

The Categorisation and Recategorisation
of Adult Male Prisoners

SELF HELP TOOLKIT

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The logo for The Legal Education Foundation, featuring the text "The Legal Education Foundation" in white, stacked vertically, on a solid blue square background.

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PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

The Categorisation and Re-categorisation of Adult Male Prisoners

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What is categorisation?

Categorisation is a risk management process, the purpose of which is to ensure that those sentenced to custody are assigned the lowest security category appropriate to managing their risk of:

- escape or abscond;
- harm to the public;
- ongoing criminality in custody;
- violent or other behaviour that impacts the safety of those within the prison; and
- control issues that disrupt the security and good order of the prison.

What do the different security categories mean?

Once you have been convicted, you will be given a security category.

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. Guidance on Cat-A prisoners is found in PSIs 8/2013 and 9/2015. See our separate Cat-A self-help toolkit.
- **Cat B-** Prisoners whose assessed risks require that they are held in the closed estate and who need security measures additional to those in a standard closed prison.
- **Cat C-** who are assessed as requiring standard closed conditions, and do not need additional security.
- **Cat D-** Prisoners who are either assessed as presenting a low risk or whose previously identified risk factors are now assessed as manageable in low security conditions.

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 the new **Security Categorisation Policy Framework** (implemented February 2020). In brief these are:

- Security categorisation decisions must be made in accordance with Prison Rules, other relevant legislation, and the principles set out in the categorisation framework.
- Individuals are categorised according to the risk they present to security, safety and public protection, and must be held in a prison providing levels of security appropriate to managing identified risks. Security categorisation decisions must be based on individual security risk assessments taking account of all available information.
 - An individual's security category must not be adjusted to achieve a better match with available spaces within the estate.
 - 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 reviews must ensure that individuals continue to be assigned to the security category most appropriate to managing their risk throughout their time in custody. At all stages of your sentence, you should be held in the lowest security conditions necessary to manage your identified risks.
- Categorisation decisions must be fair, consistent and taken without bias.
 - Security categorisation decisions must not be influenced by any matters irrelevant to the process.
 - The categorisation process must not discriminate against people with the personal protected characteristics protected under the 2010 Equality Act: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- The categorisation process must be open. This means that you must be able to understand why you were assigned to a particular category.
 - You should be allowed to make representations before a categorisation review decision is made.
 - You should be allowed to appeal a categorisation decision.
 - A copy of the categorisation form that records the process must be disclosed free of charge within 3 days to you if you request it.
 - If you have trouble understanding the categorisation paperwork, the reasons behind the decision must be explained to you verbally/face-to-face).
 - Some information may be withheld from you but only in certain circumstances (see below section on accessing information).

How does the initial categorisation process work?

The initial security category assessment must be completed as soon as possible to enable transfer to an appropriate prison within 10 working days of sentencing.

The initial security categorisation must take account of your current identified risks, available information, including information about your capability to cause harm or to continue with criminality from custody. The information that may be considered at your initial categorisation can be:

- Previous convictions (if any);
- Details of current offence(s);
- Current custodial record;
- Previous record;
- Security Department assessment of relevant evidence and intelligence;
- Public Protection information (MAPPA) (if available);
- Prisoner Escort Record (PER) form;
- OASys (if opened prior to sentence) or Pre-Sentence Report (PSR) or other assessments prepared for the court;
- Any relevant and available information from the police or other law enforcement agency such as a request for Information from UK Border Agency (UKBA).

What category will I be when first coming to prison?

The Categorisation Policy Framework states that Category C will be the most appropriate security category for adults in the majority of cases.

If you present a level of risk that cannot be safely managed in Category C, then Category B will be appropriate (unless Category A is deemed necessary having followed PSI 9/2015).

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

You may be eligible for consideration for Category D/Open conditions at initial categorisation if you have less than 3 years left to serve to earliest release, and are not a foreign national prisoner where there is both a deportation order against you and your appeal rights from the UK have been exhausted.

In addition, you must also be assessed as:

- low risk of abscond;
- low risk of harm to the public;
- unlikely to continue criminality while in custody; and
- unlikely to otherwise abuse the low security or disrupt the good order of the open estate.

Unless your risk of serious harm to the public is assessed as low, Category D/Open will not be appropriate at initial categorisation.

Normally, only those with less than three years left to serve to earliest release should be considered for open conditions. However, if Cat-D is deemed appropriate for those with three years or more left to serve to earliest release, this must be approved in writing by the Governing Governor of the prison in which the individual is currently held.

When will my categorisation be reviewed?

Re-categorisation to a lower security category is not an automatic progression or right but must be based on an assessment that the individual can safely and securely be managed in lower security conditions.

Your security category must be reviewed at regular prescribed intervals. The categorisation review must assess your current risks, information about your behaviour in custody and positive efforts made towards rehabilitation, and whether identified risks can be managed in a different (lower) level of security.

Prisoners serving a determinate sentence and held in closed conditions (B & C) are reviewed every 12 months until they have less than three years left to serve to earliest release. At this point reviews will be every 6 months. If time left to serve at initial categorisation is less than three years, reviews must take place every 6 months.

Will my categorisation be reviewed at other times?

A categorisation review must also take place whenever there is a material change in circumstances that impacts security risk. This may be either an increase or a reduction in risk. Such reviews can take place at any time.

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.

What about reviews of indeterminate sentenced prisoners (ISPs)?

Categorisation reviews should take place in line with scheduled sentence planning reviews unless you need to be able access a progression opportunity at a prison of a lower category, in which case there will be a categorisation review at that point, outside of the planned sentence planning timetable.

The prison is not responsible for assessing ISPs for open. Moves of ISPs to open conditions will normally require a recommendation from the Parole Board and all such decisions sit with officials in Public Protection Casework Section (PPCS) on behalf of the Secretary of State. Once the Secretary of State has decided an ISP is suitable for open conditions, prisons must categorise them as Category D/Open. In some limited circumstances, the Secretary of State is required to consider an ISP's suitability for a transfer to open conditions without involvement of the Parole Board, through a *Guittard* application made by the ISP.

What about foreign national prisoners (FNPs)?

FNPs, including those subject to enforcement proceedings under the Immigration Act 1971, must be categorised/re-categorised for closed conditions in the same way as all others.

FNPs with no liability for deportation must be categorised for Cat-D/Open in the same way as all others. These are individuals who:

- do not match the initial criteria for deportation, or
- have been considered for deportation by the Home Office and it has been decided that they may remain in the UK, or
- are not subject to any removal procedures.

For Cat-D FNPs who were categorised before their deportation status had been notified, or if their deportation status changes, their categorisation must be reconsidered as soon as practicable after the prison is notified (see section 10 of the Categorisation Policy Framework for further details).

What if I have a parole hearing coming up?

Your routine re-categorisation review must not be withheld or delayed to await the outcome of a parole hearing. The review should take place at the normal time but, unless there is an urgent need to transfer you for security, compassionate or discipline reasons, or because you need to complete necessary offending behaviour work, you should not be transferred until the parole dossier is complete.

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.

What will my categorisation be if I am recalled?

Individuals subject to a standard recall, including those with further charges, will have their categorisation reviewed within 10 days of their return to custody. On reception back into custody, prisoners subject to a standard recall retain the security category assigned to them on release until this categorisation review is completed, and must not be marked as unclassified/unconvicted.

Determinate sentence individuals on a standard recall, except those recalled from Home Detention Curfew (HDC) for breaching the curfew condition, must not be categorised by the prison to the open estate until the Parole Board 28-day review is finalised.

Who will make the categorisation decisions?

Your security categorisation assessment must be undertaken by your Prison Offender Manager or another member of staff delegated the role by the

Governor. Input can be sought from different staff members or organisations, but the final recommendation on category is the responsibility of the staff member designated to the role. The categorisation decision must be countersigned and either endorsed or another category identified as more appropriate. This role will usually be assigned to the Head of Offender Management Services.

Re-categorisations of ISPs to open conditions will normally require a recommendation from the Parole Board and all such decisions sit with officials in Public Protection Casework Section (PPCS) on behalf of the Secretary of State, except in the limited circumstances of a *Guittard* application.

How will the decision be made?

As stated above, re-categorisation to a lower security category is not an automatic progression or right but must be based on an assessment that you can safely and securely be managed in lower security conditions.

The prison 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 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**. The security department will be consulted, and further information sought from the Police Intelligence Officer.
- 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.
- **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. All available information and positive aspects of your behaviour must be taken into account as part of the risk assessment, including the extent to which you have engaged successfully with the prison regime, work and training opportunities. Good behaviour on its own is not, however, sufficient reason to re-categorise to a lower security category. The policy states that an individual displaying outwardly good behaviour may be involved in serious organised criminal

activity within the prison or serious intimidation or bullying of others, either of which would make them unsuitable for re-categorisation to lower security conditions. It is essential that outwardly positive behaviour is corroborated by an absence of information that the individual has behaviours that would be difficult to manage in lower security conditions.

- **Offence-related work**- In some cases, risk reduction and suitability for lower security conditions can be evidenced by successful completion of offending behaviour work, but where this has not been available or appropriate, staff must look to other sources of information regarding suitability for the lower security category. In assessing re-categorisation from B to C, consideration should be given to whether outstanding offender behaviour work can be completed in a lower category prison where there is other evidence of appropriate risk reduction.
- **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 views are taken into account**.

How can I prepare?

You can submit written representations and character references to be considered at your review. Make sure to check the date of your next review so you have time to prepare.

It is important you are aware of what the prison will take into account for your re-categorisation. You should also speak to your Offender Manager and Offender Supervisor and ask their views. They may be able to provide useful information. This will also give you the opportunity to discuss any of their concerns with them before they provide an official recommendation.

When writing your submissions, address negative issues such as behaviour warnings or adjudications as it will be to your advantage to provide your explanation if appropriate 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.

If you do submit representations and references, these must be taken into account as part of the assessment process.

When will I be transferred after being re-categorised?

The Categorisation Policy Framework states that “...allocation is a separate process from categorisation, the purpose of which is to assign an individual to a suitably secure establishment which effectively meets their needs insofar as pressures on the estate allow... someone may be assessed as a particular category even if it will not be possible to allocate them immediately to a prison of that category”. This means that after being assessed a particular category, you might not be moved to a prison of that category straight away.

Accessing paperwork

Form ICA1 must be completed at your initial categorisation and Form RC1 must be completed at your categorisation reviews. Both forms will be referred to whenever your category is reviewed. You are allowed to request a printed copy of your categorisation assessment form (ICA1 or RC1). If requested, the prison must provide you with a copy of your categorisation review form free of charge within 3 days, with the exception of any restricted information.

In accordance with PSI 03/2018 on Data Protection, routine disclosure of personal information to prisoners (including categorisation decisions) forms part of the existing arrangements for local disclosure and should not be interfered with. This means that you should not be forced to make a Subject Access Request to the MOJ to get a copy of your categorisation forms.

Withholding information

Information can be withheld where necessary in the following circumstances:

- In the interests of national security;
- For the prevention, detection, investigation or prosecution of crime or disorder, including information relevant to prison security and good order and discipline;
- For the protection of a third party who may be put at risk if the information is disclosed;
- If on health grounds it is felt necessary to withhold information where the mental and or physical health of the individual or a third party could be impaired;
- 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.

Information withheld under these circumstances must be recorded separately. If the information is critical to the categorisation decision then you must be informed, in general terms, what the information is that has been relied upon. You will need to be given enough detail to enable you to bring meaningful representations. You must be provided with a summary of the information that does not disclose the source material (see ‘Intelligence Collection, Analysis and Dissemination’ Policy Framework). **This means providing you with a gist of the security information relied upon.**

Can I appeal against a categorisation decision?

Yes. There is no special categorisation appeals procedure, although some prisons have a local scheme. The categorisation policy framework does suggest talking to your Key Worker first, but if you think you have been wrongly categorised, you can appeal via the normal complaints system (see Prisoner Complaints Policy Framework). You can challenge either the categorisation decision or the reasons given for the decision.

The prison has a duty to give reasons for decisions about categorisation, so to mount your appeal you must be provided with a full explanation of the decision in writing.

The categorisation decision must then be reviewed. The review will involve retaking the decision afresh looking at all the information that was considered for the original decision, as well as looking at any new information available. This review is usually done by a person senior to the person who approved the original decision.

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.

Prisons must keep a record of the number of complaints relating to security categorisation decisions and the outcome of the fresh consideration.

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) once you have exhausted the internal complaints process.

On some occasions, it may be possible to challenge categorisation decisions by way of judicial review, please see our judicial review information sheet for details or contact us for further advice.

Relevant documents to consult:

- Security Categorisation Policy Framework (Issued 20 February 2020);
- Prisoner Complaints Policy Framework (latest version February 2020);
- Intelligence Collection, Analysis and Dissemination Policy Framework (latest version October 2019); and
- PSI - 03/2018- The Data Protection Act 2018 and General Data Protection Regulation.

You will be able to get copies of these from your prison library. If you are having trouble getting a copy of these documents, you can request a copy from us using the address or telephone number below.

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 10am and 12.30pm or 2pm and 4.30pm,
or Tuesday evening between 4.30pm and 7pm
on
020 7253 3323

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



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