

The Categorisation and Recategorisation
of Adult Male Prisoners

SELF HELP TOOLKIT

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PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

The Categorisation and Recategorisation of Adult Male Prisoners

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What is categorisation?

Once you have been convicted, you will be given a security category. The purpose of categorisation is to assess the risk you pose in terms of:

- The likelihood of you escaping or absconding;
- The risk of harm to the public if you did escape or abscond;
- Any control issues you may present which would have an impact on the security and good order of the prison and the people in it.

What do the different security categories mean?

There are four different categories for male prisoners. The official definition of each category is as follows:

Cat A – Prisoners whose escape would be highly dangerous to the public or the police or the security of the state and for whom the aim must be to make escape impossible.

Cat B – Prisoners for whom the very highest conditions of security are not necessary but for whom escape must be made very difficult.

Cat C – Prisoners who cannot be trusted in open conditions but who have neither the resources nor the will to make a determined escape attempt.

Cat D – Prisoners who present a low risk, can be reasonably trusted in open conditions and for whom open conditions are appropriate.

Cat A is obviously the highest security category and Cat D the lowest.

Please note that these categories only apply to male prisoners. Women prisoners' categorisation is different.

What are the principles of categorisation?

The principles are set out in Prison Service Instruction (PSI) 40/2011 Categorisation & Recategorisation of Adult Male Prisoners. In brief these are:

- All prisoners **must** be assigned to **the lowest security category** consistent with managing their needs in terms of security and control. Prisoners must be categorised objectively according to the likelihood that they will seek to escape and the risk that they would pose should they do so.
 - The prison must never adjust your security category to achieve a better match with available spaces within the prison estate.
 - However, the allocation process is different and separate. This means you may be allocated to, or retained in, a prison of a higher security category than you have been given (see below).

- Categorisation decisions **must be fair, consistent and objective**. They must be in line with current policy, supported by clear evidence and not be discriminatory on grounds of race, age, religion, nationality, disability, sexual orientation or any other factor irrelevant to the categorisation process.

- The categorisation process must be **open**. This means that you must be able to understand why you were assigned to a particular category.
 - A copy of the categorisation form that records the process must be disclosed to you if you request it. And, if you have trouble understanding the form, the reasons behind the decision must be explained to you verbally.
 - Some **information may be withheld** from you but only in certain circumstances. These are:
 - i. it is in the interests of national security;
 - ii. for the prevention of crime or disorder, including information relevant to prison security;
 - iii. for the protection of a third party who may be put at risk if the information is disclosed;
 - iv. if, on medical or psychiatric grounds, it is felt necessary to withhold information where the mental and/or physical health of the prisoner could be impaired;
 - v. where the source of the information is a victim, and disclosure without their consent would breach any duty of confidence owed to that victim, or would generally prejudice the future supply of such information.
 - If information is withheld, it must be recorded on a separate form, with mention of it on the main form along with a brief description of the type of information as far as is compatible with maintaining security. Consideration must be given to disclosing a summary of the information withheld, or an edited form that protects the anonymity of the informant.

When will I be categorised?

If you are on remand, unless you have been identified as a provisional Cat A prisoner, you will not be subject to the categorisation process. You will be placed in Category U (unclassified). You would usually be held in Category B conditions in local prisons. However, there is no reason why, taking into account the specific circumstances of your case, you could not be transferred to a Category C establishment, if suitable facilities exist and there is adequate information to suggest that Category B accommodation is not necessary. In such circumstances the Governor must agree to the prisoner's transfer to a Category C prison.

How does the initial categorisation process work?

Your security category should be determined soon after you are sentenced. Convicted and sentenced prisoners, including Indeterminate Sentence Prisoners (ISPs) (other than those who have been reported to Prison Headquarters as potential Category A) must be categorised within 4 working days of all essential documents being received. These essential documents are:

- i. A copy of your previous convictions (if any)
- ii. Details of current offence(s)
- iii. Current custodial record
- iv. Your previous prison record (if available)
- v. Your security file (F2058)
- vi. Any Public Protection Information (MAPPA) if available
- vii. Prisoner Escort Record (PER) form
- viii. An Offender Assessment System (OASys) (if opened prior to sentence)
- ix. A Request for Information form from UK Border Agency (UKBA).

However, unfortunately there is no timetable for receipt of these essential documents and many prisoners find that there is a considerable delay in being categorised.

Will I be Cat A?

If you are a potential Cat A prisoner, your categorisation will be dealt with by the Category A Team at Prison Headquarters. Please refer to our separate self-help pack – 'Category A Review: at a Glance'.

If not CAT A, will I be Cat B?

If you are not a potential Cat A prisoner then you will be initially considered as Cat B if any one of the following applies:

- your current determinate sentence is of 10 years or over;
- you are serving an Indeterminate sentence with a tariff of 5 years or over;
- any other indeterminate sentence;
- you were a Cat A prisoner during previous sentence;
- you have been convicted of or have previous terrorist offences

Or any **two** of the following applies:

- you had a previous sentence of 10 years or over;
- you previously escaped from closed prison, police or escort;
- your current or previous conviction is for a serious offence involving: violence/threat to life/firearms/sex/arson/drugs/robbery.

If not Cat B, will I be Cat C?

If none of the above applies but any of the following apply, you will be considered as Cat C:

- you had a previous sentence of 12 months or more for violence, threat of violence, arson, sex offence, drug dealing or importation;
- your current sentence is of 12 months or more and for violence, threat of violence, arson, sex offence, drug dealing or importation;
- you have absconded, failed to surrender, breached bail, a Home Detention Curfew (HDC) or a Release on Temporary Licence (ROTL) within past 3 years;
- there is an outstanding confiscation order or further charges.

What else would be taken into account?

Your initial categorisation as Cat B or Cat C is then subject to a risk assessment, to determine if a higher or lower category than first indicated should be applied. PSI 40/2011 provides a non-exhaustive list of which factors could be taken into account during this assessment. The list includes:

- security information;
- significant control problem (i.e. if there is intelligence about you indicating you may try to escape, if you have been involved while on remand in the bullying or taxing of weaker prisoners, or if your behaviour may otherwise be difficult to manage in conditions of lower security);
- the circumstances of the offence, pattern of offending;
- identification as a Persistent or Prolific Offender (PPO) or you are facing further charges of a serious nature;
- sentence length;
- Any outstanding Confiscation Order; whether the amount of confiscation and the default sentence imposed might increase the risk of absconding;
- successful completion of time in an open prison on a previous sentence;
- previous offending confined to minor offences committed some years previously.

Please note that if you are a prisoner who has been **repatriated** from abroad, you may have received a sentence that is disproportionately long by UK standards. The security assessment should take this into account.

Further, if you were convicted of participating in **serious organised crime**, the Security Department and the Police Intelligence Officer (PIO) will be consulted as part of the initial categorisation process. Consideration will be given to whether you will continue to participate in criminal activities during your time in prison.

If I am not initially Cat B or C, will I be Cat D?

If none of the above factors apply to you and you are serving a determinate sentence of less than 12 months, you will be considered for Category D. You will be dealt with under the 'streamlined risk assessment'. This will consider the following:

- whether you have ever been convicted of a sexual offence;
- if you are currently serving a sentence for an offence of violence;
- if you are currently serving a sentence for an offence under terrorism legislation;
- if you are currently undergoing detox, on Methadone or Subutex programmes, require 24-hour healthcare cover or have forthcoming medical appointments which might have to be cancelled if you were transferred;
- if a cell sharing risk assessment identifies you as 'medium' or 'high';
- if you are currently identified as MAPPA level 2 or 3;
- if the prison has been notified that further charges are currently pending;
- if there are any other factors indicating that you are likely to present a high risk of harm to the public if placed in open conditions;
- if a Serious Crime Prevention Order has been imposed.

If none of these apply to you, you will be allocated to open conditions as soon as possible after sentencing, subject to a requirement that you spend a minimum of 7 days in closed conditions.

When will my categorisation be reviewed?

Your security category must be reviewed at regular prescribed intervals. However, you should be aware that recategorisation to a lower category is not an automatic progression or right. It will be based on clear evidence of a reduction of the risk you pose. The purpose of the recategorisation process is to determine whether, and to what extent, there has been a clear change in the risks you presented at your latest review and to ensure you continue to be held in the most appropriate conditions of security.

You will have a review every six months, if you are serving:

- a determinate sentence of 12 months or more but less than 4 years;
- an Extended Sentence for Public Protection (EPP) with a custodial term of less than four years;
- the last 24 months of your sentence.

You will have a review annually, if you are serving:

- a determinate sentence of 4 years or more;
- an EPP with a custodial term of four years or more.

If you are serving an indeterminate sentence, a Sentence Planning and Review meeting will take place every 12 months. Your security category should be considered at each meeting.

Will my categorisation be reviewed at other times?

If there has been a significant change in your circumstances which has an impact on your level of risk, you can have your categorisation reviewed. Changes that will trigger a non-routine review include:

- a change in circumstances or behaviour which indicates an urgent threat to prison security or the good order of the establishment;
- intelligence indicating involvement in ongoing serious criminality;
- involvement with drugs;
- further charges of a serious nature indicating that you require a higher level of security;
- a notice of deportation is served;
- a Confiscation Order is enforced;
- a Serious Crime Prevention Order (SCPO) is imposed
- new or additional information comes to light (for example, during completion or updating the OASys assessment which highlights additional risk factors);
- there is cause for concern that the current categorisation decision is unsound (there must be corroborative evidence to support that concern);
- you have completed a successful ROTL;
- a serious ROTL failure;
- a change in home circumstances which might increase the risk of absconding;
- your sentence/tariff is reduced on appeal;
- your sentence is increased;
- a key piece of offending behaviour work is completed, or there has been a successful detoxification or opiate substitute maintenance regime;
- you are recalled to custody;
- you are returned to prison custody from a Special Hospital.

Prisoners in the open estate, and Category D prisoners held in the closed estate, will be reviewed only if there is a change in their circumstances, their behaviour gives cause for concern or when new information or intelligence suggests an increase in risk levels.

Risk assessments for a higher security category (and any subsequent reallocation) will normally be non-routine and in response to a significant change in risk or behaviour (see above).

Who will make the decision?

If you are a **determinate sentence** prisoner, you will have your reviews considered by a board or a single governor. The decision must be approved by a "Governor 4" or above (or at least third in charge for smaller prisons or the equivalent grades in private prisons).

If you are an **indeterminate sentence** prisoner, recategorisation from category B to C is done by lifer managers at the prison following sentence planning review boards. Recategorisation to Category D is almost always decided at a Parole Board review. However, there is an exception to this process. Following the case of *Guittard*, in certain circumstances, you can apply to the Secretary of State for a move to open conditions without having to wait for a Parole Board review.

The prison should not delay or withhold your categorisation review just because you are due to have a review by the Parole Board. Any such delay could be seen as unfairly putting at risk your chance of progressing at the parole review. If you want more information about this, please ask us.

How will the decision be made?

As stated above, there is no right to automatic progression to a lower category. Before the review, there will be a sentence planning and review meeting. At that meeting a recommendation will be made. The board must base their decision on the full Sentence Planning Review (SPR) reports prepared for that meeting and the decision must be made within 12 weeks of it. The board will be looking at whether your risk has decreased and can be managed in lower security conditions. This will include:

- **Your security information** – any Security Information Reports (SIRs), relevant historical information about previous escape or trust failures, information from the Police Intelligence Officer.
- Reports from your Personal Officer and Offender Supervisor which give an insight into **your attitude** to your offending and sentence; any involvement in drugs or taxing or bullying of other prisoners which might indicate **unsuitability** for conditions of lower security and supervision; similarly any evidence of your **vulnerability** which might make you the target of other prisoners' bullying and intimidation, particularly if this results in a prisoner in an open prison being forced to import drugs or other contraband; **notoriety** which might attract unwelcome media attention and disruption to the prison.
- Whether you have participated in **serious organised crime**. Security department will be consulted, and further information sought from the Police Intelligence Officer (PIO).

- Information about **any domestic factors** which could impact on your stability and likelihood of trying to escape or abscond.
- Reports from healthcare or psychologist indicating concerns about your **healthcare needs** or ability to cope in conditions of lesser supervision.
- The outcome of any **offending behaviour programmes** that you have undertaken and your willingness to address your offending behaviour.
- **Positions of trust** held.
- Successful **ROTL** applications or outcome of ROTL.
- **Your behaviour** is relevant to the assessment in so far as it may indicate the need for a greater degree of security or supervision. Poor institutional behaviour may pose a threat to the security of the prison or to the safety and well-being of staff and other prisoners. Good, compliant behaviour does not, in itself, indicate that you pose less risk either of escape or absconding or risk of harm to the public and is not sufficient justification to downgrade you. There must be additional sound evidence that your good behaviour is representative of a change in attitude and an associated reduction in the risks that were evidenced at the last categorisation review.
- **If you deny your guilt**, you may have refused to undertake any relevant offence-related work. The establishment must proceed on the basis that you are guilty of the offence for which you have been convicted, the recategorisation review should consider whether there is other evidence available which might indicate that the risk has been reduced sufficiently to justify recategorisation to a lower security establishment. This consideration should be fully recorded on the RC1 form, a copy of which you are entitled to ask for.
- **New or outstanding charges** (including enforced Confiscation Orders) will be assessed for the likely impact on your escape/absconding risk or because they might indicate that you present an increased risk to the public.

Can I attend the review?

It is a common misconception amongst prisoners that you will be invited to sit in front of a review board to discuss your categorisation. There are some prisons who will invite you to attend the review, but this is very rare. **You should therefore consider whether you wish to prepare written representations** to submit to the prison for consideration at your review. It is the only way to **ensure your voice is heard**.

How can I prepare?

Writing representations can be difficult. It is important you leave plenty of time to do it. You should confirm the date of your next review. It is important you are aware of what the prison will take into account for your recategorisation. You should also speak to your Offender Manager and Supervisor and ask their views. They may be able to provide very useful information. This will also give you the opportunity to discuss any of their concerns with them before they provide an official recommendation.

You should not avoid mentioning negative issues such as Incentive and Earned Privilege (IEP) warnings or adjudications. Instead, it will be to your advantage to address them and provide your explanation as to why the incidents have not increased the risk you pose, and why you are still suitable for the category you suggest you should be downgraded to.

Can I appeal against a decision?

Yes. There is no special categorisation appeals procedure, although some prisons have a local scheme. If you think that you have been wrongly categorised you can appeal via the normal complaints system.

The prison has a duty to give reasons for decisions about categorisation, so to mount your appeal you should request a full explanation of the decision in writing. Cat A prisoners can still use the complaints procedure but your form will be sent to the Directorate of High Security for response, rather than being answered in the prison.

If you feel your concerns have still not been addressed you can appeal to the Prisons and Probation Ombudsman (Third Floor, 10 South Colonnade, London E14 4PU). It is possible on occasion to judicially review categorisation decisions, although this is increasingly difficult, especially since 2013 when legal aid funding for categorisation cases was cut.

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PAS offers free legal advice and information to prisoners throughout England and Wales regarding their rights, conditions of imprisonment and the application of the Prison Rules.

We pursue prisoners' complaints about their treatment in prison by providing advice and information and, where appropriate, taking legal action.

Examples of issues we can advise on include: parole, temporary release, indeterminate sentences, categorisation, adjudications, sentence calculation, licence and recall, discrimination, resettlement and healthcare matters. We also provide advice on Family Law to female prisoners and on Immigration Law to prisoners with issues relating to detention or deportation.

If you have something that you'd like to discuss with one of our Caseworkers, you can:

Write to us at
Prisoners' Advice Service
PO Box 46199
London EC1M 4XA
(Mark your envelope *Legal Mail Rule 39* in all correspondence with PAS)

Call us Monday, Wednesday or Friday
between 10:00-12.30 and 14.00-16.30 on
020 7253 3323

We produce the quarterly Prisoners' Legal Rights Bulletin, which shares information about key cases and changes in Prison Law, and is free to prisoners. To sign up for this, please write to the address above.



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