

## Incentives and Earned Privilege Scheme

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The national IEPS was introduced to prisons in 1995. The stated aims of the IEPS framework are: *“to encourage responsible behaviour by prisoners; to encourage hard work and other constructive activity by prisoners; to encourage sentenced prisoners to progress through the prison system; and to create a more disciplined better controlled and safer environment for prisoners and staff.”*

### **What “earned privileges” are available to prisoners under the scheme?**

The range of privileges available will depend upon which establishment a prisoner is in. However local schemes must include the following seven privileges - which have been identified by the Prison Service as **key earnable privileges** – when they are available within a prison. They are:

- access to private cash
- extra and improved visits
- eligibility to participate in higher rates of pay schemes
- (subject to sentence criteria and risk assessment) earned community visits for: category D prisoners, adult females, young offenders of either sex in open establishments, or those in closed establishments if assessed as suitable for outside activities
- access to in-cell television for standard and enhanced prisoners
- wearing own clothes
- time out of cell for association between an establishment’s minimum and 12 hours

Under the IEPS there are three regime levels: *Basic, Standard and Enhanced*. The level a prisoner is on will determine the number of privileges he or she may have access to.

### **Who decides my IEPS level?**

A board or a panel should make decisions on IEPS levels. Only exceptionally - where it is

not operationally possible to set up a formal board - should decisions be made by informal discussions between staff on the basis of all available reports. However decisions should always be made by more than one member of staff including a member of the Prison Management Team. Decisions to place or retain prisoners on the Basic regime must not therefore be taken by basic grade officers alone, and must be endorsed by a manager at no less than Principal Officer level.

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

Yes. Whilst reasons for decisions need not be lengthy or detailed they must be sufficient to enable the prisoner to understand what criteria he or she has failed to meet and on what grounds this is considered to be the case.

### **Is the IEPS a disciplinary system?**

IEP schemes are not designed to act as a secondary disciplinary system and must be run quite separately from formal disciplinary procedures.

This means that a change in IEP status cannot be given as a punishment on an adjudication. However if you are found guilty on one or more adjudications the member of staff or board that assesses your IEP level can take these into consideration.

PSO 4000 states: *“A single incident of misbehaviour or short term failure of performance will not automatically result in a change of status, but may be taken into account when considering the prisoner’s general suitability to be granted or retain privileges.”*

Automatic reviews of prisoners on the Basic IEP level must take place in the first instance within seven days, and at least once a month thereafter (14 days for Young Offenders).

***Will I retain my IEP level if I am transferred to another prison?***

PSO 4000 states: “Whenever possible, the local scheme must allow prisoners on progressive transfer to retain their privilege level. As a minimum, they must be able to retain the national key privileges wherever these are available. Prisoners who are returned from the resettlement estate without a current IEP level must be treated as new receptions and placed on standard level. Prisoners should be advised what is available at their new location on arrival, or before transfer if requested.”

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

**Unconvicted**

BASIC	£22.00
STANDARD	£47.50
ENHANCED	£51.00

**Convicted**

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?***

Unfortunately, the prison is allowed to take into account ‘attitudes to and involvement in sentence planning’ in measuring your behaviour for the purpose of incentives and earned privileges schemes. This does not mean that your denial of guilt should directly be taken into account, but if because of your offence you have been recommended to attend an offending behaviour course which you cannot do because your assertion of innocence makes you ineligible then this can be taken into account.

This position has been challenged in court a number of times. Firstly in 1998 in a case called *ex parte Hepworth*. In that case five prisoners maintaining their innocence challenged various decisions to do with parole, categorisation and refusal to grant enhanced status within the Incentives and Earned Privileges scheme at HMP Wymott on the basis that improper account was taken of their denial of guilt.

The IEP policy, which prevented the applicants progressing to enhanced status because participation in the SOTP was required before they could be eligible, was held to be lawful. Whilst expressing some misgivings the judge stated, “I accept that the qualitative difference (from the prisoner’s point of view) between the privileges scheme and, for example, the system of re-categorisation may be said to be a difference of degree; but the difference is very considerable. Recategorisation touches much more closely the prisoner’s aspiration to liberty.”

On this basis, whilst accepting the court could intervene in ‘exceptionally strong’ cases involving, for example ‘bad faith’ or what the judge called ‘crude irrationality’, it was decided that the scheme was not unlawful even though there was no room for discretion in individual cases.

Another case along similar lines (*Potter and Others vs SSHD*) was unsuccessful in 2001. Part of their argument in that case was based on the fact that prisoners denying their offence are discriminated against in their access to the right to family life under Article 8 of the European Convention on Human Rights, as prisoners on Standard regime receive less or shorter visits than those on Enhanced. Again the courts did not accept this. The same position was restated in 2004 in the case of Green.

PRISONERS’ ADVICE SERVICE PO BOX 46199 LONDON EC1M 4XA TEL: 020 7253 3323 / 0845 430 8923
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