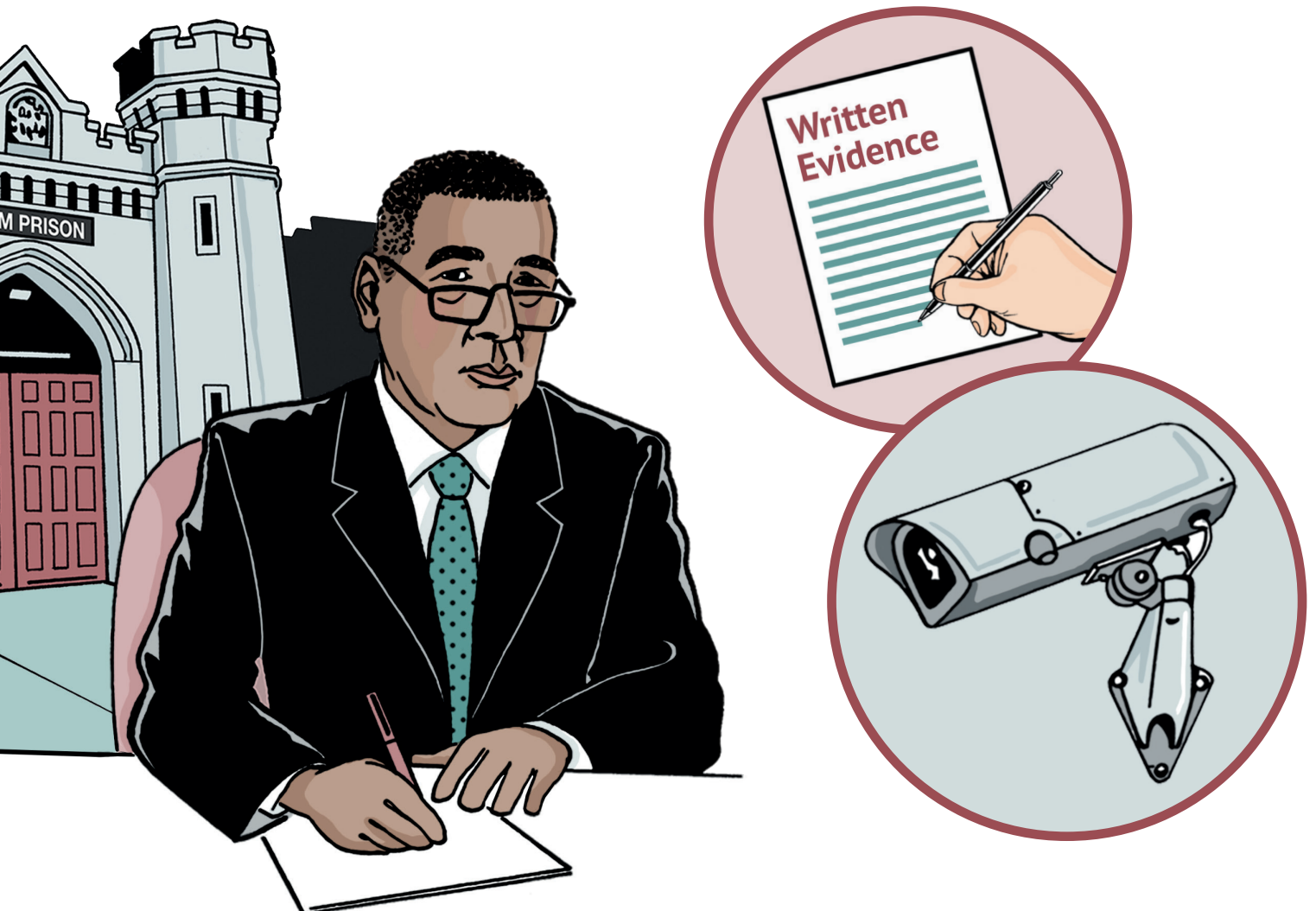


Governors' Adjudications

Easy Read Self Help Toolkit



About this document



This document was made by CHANGE, a charity led by people with learning disabilities.



This document uses easy words and pictures to tell you about Home Detention Curfew.

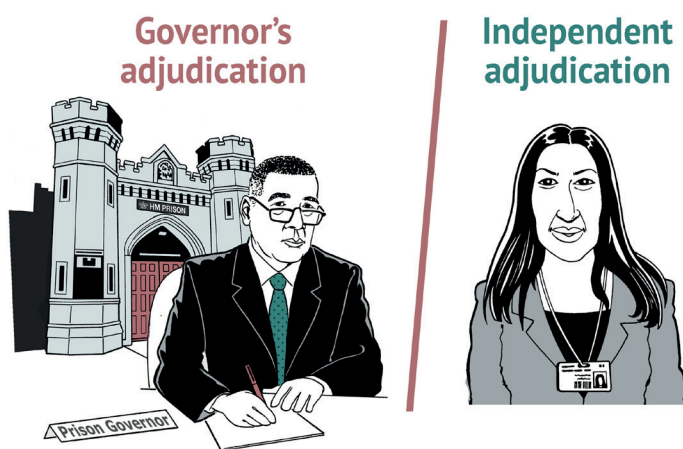


You might want to read through it with someone else to help you to understand it more.

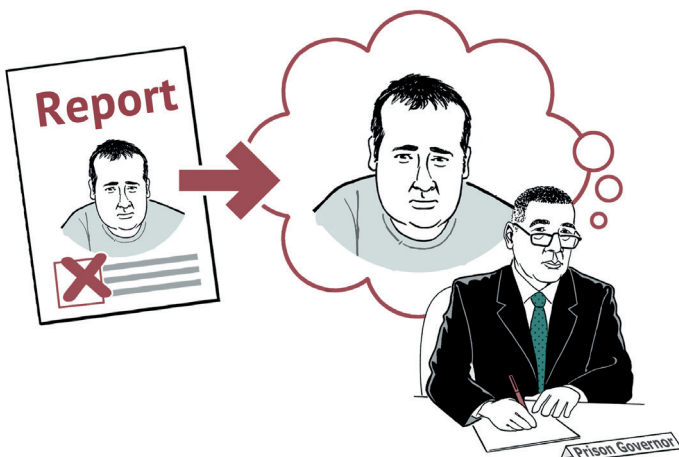
What is a Governor's Adjudication?



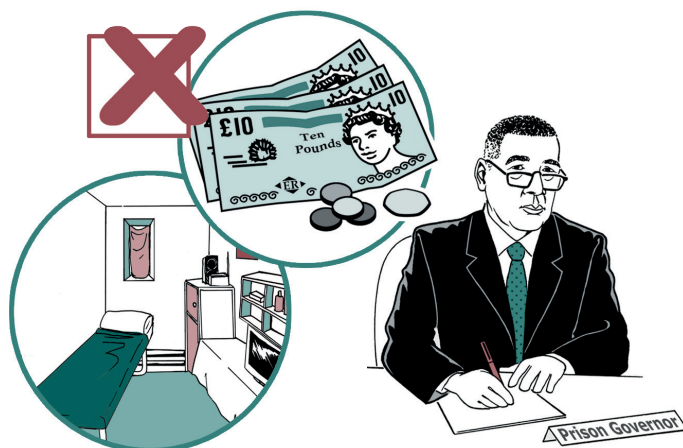
When you are placed on report the prison holds a hearing to decide whether you are guilty of an offence or not. The hearing is called an adjudication.



There are two types of adjudication. One is called a Governor's adjudication and the other is called an independent adjudication.



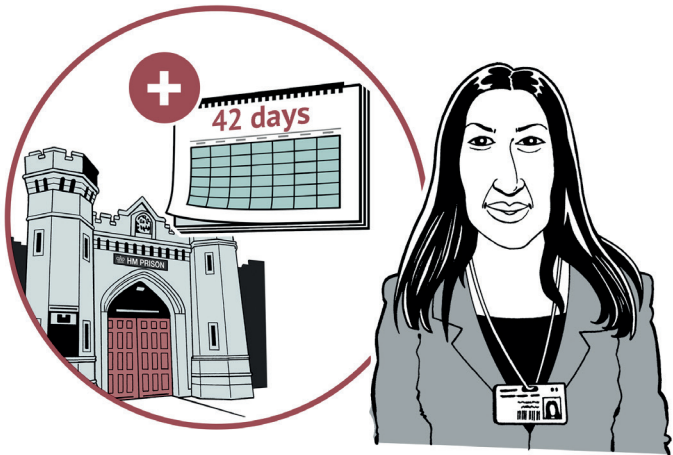
In both cases, a hearing takes place in front of a Governor or Director and he or she will decide whether they can deal with the matter.



A Governor can give out a range of punishments including loss of earnings or privileges and being confined to a cell but cannot add days onto a prisoner's sentence.

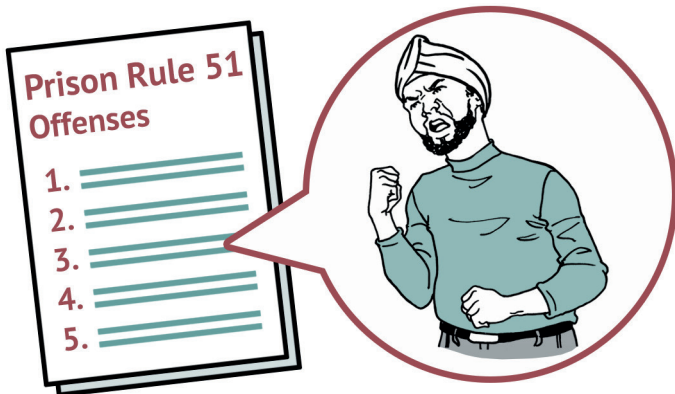


If at the first hearing the Governor decides that the offence may result in added days to a prisoner's sentence then case will be passed on to an Independent Adjudicator (IAs).



IAs are visiting magistrates. They can give up to 42 added days imprisonment.

With what offence(s) can I be charged?



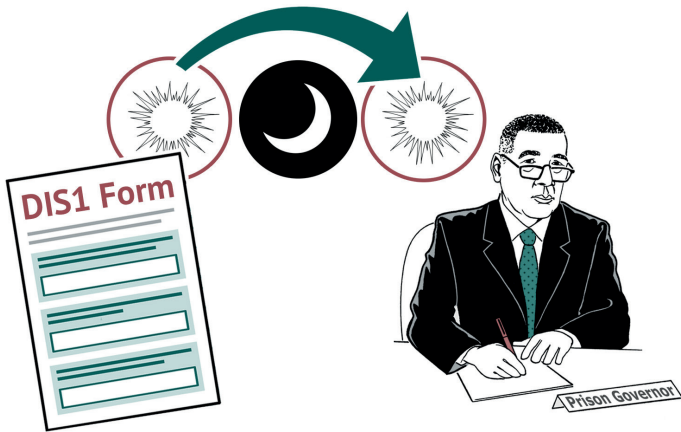
You can find the full list of charges in Prison Rule 51 (paragraphs 1-25).

When I am placed on report, what will happen?

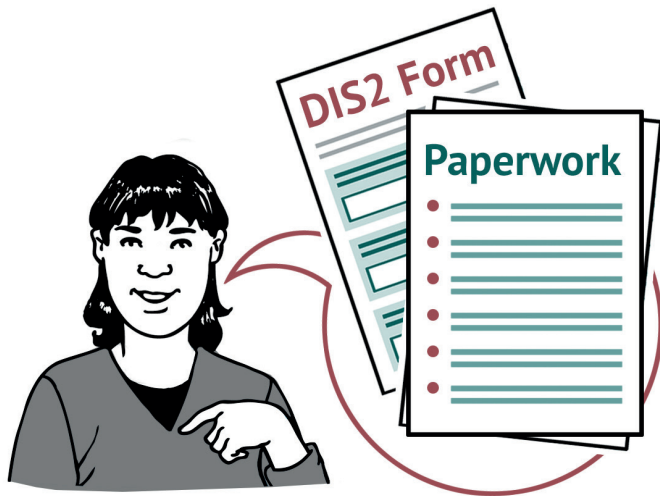


You will be given a form (DIS1) with information on your charge. You should get this form within 48 hours of the offence taking place.

When will the hearing take place?



The hearing will take place on the day after you are charged and you should be given written information (DIS2) on the adjudication process.



Before the hearing you should ask for all paperwork relating to the charge.

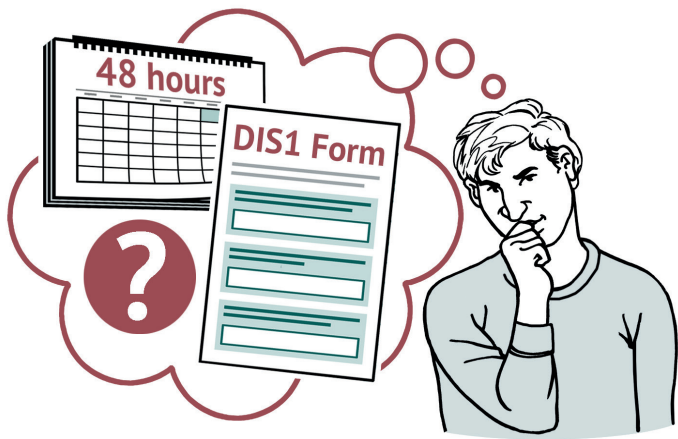
Will I be able to prepare my defence?



You should be given 2 hours before the hearing to prepare your defence. You should be given the charge sheet, DIS2 information, and have access to the Prisoner Discipline Procedures (Discipline Manual).



You should also have access to any books from the prison library.

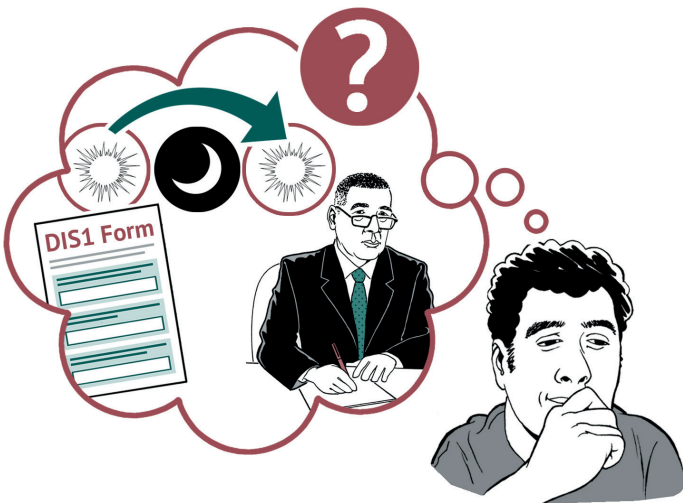


When preparing your defence you should start by answering:

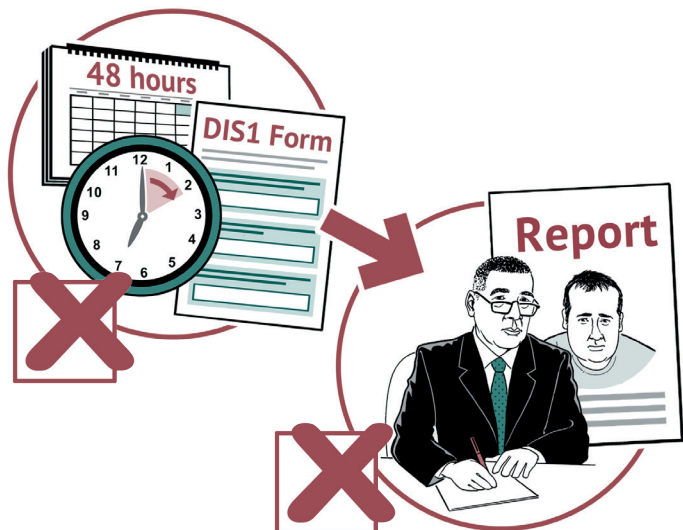
- Has the correct process been followed? Did I get the DIS1 form within 48 hours?



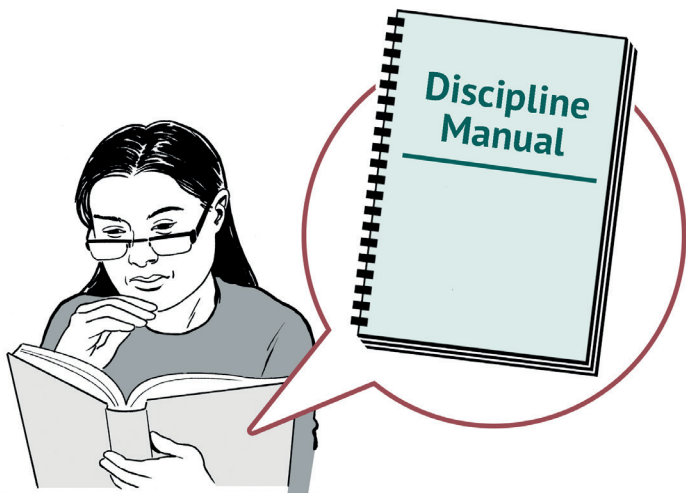
- Was I given 2 hours to prepare?



- Has the hearing happened no later than one day after the charge?



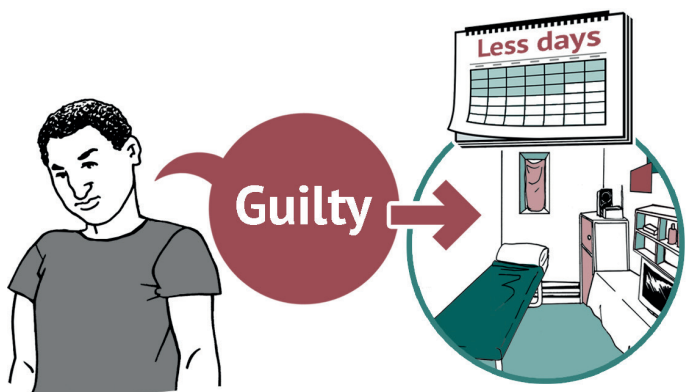
This is important because if the correct process has not been followed then charge can be dismissed.



Then using the Discipline Manual carefully check the details of your charge.



There may not be enough evidence for the charge or you may have a defence.



If you have no defence you should know that your punishment won't be as bad if you plead guilty.

Can I have help from a solicitor?



You do not have the right to be legally represented at a Governors' adjudication.



However, at the first hearing you can ask for it to be stopped so you can get legal advice. This is usually for a week.



Since December 2013 there is no legal aid so prison law solicitors no longer provide it.



PAS still gives advice for free. You can call or write to us.

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

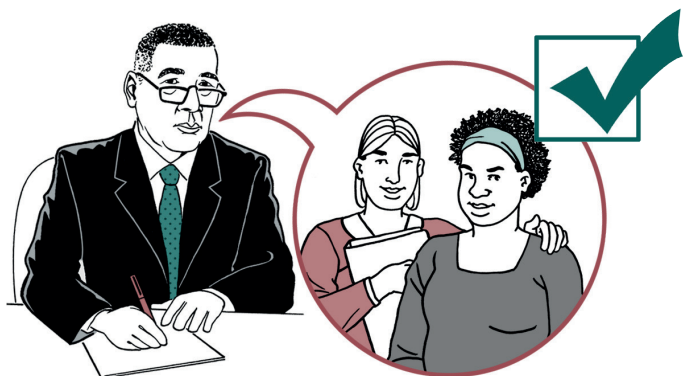
Can I be represented at the hearing by a solicitor?



You do not have a right to legal representation at a Governor's adjudication.



You may be allowed to have a 'Mckenzie friend' at the hearing. A 'Mckenzie friend' is someone that supports you to represent yourself.

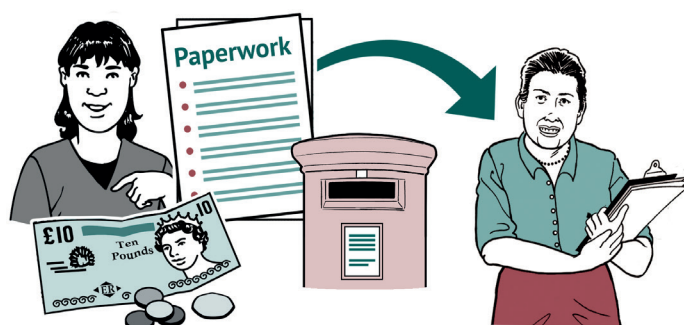


The adjudicator must decide this based on a series of principles. For example if is the prisoner capable of presenting their case.



If legal representation is refused then this must be noted on the record of the hearing (DIS3).

Will the adjudication paperwork be given to my legal advisor (or legal representative)?



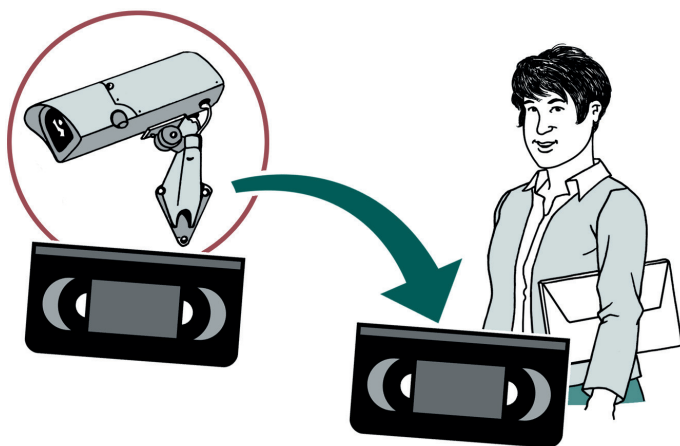
If you do not have legal representation at the hearing you must request the paperwork and then send it to your solicitor at your own expense.



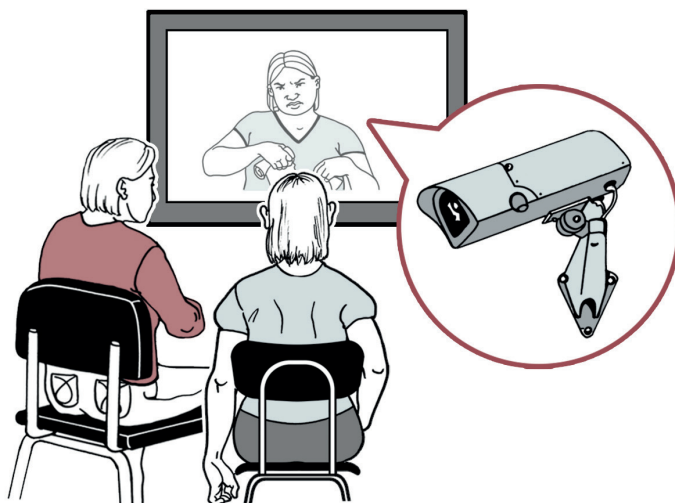
If you are allowed legal representation at the hearing the solicitor can request copies of the paperwork at no cost.



Your solicitor will also be able to use prison facilities to interview you and other witnesses before the hearing if you are allowed legal representation.



If CCTV recordings are part of the evidence they will not be copied to anyone.



You will need to make arrangements for you and any legal advisor to view the recordings at the prison.

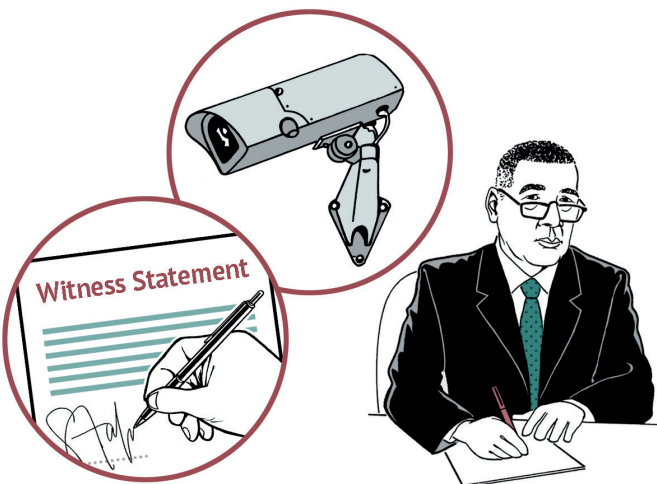
What is the role of the adjudicator?



The adjudicator must decide whether you are guilty of the offence based on the evidence at the hearing.



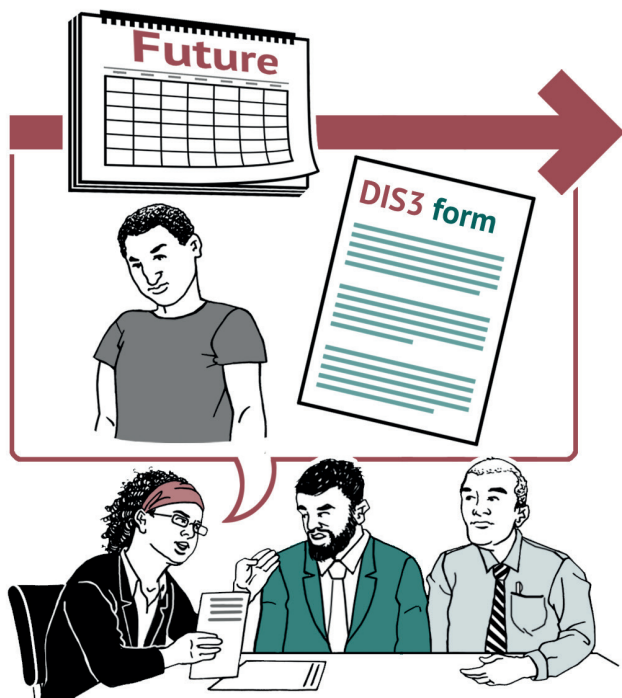
The adjudicator will hear evidence from the reporting officer and any witnesses as well as from you and any witnesses you ask for.



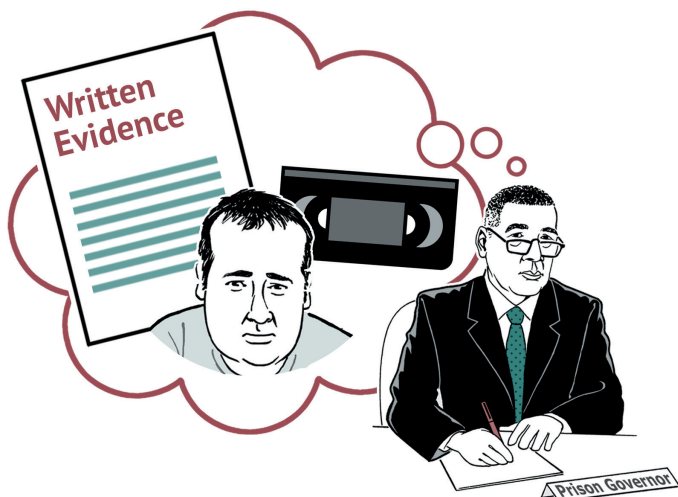
The adjudicator will also look at any written or physical evidence including witness statements and CCTV recordings.



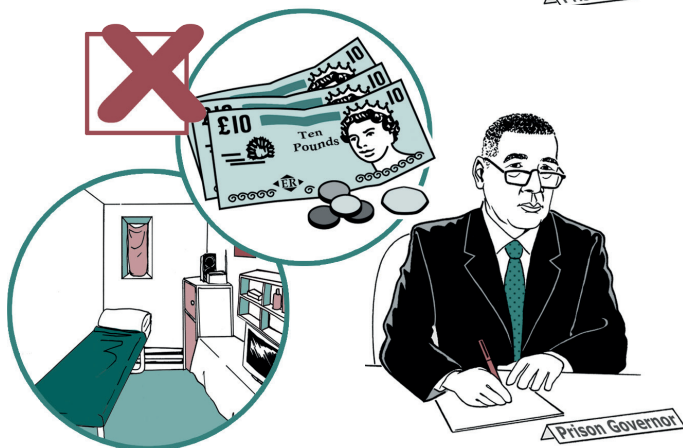
The adjudicator must make a complete record of the hearing on form DIS3. This must record all the main points.



This is an important record as it may be used in a future review and the case may stand or fall based on the information recorded.



The adjudicator must then make a decision based on all the evidence that the charge has been proved beyond reasonable doubt.

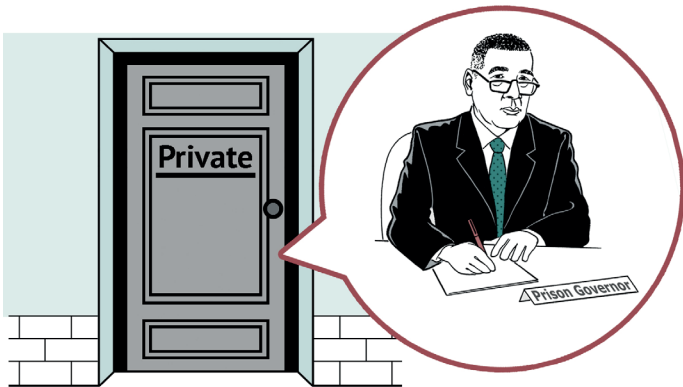


If you are found guilty the adjudicator will go on to decide the punishment.

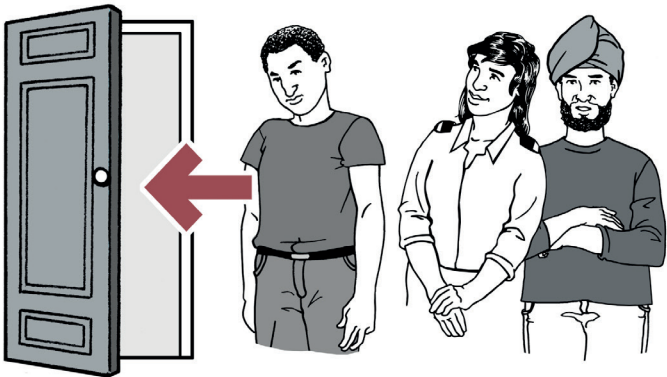


If you are not guilty the adjudicator will dismiss the charge.

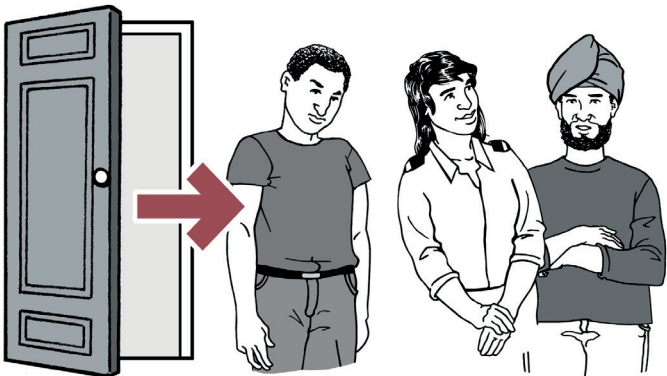
What happens at the hearing?



You along with the reporting officer and any witnesses should attend the hearing. The hearing should take place in a private room.

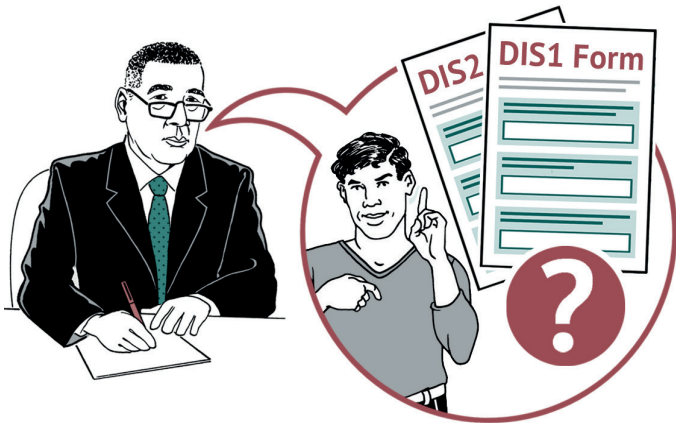


You should enter the room before the reporting officer and witnesses and leave after the reporting officer and witnesses.

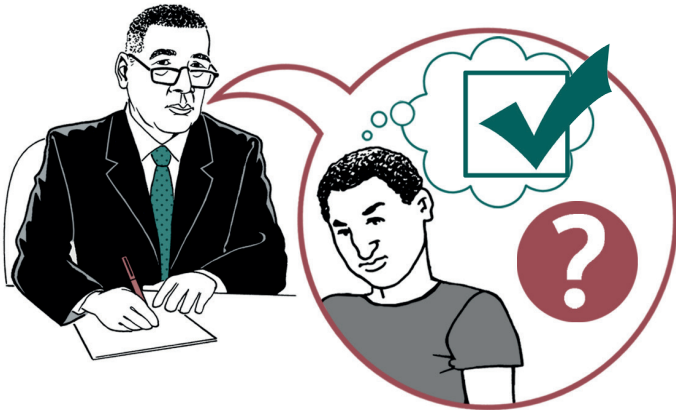


Only one witness should be in the hearing room at a time.

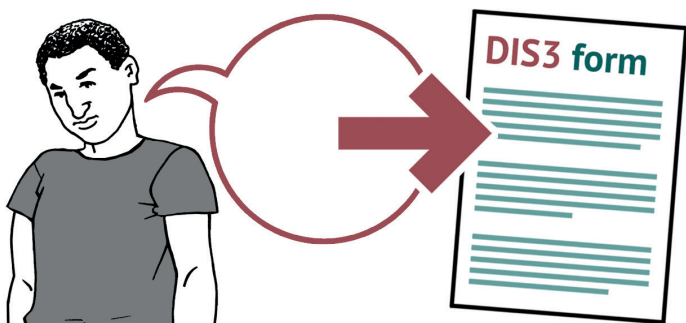
What is the procedure?



The adjudicator will open the hearing by asking who you are, if you have received the right forms, and then reading out the charge.



You will be asked a series of questions including do you understand the charge and do you understand what is happening?

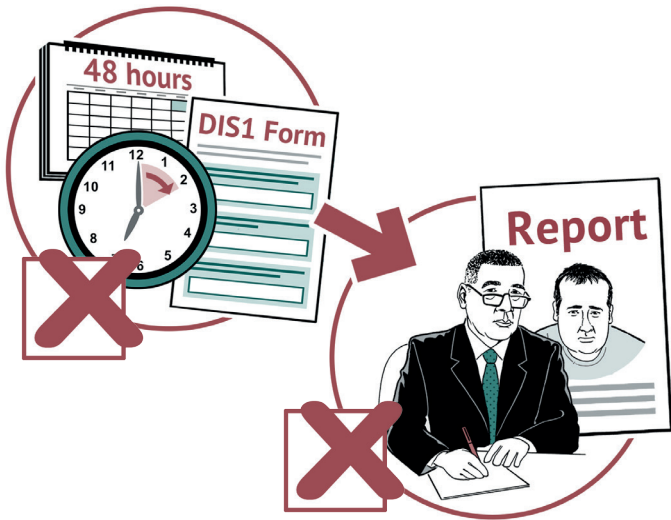


All answers should be recorded on the DIS3 form.

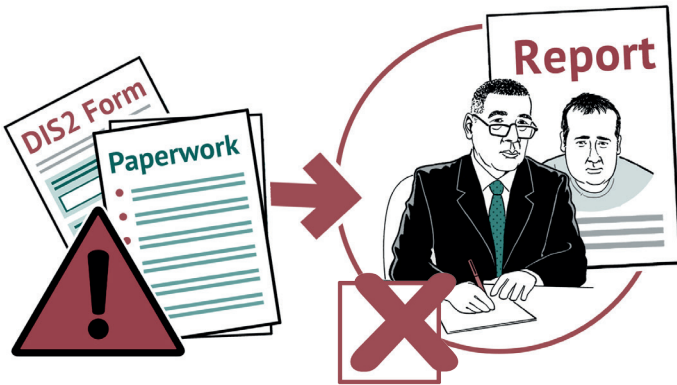


If you have difficulty understanding the process or presenting your case due to disability or insufficient knowledge of English you should have assistance.

What if the time limits have not been complied with?



If time limits have not been met the case may be dismissed.

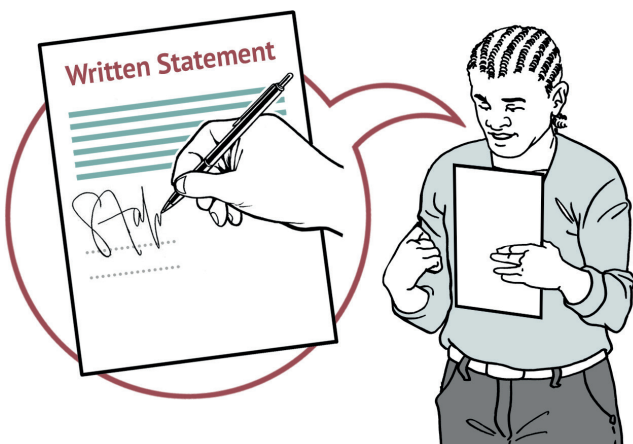


Minor errors may mean the case continues but more serious errors may lead to the charge being dropped.



The adjudicator must decide if continuing would result in any unfairness or injustice to you.

What if I have made a written statement or reply?



If you have made a written statement, it should be attached to the record of the hearing and it will be read out by you when you come to give evidence.

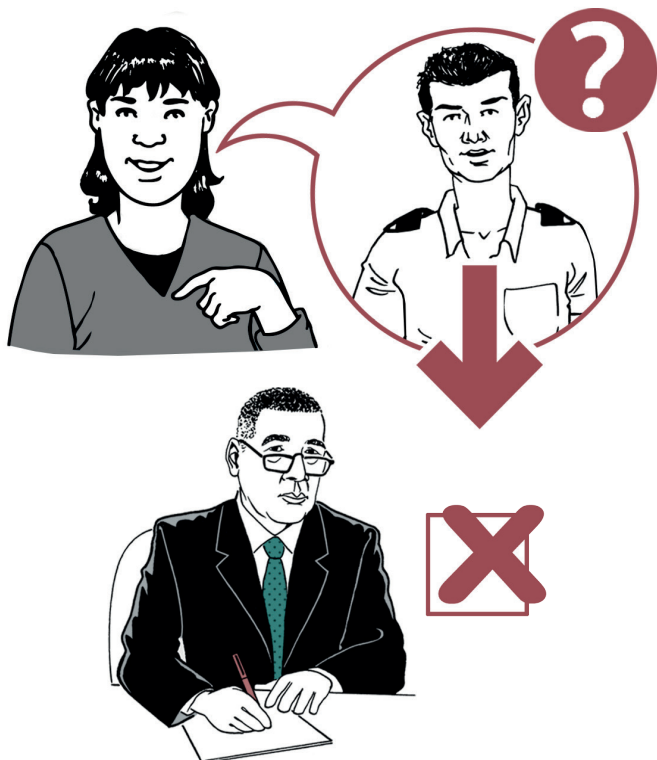
Who gives evidence?



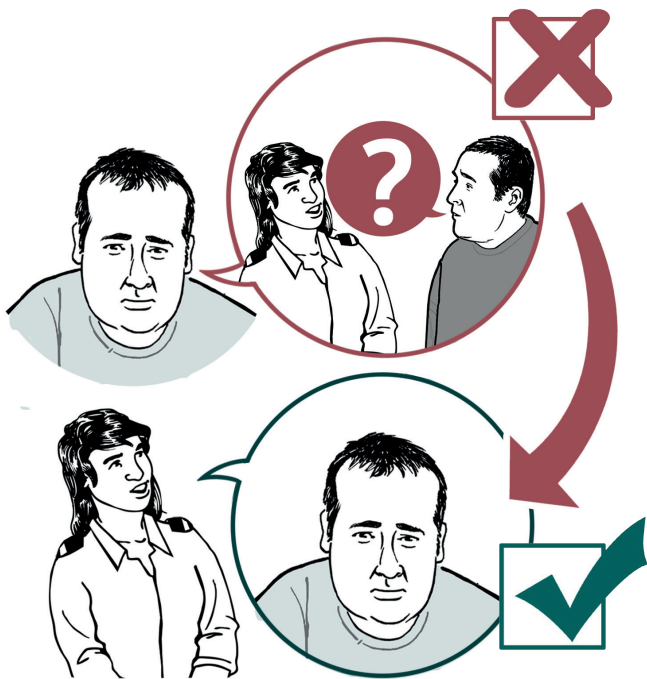
The adjudicator will first hear the evidence of the reporting officer.



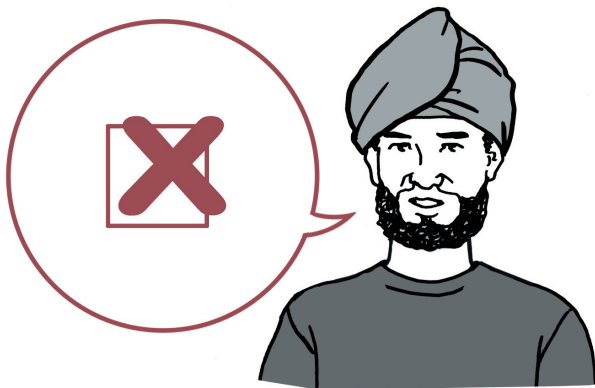
Then you will be able to ask the reporting officer questions. The adjudicator may also ask questions.



If you wish to question a reporting officer who is not present, the hearing may be stopped until the officer is available.



If you do not wish to question an officer who is not present, their evidence is likely to be accepted.



Other witnesses may be called to give evidence. However they do not have to give evidence.



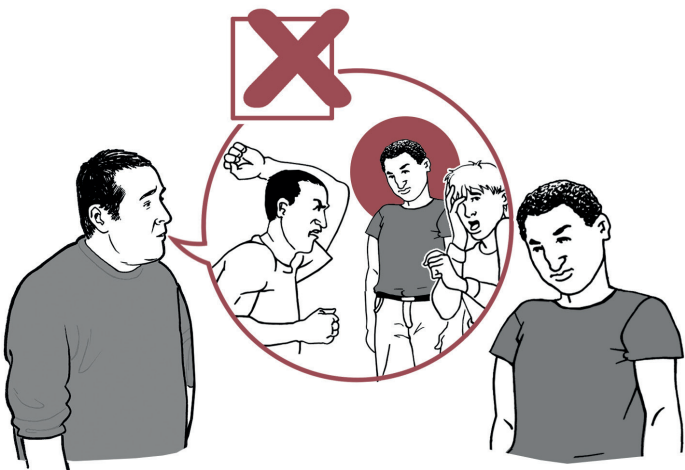
If prison officers attend the hearing they have to give evidence as part of their duty.



Prisoner witnesses do not have to give evidence if they don't want to.

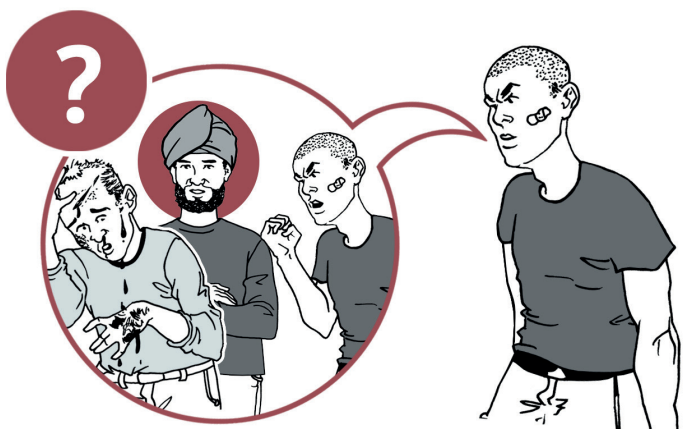


You can ask questions to any witness in the hearing. If you are having trouble with the questions the Adjudicator can help you.



Any witness should not discuss the case with any other witness waiting to give evidence.

What if I have witnesses?



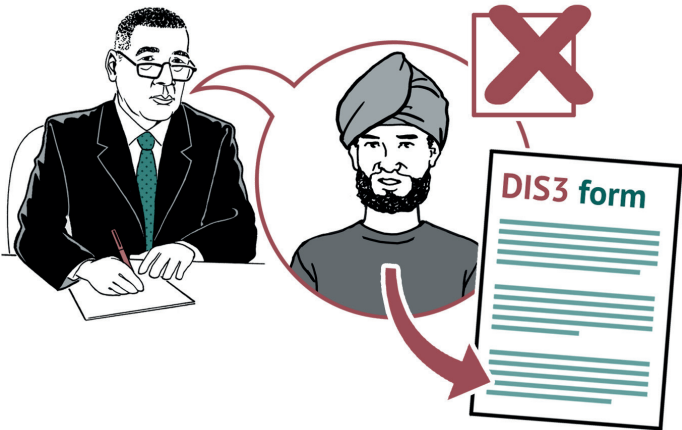
You can ask for witnesses to assist your case. The adjudicator will want to know what evidence the witness is expected to give.



The names of the witnesses should be written on the DIS3 form.



The prison has a duty to help you find the witness and let you know if there are any witnesses you did not know about.



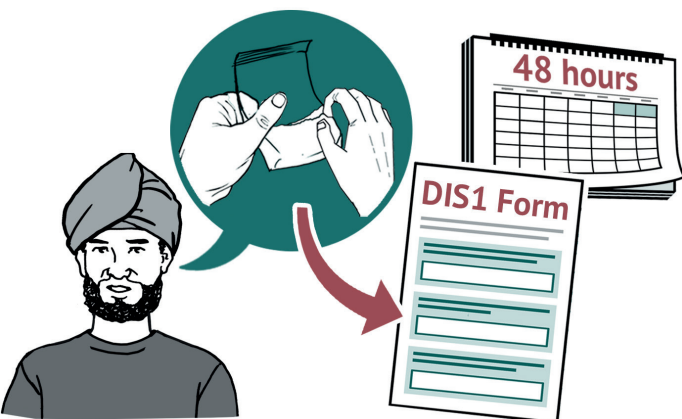
If the adjudicator stops you having a witness the reason should be written on the DIS3 form.

Can written evidence be accepted?

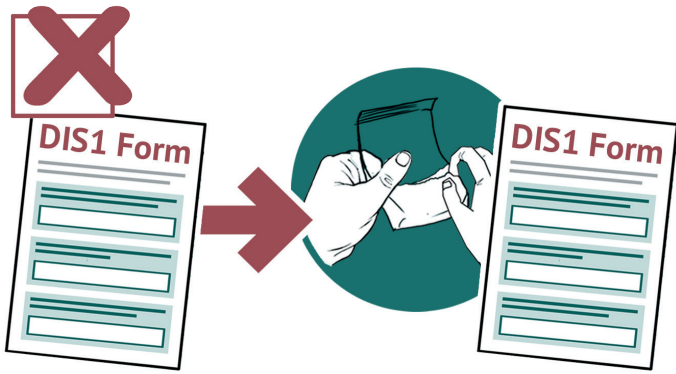


Yes, if all parties accept the statement and have no questions.

What if evidence of further offences is disclosed in the hearing?

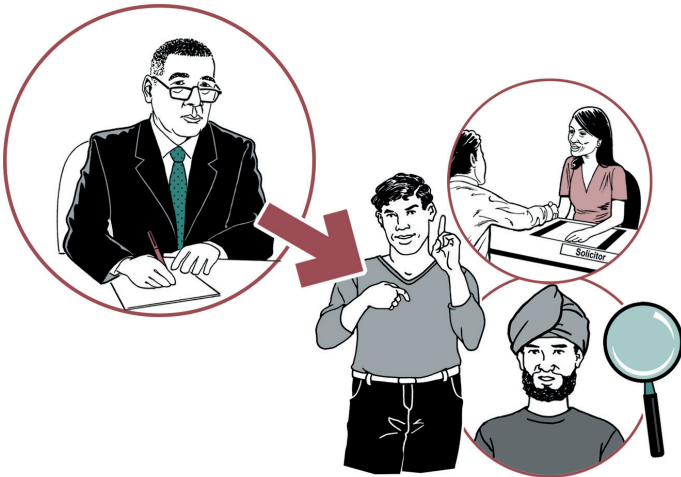


If evidence of a further offence is talked about in the hearing then a charge will need to be made within 48 hours.



The current charge may be dropped if it is found a different offence has happened.

Can I request an adjournment? (for the hearing to be stopped for a short time)



Yes. If you need legal advice or if you want to search for witnesses or evidence. The adjudicator will make the decision and say for how long.

For how long can the hearing be adjourned?

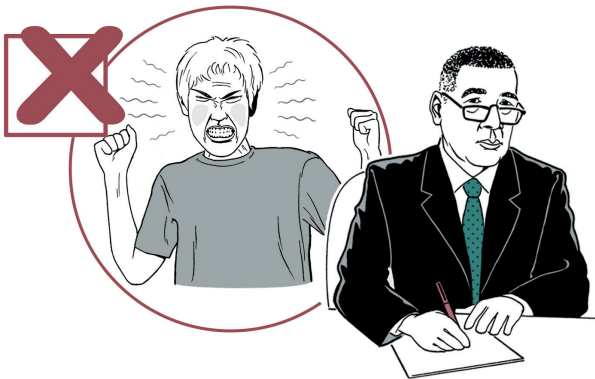


There is no limit on how long the hearing can be adjourned for but the adjudicator must decide whether it is fair to carry on with the hearing if it has not finished in six weeks.



If the adjudicator thinks the hearing should carry on the reasons must be noted on the DIS3 form. If the hearing is stopped, the case is noted as not proceeded with.

Can the hearing start if I am not there?

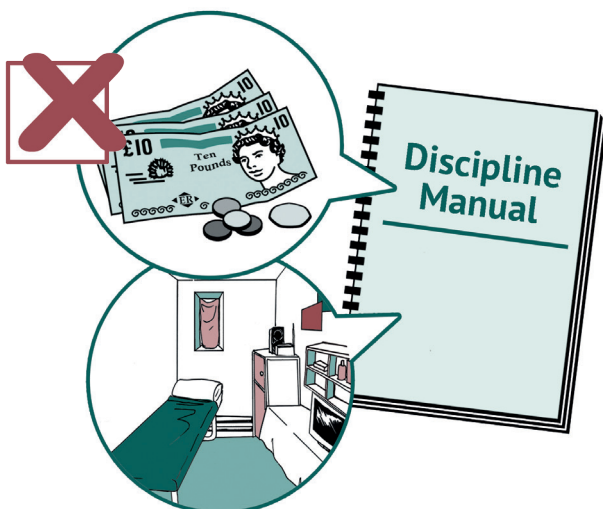


If you refuse to attend or are not allowed to attend because of disruptive behaviour then the hearing will start without you.



If you are ill or at another hearing the adjudicator may start the hearing and then adjourn it until you can attend.

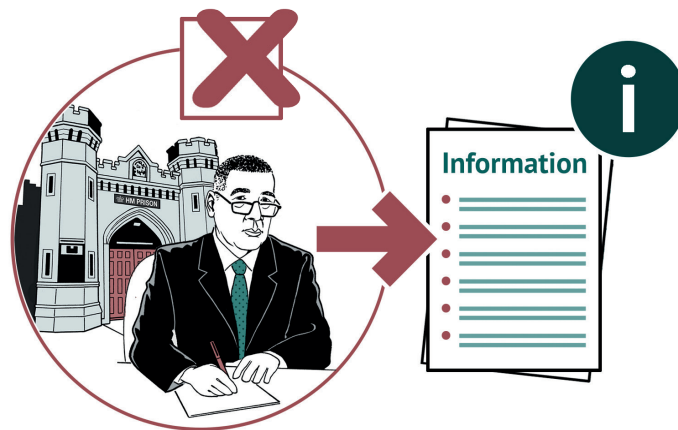
What if I am found guilty?



If you are found guilty the adjudicator will decide on a punishment. The full range of punishments is found in the Discipline Manual.



The adjudicator will take into account things like your previous record and the type of prison you are in.

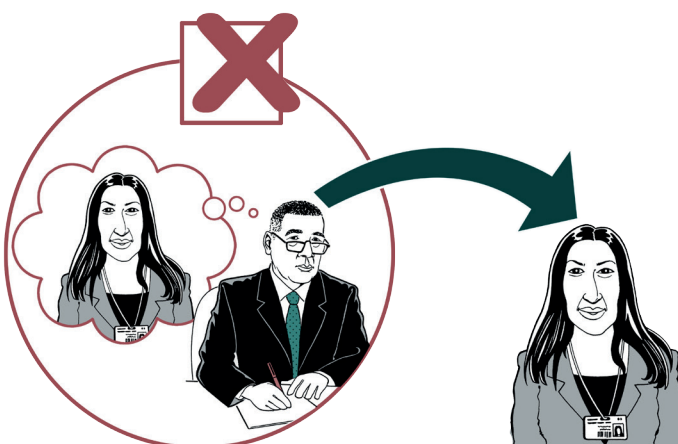


The adjudicator may adjourn the hearing to get further information.

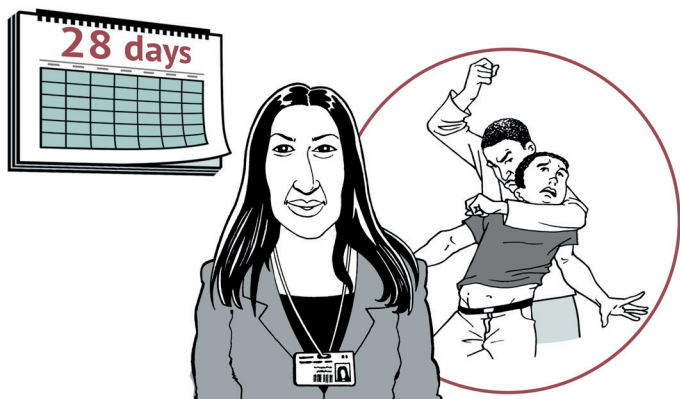


The punishment and the reasons should be recorded on the DIS3 form.

What happens if the adjudicator refers the charge to the Independent Adjudicator?



If after the hearing has started the Adjudicator thinks the hearing should be led by an Independent Adjudicator then the hearing will be adjourned.



This is usually because of the seriousness of the offence. The hearing will be rearranged and must happen within 28 days.

What happens if the adjudicator refers the charge to the police?



If the adjudicator thinks that the offense is serious enough to refer to the police then the hearing will adjourn until the outcome of the police investigation.

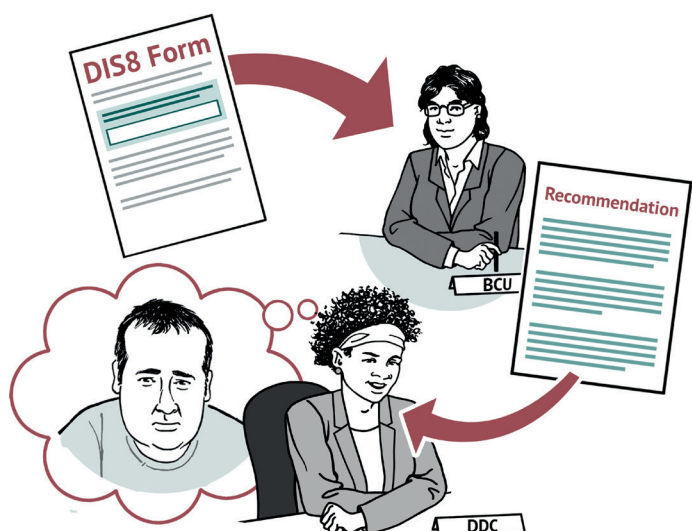


You should be given information on what is happening with the investigation.

Can I appeal against a Governor's Adjudication?



You can appeal against the decision. You do this by completing DIS8 form. This must be done within 6 weeks of the hearing finishing.



The form is sent to the Briefing and Casework Unit (BCU). They will make a recommendation and send this to the Deputy Director of Custody or the Director of High Security who will then make a decision.



The reviewer will either say that the decision is correct, reduce the punishment, or say that decision is not correct.

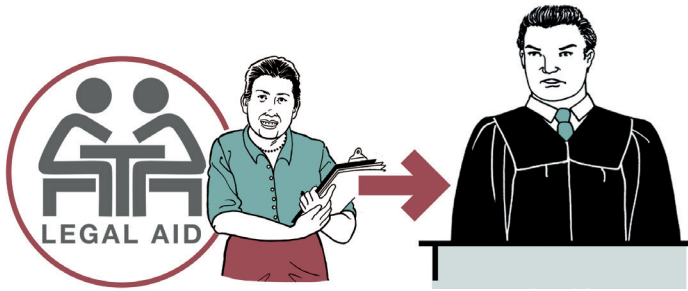


If your appeal is unsuccessful you can complain to the Prison and Probation Ombudsman within 3 months of the decision.

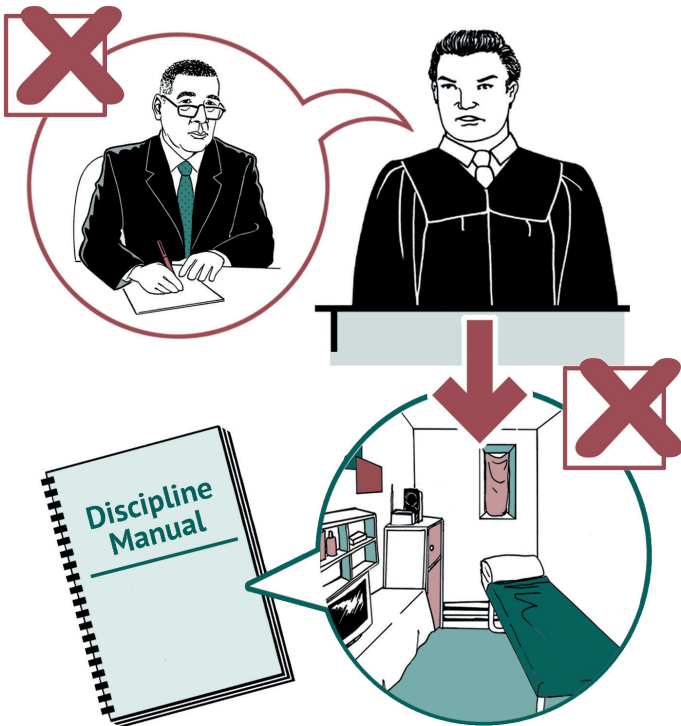
Can I seek judicial review of the Governor's Adjudication?



In very limited circumstances you could apply for a judicial review of the Governor's adjudication. This means you can appeal against the Governor's decision in a court.



You would need a solicitor or legal aid for this.



If permission is given and the court agrees with you, the court may order the punishment to be dropped.

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS



This easy read document has been produced by CHANGE
www.changepeople.org