

## Incentives and Earned Privilege Scheme (IEPS)

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**The national IEPS was introduced in 1995. The stated aims of the IEPS framework are:** “to encourage responsible behaviour by prisoners; to encourage effort and achievement in work and other constructive activity by prisoners; to encourage sentenced prisoners to engage in sentence planning and benefit from activities designed to reduce re-offending; and to create a more disciplined, better-controlled and safer environment for prisoners and staff.”

**IEP is governed by Prison Rule 8 and YOI Rule 6 and by guidance in Prison Service Instruction 11/2011 (which replaced PSO 4000). The PSI emphasises the need for IEP to operate within an equalities framework:** ‘It is essential that IEP Schemes are inclusive and take account of equality considerations relating to... age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Managers designing local schemes must ensure that they offer a range of earnable privileges so that all prisoners can receive equal benefit in return for good behaviour. For example, if additional gym sessions are offered as an earnable privilege, there must be an alternative for prisoners who are physically unable to benefit. The design of the scheme must also ensure equitable treatment for prisoners located in particular units, for example for their own protection, or as part of a residential programme such as RAPT.

*It must also be possible for all prisoners to earn their way onto Enhanced level with a similar degree of effort. So, for example, if taking part in work contributes to earning Enhanced status, there must be comparable ways for older prisoners to earn that status.*

### **What ‘privileges’ are available?**

There are three regime levels: *Basic*, *Standard* and *Enhanced* and the level a prisoner is on determines the number of privileges s/he may have access to. The range of privileges will

depend upon which establishment a prisoner is in. However the following have been identified as **key earnable privileges**:

- extra and improved visits
- eligibility to earn higher rates of pay
- access to in-cell television
- opportunity to wear own clothes
- access to private cash
- time out of cell for association

### **Who decides my IEP level and how often?**

PSI 11/2011 says that decisions about privilege level must be open, fair and consistent; procedures and the findings must be recorded and involve at least two members of staff. Views must be sought from across the establishment, including education and workshop staff, reports from any relevant treatment programmes and any other staff who have close dealings with the prisoner. The decision must be endorsed by a manager.

Automatic reviews of prisoners on Basic IEP level must take place initially within seven days, and at least once a month thereafter (14 days for Young Offenders). Prisoners on Standard may apply to be elevated to Enhanced after three months, and at three monthly intervals thereafter. Standard level prisoners who do not apply for elevation, and all those on Enhanced level, should be reviewed annually.

### **Can I make representations before my IEP level is decided?**

**Yes.** The right to do this was established by the case of Bowen (1998) and PSI 11/2011 says: ‘Prisoners must be able to make prior representations. They must be recorded and any decisions notified to the prisoner. Prisoners must be informed of the local appeal process.’

### **Should I be given reasons if my application for a higher IEP level is refused or a decision is made to downgrade me to another level?**

**Yes.** Reasons for decisions need not be lengthy or detailed, but must be sufficient for

the prisoner to understand what criteria s/he has failed to meet, the evidence to support this assertion, and why any representations by the prisoner (or by a member of staff) have been rejected. Prisons may decide to do this through a standard form, which also explains the local appeals procedure.

***Is IEPS a disciplinary system?*** The disciplinary system and IEP scheme are separate. This means that a change in IEP status cannot be given as a punishment at an adjudication and the fact that you have been placed on report must not automatically result in a change to your IEP level. However, since IEP levels are based on patterns of behaviour, a series of proven adjudications may trigger an IEP review and effect the outcome of that review. A single serious incident may lead to an urgent review as well as an adjudication.

***Will I retain my IEP level if I am transferred to another prison?*** PSI 16/2011 states: "When a prisoner is transferred P-NOMIS will automatically default a prisoner's privilege level to standard regardless of previous status. To ensure prisoners' retain the privilege level they were on at the sending establishment staff should check previous history and amend the status field accordingly. This will apply to prisoners who were on the basic or enhanced level. Transferred prisoners should be assessed within two weeks (wherever possible) after arrival to ensure they have been placed on the appropriate privilege level.

***What are the IEPS Private Cash allowances?***

**Unconvicted (per week)**

BASIC	£22.00
STANDARD	£47.50
ENHANCED	£51.00

**Convicted (per week)**

BASIC	£4.00
STANDARD	£15.50
ENHANCED	£25.00

***How do I complain if I think I have been unfairly put on Basic or Standard regime?***

You can complain through the internal complaints procedure, and if you are still not satisfied with the outcome, take your complaint to the Prisons & Probation

Ombudsman, Ashley House, 2 Monck St, London SW1P 2BQ. In some circumstances it is possible to judicially review decisions about IEP level, although this is rare.

***If I maintain my innocence can this be used to stop me getting Enhanced privilege status?***

Prisons are allowed to take into account 'attitudes to and involvement in sentence planning' in measuring behaviour for the purpose of IEPS. This does not mean that denial of guilt should directly be taken into account, but if because of your conviction you have been recommended to attend an offending behaviour course which you cannot do because of your assertion of innocence, then this can be taken into account. This position was unsuccessfully challenged in court a number of times, in particular in the cases of *ex parte Hepworth* (1998) *Potter and Others* (2001) and *Green* (2004).

PSI 16/2011 says: 'In determining IEP levels, the fact that someone is in denial of their offence should not be a bar to attaining enhanced status. It is a prisoner's approach to their sentence and willingness to use their time in custody constructively to reduce re-offending eg; through involvement with OASys and sentence planning which should determine whether they meet required standards. Therefore it is important to ensure that relevant sentence plan targets are set and reviewed where necessary.'

The PSI sets out further guidance regarding maintenance of innocence at different points in the legal process. Prisoners classified as appellants, ie with appeals pending, will not be set targets to complete offending behaviour programmes and therefore will not be relegated on the IEP scheme for not undertaking them; however prisoners who have exhausted appeals (even when the CCRC is looking at the case) can be given such courses as targets and can be downgraded on IEP for not complying with them.

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