



Ministry  
of Justice

Crown Prosecution Service



HM Prison & Probation Service

Guidance

# Crime in Prison Referral Agreement

Updated 27 September 2023

---

**Applies to England and Wales**

Contents

1. Introduction
2. Purpose of this Agreement
3. Referral of a crime
4. Victims
5. Investigation
6. CPS advice and decision to charge
7. Escalation
8. Courts
9. Signatories



© Crown copyright 2023

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gov.uk](mailto:psi@nationalarchives.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at <https://www.gov.uk/government/publications/handling-crimes-in-prison-protocol/crime-in-prison-referral-agreement>

# 1. Introduction

This document sets out the agreement between Her Majesty's Prison and Probation Service (HMPPS), National Police Chiefs' Council (NPCC) and the Crown Prosecution Service (CPS).

## 2. Purpose of this Agreement

This Agreement:

- Aims to ensure that acts of criminality that occur in prison are properly addressed within the criminal justice system where:
  - a) the prison determines that the internal prison disciplinary process is insufficient, and the circumstances indicate that a criminal prosecution is appropriate or where a statutory obligation exists, or
  - b) the prison determines that that a terrorism offence or terrorism-connected offence may have been committed.
- Establishes a common understanding of the roles and responsibilities of HMPPS, the police and the CPS relating to the referral, investigation and prosecution of crimes committed in prison.
- Aims to achieve an improved and consistent performance in the investigation and prosecution of offences in a custodial setting.
- Applies to all prisons, including those contracted and Young Offender Institutions.
- Recognises the principles agreed upon are not legally binding and are not intended to create any legally enforceable rights or obligations. Each party will discharge its own statutory and common law obligations.

The principles outlined in this agreement reflect a national minimum expectation for all signatories. Additional guidance may be provided to each agency.

## 3. Referral of a crime

The prison should contact the police immediately (and in any case within 24 hours) if there is a serious incident such as a sudden death, life threatening injury, rape or sexual assault by penetration, an active escape or serious disorder/ incident where staff require the immediate attendance of police to protect life or the integrity of establishment, in line with locally agreed

contingency plans. The prison should also discuss the forensic strategy for these serious incidents with the police.

Any serious assault as detailed in Annex A, sexual assault, escape from a secure establishment or escort, concerted indiscipline with extensive damage caused, conveyance into or out of an establishment of explosives or firearms, must be referred to the police. Please see Annex A for a more detailed list.

All crimes suitable for referral under Annex A, should be referred to the police within 7 days of the incident. 2. Any offence that prison staff consider may amount to terrorism, or any offence by a prisoner convicted of an offence under the Terrorism Acts or an offence having a terrorism connection as defined under section 30 of the Counter-Terrorism Act 2008 - must be referred to the police. Guidance and mandatory actions are provided in Annex B.

Whilst the views of the victim are always important and may influence the decision to refer to the police for investigation, the crimes in Annex A and B must be referred to the police, as there may be circumstances where a case would be pursued without the victim's involvement (this is often known as a victimless or evidence-led prosecution).

Where a prisoner wishes to report a crime to the police, to achieve this, prisons must have mechanisms in place.

Before reporting other incidents to the police that are not listed in Annex A, the prison will consider whether a case could be more appropriately dealt with by the Prison Adjudication System or whether the victim wants the crime referred to the police. For crimes referred to in paragraph 6, an adjudication would be opened and adjourned simultaneous to referring the matter to the police. See [Prison adjudications policy: PSI 05/2018 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/prison-adjudications-policy-psi-052018#:~:text=Rules%20and%20guidance%20for%20prison,to%20have%20broken%20prison%20rules.) (<https://www.gov.uk/government/publications/prison-adjudications-policy-psi-052018#:~:text=Rules%20and%20guidance%20for%20prison,to%20have%20broken%20prison%20rules.>) for the relevant procedures.

When an incident is referred to the police, internal disciplinary charges should be laid by the prison within 48 hours of the incident, and an adjudication opened on the following day and adjourned, pending police investigation. If the police or CPS decide not to proceed with a prosecution then the adjudication may be reconvened and the disciplinary charge heard, if it is fair to continue, considering the natural justice principles as set out in PSI 05/2018. A referral to the Independent Adjudicator should be considered in line with [Prison adjudications policy: PSI 05/2018 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/prison-adjudications-policy-psi-052018#:~:text=Rules%20and%20guidance%20for%20prison,to%20have%20broken%20prison%20rules.) (<https://www.gov.uk/government/publications/prison-adjudications-policy-psi-052018#:~:text=Rules%20and%20guidance%20for%20prison,to%20have%20broken%20prison%20rules.>) where the seriousness test has been met.

Whilst the lists in Annex A and B are the minimum requirement for referrals, there may be local arrangements based on current threats and risks to the prison to include additional offences. Discussions on the current threats and risks should take place regularly between the Governor, prison managers and local law enforcement.

In making a crime referral, the prison will:

- Provide a full description of the incident to the police, including details of offenders, victims and witnesses and any previous relevant behaviour, including adjudications or current risks relating to the alleged perpetrator; along with confirmation of whether Closed Circuit Television (CCTV)/Body Worn Video Camera (BWVC) evidence is available.
- Preserve the evidence ensuring continuity (including CCTV and BWVC), in accordance with the [Management and Handling of Evidence Policy Framework \(https://www.gov.uk/government/publications/management-and-handling-of-evidence-policy-framework\)](https://www.gov.uk/government/publications/management-and-handling-of-evidence-policy-framework).
- Enable access for the police to attend the prison and take witness statements and victim impact statements.
- Provide access to the crime scene.
- Provide the police with a Prison Community Impact Statement [\[1\]](#).
- Help arrange for staff to be available to provide statements to the police.\* Where prisoners have been moved to another prison, provide information of the movements of the prisoner to the police and CPS.
- Record the crimes referred to the police in the Crime in Prison Data Tracker.
- Provide relevant material for disclosure to the police and CPS in accordance with relevant legislation.

---

[\[1\]](#) The Prison Community Impact Statement does not form part of the evidence, however, highlights the impact crimes committed within prison has.

## 4. Victims

If a prison determines that an offence does not meet the threshold in Annex A or B, but the victim wishes to report the crime to the police, the prison must allow the victim to do so. Where the victim is a member of staff, they must be informed by the prison of their right to refer the crime to the police. Where a prisoner wishes to report a crime to the police, to achieve this, prisons must have mechanisms in place.

The prison should assist in facilitating the provision of any Victim Personal Statement or Prison Community Impact Statement to the CPS prior to the first hearing. These should be provided at the earliest opportunity, and at the latest 14 prior to a sentencing hearing, however they can also be submitted at any time prior to sentencing. A further statement may also be submitted if the impact to the victim changes.

## **5. Investigation**

Referring a crime to the police does not automatically mean that a full police investigation will take place or that the CPS will be consulted, and a criminal prosecution take place.

Following a referral, the police will acknowledge receipt to the prison's Crime in Prison Single Point of Contact (SPoC) or Local Counter Corruption Manager for corruption cases, within 10 working days and advise of the next steps, this may include requesting additional information. For crimes referred to in paragraph 6 above, please refer to Annex C.

Where a decision is made that a formal criminal investigation will not take place, the police will advise the prison's Crime in Prison SPoC/ Local Counter Corruption Manager within 10 working days with the reasons for the decision not to pursue the investigation. The prison can also request an explanation or further information as to why a crime has not been investigated. See paragraph 25 for escalation processes. The decision not to proceed should be recorded in the Crimes Referred to the Police Tracker. For crimes referred to in paragraph 6 above, please refer to Annex C.

Where a formal police investigation commences, the police will update the SPoC/ Local Counter Corruption Manager and make any arrangements to progress the investigation, who will, in turn, keep Governors, prison managers and Adjudication Liaison Officer advised. Victims are entitled to be informed of any progress to the investigation under the Victims' Code. For crimes referred to in paragraph 6 above, please refer to Annex C.

The police will keep the prison SPoC/ Local Counter Corruption Manager informed regarding the progress of the case regularly. The frequency of the update should be agreed between the police, the prison SPoC/ Local Counter Corruption Manager and the victim. The minimum requirement for providing updates is once a month. For crimes referred to in paragraph 6 above, please refer to Annex C.

## 6. CPS advice and decision to charge

When cases meeting the referral criteria are referred to the CPS by the police, the CPS will make a charging decision in accordance with the:

- [Code for Crown Prosecutors \(https://www.cps.gov.uk/publication/code-crown-prosecutors\)](https://www.cps.gov.uk/publication/code-crown-prosecutors)
- [Director's Guidance on Charging \(sixth edition\) \(https://www.cps.gov.uk/legal-guidance/charging-directors-guidance-sixth-edition-december-2020\)](https://www.cps.gov.uk/legal-guidance/charging-directors-guidance-sixth-edition-december-2020)
- CPS policies, in particular [Prison \(https://www.cps.gov.uk/legal-guidance/prison-related-offences-0\)](https://www.cps.gov.uk/legal-guidance/prison-related-offences-0) Related Offences and [Misconduct in Public Office \(https://www.cps.gov.uk/legal-guidance/misconduct-public-office\)](https://www.cps.gov.uk/legal-guidance/misconduct-public-office)
- CPS charging standards: [CPS Charging standards on Assault \(https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard\)](https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard) and [Assaults on Emergency Workers \(Offences\) Act 2018 \(https://www.cps.gov.uk/legal-guidance/assaults-emergency-workers-offences-act-2018\)](https://www.cps.gov.uk/legal-guidance/assaults-emergency-workers-offences-act-2018).

The police are permitted to make charging decisions without input from the CPS for less serious offences.

The Code for Crown Prosecutors (paragraph 4.12) sets out the requirement to consider each case on its own facts and merits, when reviewing cases involving assault on prison officers, and in assessing the public interest, prosecutors should bear in mind the impact of the offence as set out in the Prison Community and Victim Impact Statement, (paragraph 4.14e).

In considering the public interest, prosecutors must have regard to the provision of the Code that states that a prosecution is more likely if the offence has been committed against a victim who was at the time a person serving the public, (paragraph 4.14c).

The CPS will explain a decision to take no further action or to reduce a charge to the police and will write to the victim in accordance with the obligations under the Victims Code. The police will inform the prison SPoC/ Local Counter Corruption Manager of such a decision, explaining the right to appeal.

## 7. Escalation

If the prison disagrees with the decision not to proceed with an investigation, this can be raised locally with the police force and their

appeals process can be followed. For crimes referred to in paragraph 6 above, please refer to Annex C.

Where the police do not agree with the CPS charging decision, the process of appeal under management review of charging decisions and actions will apply. The prisons should be kept updated of any appeal.

Where such a decision is taken by the CPS, a victim of crime in prison may be eligible to seek a review under the CPS [Victims' Rights to Review](https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme) (<https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme>) scheme. The scheme enables victims to seek a review of certain CPS decisions not to start a prosecution or to stop a prosecution.

## 8. Courts

The Sentencing Council [Definitive Guidelines on Offences Taken into Consideration and Totality](https://www.sentencingcouncil.org.uk/wp-content/uploads/Offences-Taken-into-Consideration-and-Totality-definitive-guideline-Web.pdf) (<https://www.sentencingcouncil.org.uk/wp-content/uploads/Offences-Taken-into-Consideration-and-Totality-definitive-guideline-Web.pdf>) states that a consecutive sentence will ordinarily be appropriate where any offence is committed within the prison context.

Members of the public, including the victim, can ask the Attorney General's Office to examine sentences handed down by Crown Courts in England and Wales within 28 days of sentencing under the Unduly Lenient Sentence scheme. A sentence will be considered unduly lenient where "the sentence falls outside the range of sentences which the judge, applying his mind to the relevant factors, could reasonably consider appropriate". There must have been some error of principle in the Judge's sentence, such that, in the absence of the sentence being altered by the Court, public confidence would be damaged.

Victims, regardless of whether they are staff or prisoners, are entitled to services under the Victims Code. Special measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence. [Special Measures](https://www.cps.gov.uk/legal-guidance/special-measures) (<https://www.cps.gov.uk/legal-guidance/special-measures>) apply to prosecution and defence witnesses, but not to the defendant and are subject to the discretion of the court.

## 9. Signatories

- Phil Copple  
Director General Operations, HMPPS
- Deputy Chief Constable Jason Hogg  
Thames Valley Police, NPCC Lead for Prison Intelligence
- Gregor McGill  
Director of Legal Services, Crown Prosecution Service

For further information or assistance, please contact  
[crimeinprison@justice.gov.uk](mailto:crimeinprison@justice.gov.uk).

---

**OGI**

All content is available under the [Open Government Licence v3.0](#), except where otherwise stated



© Crown copyright

