

**CONSULTATION ON DRAFT PRISONS AND YOUNG OFFENDERS INSTITUTIONS
(SCOTLAND) RULES 2011**

CONSULTATION QUESTIONS

Do the Rules cover all necessary topics?

Comments

No mention of the purpose of prison.

No mention of mental health, disability, including learning disability and the provision for prisoners with these needs.

Does the sequencing of Sections flow logically?

Comments

Yes - but we would like to see sections on welfare before sections on security.

Are there any unforeseen risks to the proposed changes?

Comments

Please see attached sheet for rules that we would like clarification on or have concerns about.

Will prisoners find the Rules accessible and understandable?

Comments

Some prisoners will but see further comments below.

Some of the language is still traditional and not easily understandable such as 4.3 (1) 'sleeping plinths' and references to 'referral to a medical practitioner outwith the prison' 5.4. (1)

2.4.8 Says information must be given to a prisoner in an understandable format on reception but makes no provision for checking that the information has been understood.

3.1 Supervision levels

The rules make no mention of keeping someone at the lowest level supervision level possible.

3.9.1

Special security measures – in light of the impact on progress and regime, could these be reviewed every month, rather than every two months?

4.1 (2b)

Do prisoners who are asked to share with another prisoners whose health needs protecting get a choice?

4.6 could refer to 14.3 which makes provision for clothing on release

We are concerned about paragraph 6, which includes provision for prisoners not to be given clean underwear /outer clothing in exceptional circumstances for up to a month

4.7

We are concerned about paragraph 2, which makes provision for prisoners not to access bathing/washing facilities in exceptional circumstances for up to a month

Could these periods be reviewed?

7.5.1 Property

This sets out circumstances where property will be disposed of. We note that an ex prisoner recently won compensation following a prison disposing of his mobile, which had been confiscated. The judge found the prison had acted unlawfully. (see also rule 10.15.5)

8.2

In light of the positive impact electronic communication can have on retaining family and community links and on resettlement, we would hope to see a mention that this may be facilitated subject to security.

8.11.4 Limits on visitor numbers

Can we have clarity on how this relates to families with larger numbers of children?

HMPS regulations are that up to three adults, together with any accompanying children, should normally be allowed at each visit. Subject to any public protection considerations, establishments need to be as flexible as possible in accommodating large families who wish

to visit together. Where fixed seating is in place, freestanding chairs should be made available for additional children

9.9 (1) can minimum times be specified for recreation?

9.9 (2) is there a minimum time per week for library access?

9.10 new rules on paying prisoners for their own work- could we have clarification of this?

HMPs rules allow prisoners voluntarily working in their cell outside the core day and who are producing goods or work for bona fide charities or similar organisations with the agreement of the establishment to receive payment for their work from the outside body

10 3.3 no mention of searching procedures for transgender prisoners

10.6 removal from association

We would like further clarification as we are concerned that the obligation for healthcare staff to visit the prisoner as soon as possible following removal from association (and regularly thereafter) has been removed.

10 .7 we welcome the reduction in time that a prisoner may be placed in a body belt under the new rules. (From 24 hours to 12 hours and then further with Ministerial permission)

10.8 Temporary confinement in a special cell

We would like further clarification of this as we are concerned that obligation for health care staff to visit a prisoner who is confined in a special cell beyond 15 hours has been removed

11.9.3 Disciplinary

Under the new rule an appeal against a finding of guilt does not suspend the punishment – is there a fast track process for anyone who is confined to a cell?

12 Requests and complaints

In the new draft rules, the procedures for responding to complaints are very carefully worded. However, there are two important omissions.

1) Under confidentiality, the instructions for handling a confidential complaint are precise, but they do not specify that the extent and limits of confidentiality will be explained fully to the complainant. If someone is willing to make the effort of informing the governor about misconduct by a staff member, they should be told – in advance of submitting the confidential complaint – that their allegations will be investigated. If this means that the staff member will be asked about the alleged incident, the complainant should have the right to know that this will happen (otherwise the claim to confidentiality is misleading and possibly void).

2) In many complaints systems, there are explicit commitments to protect complainants from victimisation. That is, a prisoner who makes a complaint should not suffer retribution (formal or informal) for having brought the problem to the attention of the manager. This protection does not (and should not) extend to anyone who knowingly submits a complaint based on false information. However, in principle, legitimate complaints should be received in good faith, and this requires the prison to assure complainants that they will not be victimised as a result of making a complaint.

17.3.2 Visiting committees

Could we have clarification of the rationale for visiting committees for YOI's needing to have 1/3 female members?