

Access to Justice – Laptop Computers and Other IT Equipment

The National Security Framework says that *'Any prisoner who requests access to IT facilities for legal work and demonstrates a real need for this (i.e. refusing the request would raise a real risk of prejudicing the legal proceedings), must be granted access to the IT provided for this purpose for the period specified.'*

The Access to Digital Evidence Policy (A2DE) Framework deals with provision for prisoners who request equipment in order to review digital (in electronic format) evidence in their legal proceedings.

Can I have access to information technology (IT) equipment?

Access to a laptop, computer or other IT equipment can be provided for the purposes of doing legal work, such as preparing your defence or reviewing digital evidence. You may be able to have access to IT equipment regardless of whether you are legally represented or whether you are representing yourself.

How do I get access to a laptop computer or other IT equipment?

Article 6 of the European Convention on Human Rights protects your right to a fair trial and this imposes a duty on the prison to enable you to participate fairly.

You need to demonstrate a need for IT equipment in order to do legal work, such that there would be a real risk of prejudicing legal proceedings if access is not given.

Access is not automatically granted. You need to make an application to the prison. If your application is for equipment to view digital evidence, you should use the 'Application for A2DE Equipment' form in Annex G of the A2DE Framework.

How do I demonstrate a need for IT equipment?

If you need to view digital evidence, relevant factors include:

- There is evidence or disclosure in your case which is digital and IT equipment is needed to review it.
- The documents provided in disclosure are so voluminous that you cannot view it in paper format or with your solicitors during visits.
- Your defence requires the investigation of data that could not easily be carried out without the use of IT equipment..
- You have a disability which would prevent you from viewing the evidence in paper format, and you require special hardware or software in order to view it.

The following reasons are generally not enough to demonstrate a need:

- Preferring to type rather than write by hand when you can write well enough to be understood (according to the cases of *Ponting v Whitemoor*; *R v Kenyon*). But NB if you have difficulties writing for disability reasons you should be given appropriate IT equipment as necessary.
- To assist with spelling.
- To make the documents you submit to court look more presentable.
- To view video or listen to audio evidence (you can review the evidence just as well on a DVD or CD player, instead of a laptop).
- You have no current legal proceedings e.g. you are preparing for an appeal that is not live yet (an appeal number has not been issued). [This can be very problematic for prisoners who have lost their appeals and are applying to the CCRC for the case to be sent for a further appeal.]

What equipment will I get access to?

This depends on what is required to avoid a real risk of prejudicing legal proceedings if

access is not given. It will also depend on available facilities and the completion of a risk assessment. For example, you may be given access to a computer to use in the library, or use of a laptop in your cell. A video or audio player or specific computer programmes may be provided if you need to review digital evidence.

You will not be given any equipment with internet access and the computer or laptop might only be enabled with basic facilities, such as Microsoft Word. You may apply for access to other software (computer programs or apps) or hardware if your legal case or defence requires it, or if you have a medical condition such as a visual impairment.

If I am given access, what can I use the equipment for, and what are the restrictions?

You will need to sign a prisoner compact (a form agreeing that you will comply with certain conditions about the use of the laptop or computer) and agree to be governed by the prison's IT procedural security measures. You must not use the IT equipment to view, create or disseminate inappropriate material and you must not allow any other prisoner to use it.

You may only have access only for a certain period or for certain parts of your case. For example, you may be given a laptop to prepare your defence but not for the entire duration of your case. Or you may need equipment to review digital evidence but will have it withdrawn once you have reviewed it. The prison may conduct security checks, and regular reviews of the continuing need for access to IT equipment.

You may be given read-only access to certain files, and therefore you will not be able to edit them. Your files must be stored on floppy disks (or other form of electronic storage such as a USB drive) purchased from the prison shop. The files must not be password protected, encrypted or hidden.

The disks or other electronic storage must be stored as part of your inventory.

Prison staff can check disks and electronic storage handed over by your solicitors to ensure that no illicit enclosures are contained on disks, and they are allowed to open files to confirm that they are bona fide legal documents. Disks handed over from your solicitors should only contain disclosure material. Be aware that disclosure submitted in open court by either the defence or prosecution is not covered by Rule 39 and therefore can be subject to usual inspection by prison staff. Rule 39 correspondence between you and your solicitors should not be in electronic format in accordance with PSI 49/2011. Any Rule 39 material in electronic format should be viewed on your solicitors' laptop during a prison visit.

If I am refused access, am I entitled to know why?

Yes. The prison must fully explain, in writing, the reasons why your application has been refused. If you are not happy with the decision you can make a complaint.

What if I need to use printing, scanning and photocopying facilities?

Access to printing, scanning and photocopying facilities are subject to the same considerations of whether there would be a real risk of prejudicing your legal proceedings if access is not granted. You are not entitled to free printing.

Access to IT equipment for other reasons:

Some access to IT equipment may be given for educational purposes (for example to enable a prisoner to complete coursework for an Open University course). Under the Equality Act 2010 the prison has a duty to make reasonable adjustments where necessary to meet disability needs and prevent discrimination. In some circumstances this could include provision of IT equipment for a prisoner with disability causing difficulties writing or communicating.