

Prisoners Advice Service - Information Sheet

Segregation

When can segregation be authorised?

The legal basis for segregating a prisoner can be found in the Prison Rules and in PSO 1700. Under **Prison Rule 45**, segregation may only be applied in the interest of: (1) good order or discipline, or (2) a prisoner's own interests, e.g. for a prisoner's own protection.

Good Order or Discipline (GOOD)

Segregation may be applied for the purposes of GOOD only where there are reasonable grounds for believing that the prisoner's behaviour is likely to be so disruptive or actually cause disruption to the extent that keeping them on ordinary location is unsafe. The use of segregation under GOOD as a punishment is not permitted.

PSO 1700 gives examples of the type of conduct that might justify segregation under GOOD. It includes potential breaches of security; risk to staff, prisoners or prison property; dirty protests; possession of drugs for personal use or to supply; and police investigations into serious criminal offences.

Decisions to segregate must be reasonable and appropriate, and when the situation could not be better addressed by alternative arrangements such as transfer to another wing, closer supervision on ordinary location, or transfer to another establishment. Time spent in segregation must be for the shortest period consistent with the reason for segregation.

Own Protection

A prisoner may be placed in segregation for their own protection only when there are good and sufficient reasons for believing that the prisoner is at risk of assault and their safety cannot reasonably be assured by any other means, such as a change of wing or unit, or being placed on a vulnerable prisoners' unit.

A prisoner may also self-request segregation under Rule 45, because of the fear of assault or, in exceptional circumstances, their inability to cope with normal location. A prisoner is not required to request Rule 45 protection.

Segregation procedures

Procedures following a decision to segregate are set out in PSO 1700. These include:

- The initial decision must be made by the duty governor/duty manager or director;

- This authority can only last 72 hours;
- Reasons should be given for the decision orally and in writing;
- An initial segregation health screen should be completed by a nurse or doctor within two hours of a prisoner being placed in the segregation unit;
- Where a doctor/nurse recommends a prisoner is not placed in the segregation unit, a case review must be called;
- All 'relevant people' should be informed of the decision, including the IMB and, in the case of a prisoner on an open ACCT, the suicide prevention co-ordinator/safer custody team leader;
- After 72 hours, further segregation must be authorised by a Segregation Review Board (SRB);
- Further authorisations by the SRB can be for periods of up to 14 days;
- The first two SRBs should be chaired by a different person from the one who authorised initial segregation to ensure independence of decision making;
- Segregation over 42 days must be reviewed by a minimum of a Band 8 senior manager;
- Segregation beyond 84 days must be reviewed by a minimum of a Band 9 senior manager, and must be reviewed by them every 42 days thereafter.
- Continuous segregation of six months must be reviewed by the Prison Group Director or in a private prison by a minimum of a Band 11 Head of Privately managed prisons.
- There is no time limit on the period of time that a prisoner can be segregated providing it is properly authorised.

Reviews of segregation under Rule 45

Prisoners must be told when the first SRB will take place (it must be within 72 hours). They must be given the opportunity to attend all or part of the SRBs wherever possible, and to make representations to the SRB, DDC Reviews, and Director Reviews. Meaningful reasons for continuing segregation must be provided to enable prisoners to understand the grounds and make representations accordingly.

A review board should set behaviour and intervention targets.

Regime for prisoners in segregation

Prisoners must be told what regime they will have access to pending the first review, and after any subsequent reviews.

Any restrictions should be supported by a risk assessment, and be no more than necessary to achieve the original aim of the segregation. Education or work that can be done in the segregation unit is encouraged. Prisoners should have comparable access to domestic and legal visits; use of telephone; canteen; exercise; and showers, to a prisoner on normal location.

Prisoners should receive regular visits from healthcare staff (daily); chaplaincy (daily); Regional Managers (as part of programme of scheduled visits); listeners (on request).

A failure to 'promote and safeguard' the mental health of someone in segregation may exceptionally amount to a breach of Article 3 of the ECHR (*Keenan v UK* 2001).

'Violent or refractory' prisoners may be placed in 'special cells'. Confinement in such cells must not exceed 24 hours without the Secretary of State's authorisation.

The Independent Monitoring Board (IMB)

The IMB must be notified within 24 hours of the segregation. A member of the IMB should visit and check the paperwork authorising initial segregation. Each visit must be recorded. The IMB member should attend SRBs wherever possible. If they have serious objections to segregation they should speak to the Duty Governor, and can ultimately raise concerns with the NOMS Director General or Minister of Justice.

The use of CCTV in cells

CCTV in cells is authorised (Prison Rule 50(A)) but should not be used as an alternative to staff supervision. Some accommodation may be available without CCTV, for use in situations where CCTV would be disturbing to a prisoner so as to increase their risk.

After completion of segregation

After any period of segregation a prisoner should be returned to normal location, immediately or in phases. In certain cases, a return to ordinary location may happen via a High Supervision Unit, such as where someone has been segregated for a long period of time.

Refusal to leave the segregation unit

If a prisoner refuses to leave segregation, staff must decide if they have is a genuine, realistic

fear of assault/reprisals, and if so should consider placing them on 'own interest' segregation, or whether it would be 'advantageous' to give a direct order to return to the main wing, or to consider a transfer to another prison as an alternative.

Dirty protests in segregation

Prisoners on dirty protest will be moved to designated accommodation in the segregation unit or other fit for purpose accommodation. Prisoners must be visited daily by an operational manager and a doctor or nurse. Prisoners must be offered materials to clean the cell they are in on a daily basis. Routine activities will be allowed for prisoners who agree to shower and wear clean clothing.

Segregation while awaiting adjudication

A prisoner may be placed in segregation between an alleged offence and initial adjudication hearing, (Prison Rule 53(4)) but only where there is a real need such as preventing collusion or intimidation relating to the alleged offence. If held for up to four hours the normal policy procedures which relate to segregation will not apply but if this period is exceeded, then staff must apply the guidance in PSO 1700.

If continued segregation is necessary after the first hearing and the adjudication cannot take place for some time, then the prisoner can be transferred temporarily if s/he cannot be held on normal location.

Segregation as a result of adjudication

A prisoner found guilty of a disciplinary charge may be subject to cellular confinement (cc) (Prison Rule 55e) or removal from wing/unit (Prison Rule 55h). The maximum time cc an adult prisoner can be given is 21 days for a single offence, rising to 35 days after 3 consecutive offences (See PSI 5/2018, para 2.15.). For prisoners who may be considered for a cc punishment the adjudicator must seek medical advice as to whether there are any medical reasons why the punishment is unsuitable and adjudicators must take that advice into account in making that decision (in line with Prison Rule 58 and PSO 1700).

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