

YOUNG OFFENDERS

UNDER 21 YEARS AT THE TIME OF THE COMMISSION OF THE DISCIPLINARY OFFENCE

Independent Adjudicator's Punishment Guidelines for YOI

18 – 20 year olds

Award of added days for those under 21 years 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.
3. 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.
4. **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 which may be applicable to prisoners aged between 18 years – 25 years;
- 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.***

5. 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.
6. If multiple charges ensure award is just and proportionate to the overall offending behaviour in accordance with totality.
7. 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.
8. 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.

9. 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.

Rule 51 para (or YOI Rule 55 para)	Disciplinary Offence	Starting Point Days	Range
1	Commits any Assault:		
	(a) Upon Staff		
	Push	6	4 - 12
	Deliberate Blow	22	16 - 33
	Weapon (inc spitting)	30	28 - 33
	Sustained / Group attack	30	28 - 33
	(b) Upon inmate		
	Push	4	2 - 8
1 A Or YOI (2)	Deliberate Blow	12	8 - 24
	Weapon (inc spitting)	28	24 - 33
	Sustained / Group attack	28	24 - 33
	Commits any assault aggravated by a protected characteristic	+ 5	+ 5
	Commits any sexual assault	30	24 - 34
	On prison officer / prison staff	36	24 - 42
	Exposure or indecent / obscene act	15	10 - 23
	On prison officer / prison staff	20	15 - 35

1D or YOI (2C)	Sexual harassment	24	16 - 34
	On prison officer / prison staff	30	20 - 42
2 or YOI (3)	Detains any person against their will	28	22 - 33
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	22	16 - 33
4 or YOI (5)	Fights with any person	11	5 - 22
	Multiple person / sustained	28	24 - 40
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)	28	22 - 33
	Reckless	16	11 - 28
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.	11	2 - 24

7 or YOI (8)	Escapes or absconds from any prison or legal custody.		
	Escape	25	22 - 33
	Abscond	17	11 - 33
8 or YOI (9)	Fails to comply with any conditions upon which he is temporarily released under Rule 9.	10	8 - 24
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	27	24 - 33
	Non prescribed medication	14	8 - 22
10 or YOI (11)	Is intoxicated as a consequence of knowingly consuming any alcoholic beverage.	12	8 - 24
11 or YOI (12)	Consumes any alcoholic beverage whether or not provided to the prisoner by another person.	12	8 - 24

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:	14	8 - 22
	Weapons	28	27 - 33
	Class A,B,C drugs inc psychoactive substance	30	28 - 33
	Item to chat MDT	30	28 - 33
	Smart Phone / Camera Phone	32	28 - 42
	Mobile phone:	25	22 - 33
	Accessory inc USB device/ wifi device/ tools	25	22 - 33
	Alcohol / fermenting liquids / distilled liquid	25	22 - 33
	Other item	10	5 - 15
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.	8	4 - 16
15 or YOI (16)	Takes improperly any article belonging to another person or to a prison/YOI.	22	8 - 33

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	28	24 - 33
	Recklessly	20	11 - 28
17 or YOI (18)	Destroys or damages any part of a prison or any other property, other than his own.		
	Intentionally	25	24 - 33
	Recklessly:	16	11 - 28
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.	+ 5	+ 5
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.	12	8 - 33
	Netting / offences at height	28	22 - 33
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.	8	4 - 16

20 or YOI (22)	Uses threatening, abusive or insulting words or behaviour.	11	4 - 24
	Towards prison officer / prison staff	22	16 - 33
20A or YOI (23)	Uses threatening, abusive or insulting words or behaviour demonstrating hostility based on a protected characteristic. Add to above days:	+5	+5
21 or YOI (24)	Intentionally fails to work properly or, being required to work, refuses to do so.	8	4 - 16
22 or YOI (25)	Disobeys lawful order:		
	MDT	27	24 - 33
	Other	12	8 - 24
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)	4	2 - 11
	Any rule or regulation relating to no contact notices	15	10 - 25
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).	30	24 - 33

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..	22	14 - 33
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