intentionally obstructs an officer in the execution of his duty, or any person (other than a prisoner) who is at the prison for the purpose of working there, in the performance of his work.	9	2 - 19

7 or YOI (8)	Escapes or absconds from any prison or legal custody.		
	Escape	20	18 - 26
	Abscond	14	9 - 26
8 or YOI (9)	Fails to comply with any conditions upon which he is temporarily released under Rule 9.	8	9 - 19
9 or YOI (10)	Is found with any substance in their urine which demonstrates that a controlled drug has been administered to him by himself or by another person.		
	Class A, B, C and psychoactive substances	22	19 - 26
	Non prescribed medication	11	6 - 18
10 or YOI (11)	Is intoxicated as a consequence of knowingly consuming any alcoholic beverage.	10	6 - 19
11 or YOI (12)	Consumes any alcoholic beverage whether or not provided to the prisoner by another person.	10	6 - 19

12 or YOI (13)	Has in his possession: (a) any unauthorised articles, or (b) a greater quantity of any articles that he is authorised to:		
	Non-prescribed medication:	11	6 - 18
	Weapons	21	22 - 26
	Class A,B,C drugs inc psychoactive substance	24	21 - 26
	Item to chat MDT	24	21 - 26
	Smart Phone / Camera Phone	26	21 - 26
	Mobile phone:	20	18 - 26
	Accessory inc USB device/ wifi device/ tools	20	18 - 26
	Alcohol / fermenting liquids / distilled liquid	20	18 - 26
	Other item	8	3 - 19
13 or YOI (14)	Sells or delivers to any unauthorised person any unauthorised article.		Penalty as per index article see para 12 (13)
14 or YOI (15)	Sells or, without permission, delivers to any person any article which he is allowed to have only for his own use.	6	3 - 13
15 or YOI (16)	Takes improperly any article belonging to another person or to a prison/YOI.	18	6 - 26

16 or YOI (17)	Intentionally or recklessly sets fire to any part of a prison or any other property, whether or not his own.		
	Intentionally	22	19 - 26
	Recklessly	16	9 - 22
17 or YOI (18)	Destroys or damages any part of a prison or any other property, other than his own.		
	Intentionally	20	19 - 26
	Recklessly:	13	9 - 22
17A or YOI (19)	Causes damage to, or destruction to any part of a prison or any other property, other than his own aggravated by a protected characteristic.	+ 4	+ 4
18 or YOI (20)	Absents himself from any place he is required to be or is present in any place where he is not authorised to be.	10	6 - 26
	Netting / offences at height	22	18 - 27
19 or YOI (21)	Is disrespectful to any officer or other person (other than a prisoner) who is at the prison for the purpose of working there, or any person visiting a prison.	6	3 - 13

20 or YOI (22)	Uses threatening, abusive or insulting words or behaviour.	9	3 - 19
	Towards prison officer / prison staff	18	13 - 27
20A or YOI (23)	Uses threatening, abusive or insulting words or behaviour demonstrating hostility based on a protected characteristic. Add to above days:	+4	+4
21 or YOI (24)	Intentionally fails to work properly or, being required to work, refuses to do so.	6	3 - 13
22 or YOI (25)	Disobeys lawful order:		
	MDT	22	19 - 26
	Other	10	6 - 19
23 and 23A or YOI (26 or 26A)	Disobeys or fails to comply with any rule or regulation applying to him (inc failure to comply with Payback Punishment)	3	2 - 9
	Any rule or regulation relating to no contact notices	12	8 - 20
24 or YOI (27)	Receives any controlled drug, or without the consent of an officer, any other article during the course of a visit (not being an interview such as is mentioned in Rule 38).	24	11 - 26

24A or YOI (28)	Displays, attacks or draws on any part of a prison or on any other property, threatening, abusive or insulting words, drawings, symbols or other material demonstrating hostility based on any protected characteristic..	18	11 - 26
25 or YOI (29)	(a) Attempts to commit, (b) incites another prisoner / inmate to commit, or (c) assists another prisoner / inmate to commit or to attempt to commit, any of the foregoing offences.	The days awarded will be the same as the substantive offences above.	The days awarded will be the same as the substantive offences above.

** protected characteristics are age, disability, gender, marriage and civil partnership, pregnancy and paternity, race, religion or belief, sex and sexual orientation – s.4 Equality Act 2010