

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

Category A Review

SELF HELP TOOLKIT

What is Category A?

Adult male prisoners are subdivided into four security categories, ranging from Category A to D. Category A is the highest security category.

Category A is for those prisoners whose escape is considered would be highly dangerous to the public, the police or the security of the State. The aim is to make escape for such prisoners impossible. The most restrictive security measures are imposed on these prisoners and they are generally held in designated high security prisons.

This toolkit applies to adult male prisoners. Restricted Status is the equivalent security category to Category A for adult female, young person or young adult prisoners. Separate security procedures apply for Restricted Status prisoners.

There is a dedicated team within the Ministry of Justice (in the High Security Prisons Group) - the 'Category A Team' - that deals with the classification and review of Category A prisoners.

There are three groups of Category A prisoners:

1. **Potential Category A:** where an interim decision has been made to manage the prisoner as Category A, following a report from the local receiving prison, but a final decision is yet to be made;
2. **Provisional Category A:** where a decision has been made, after consideration by the Category A Team, that Category A status is warranted;
3. **Confirmed Category A:** where a prisoner has been deemed to be Category A at a first formal review.

All Category A prisoners are also placed in one of three escape risk classifications:

- A. **Standard Escape Risk:** where there is no specific information or intelligence to suggest a threat of escape;
- B. **High Escape Risk:** where one or more of a number of factors suggest that the prisoner may pose a raised escape risk. These factors include: access to finances, resources and/or associates that could assist an escape attempt; position in an organised crime group; nature of current/previous offending; links to a terrorist network; previous escape(s) from custody;
- C. **Exceptional Escape Risk:** similar to High Escape Risk, but where there is also credible information or intelligence suggesting an escape is being planned, necessitating conditions of heightened security.

Category A groups

1. Potential Category A Prisoners

Are you Category A?

The classification process is set out in PSI 09/2015 The Identification, Initial Categorisation and Management of Potential and Provisional Category A/Restricted Status Prisoners.

The Category A Team has a target of three working days from the time of receiving relevant information from a holding establishment, for deciding whether you should be categorised as a **Provisional** Category A prisoner or are **not** Category A (although this may be extended if additional information is needed from the police).

If you are deemed to be a **Provisional** Category A prisoner at this stage, you should be transferred to an appropriate High Security prison within three days.

2. Provisional Category A Prisoners

When is this categorisation reviewed?

Prison Service Instruction 08/2013 The Review of Security Category – Category A/Restricted Status Prisoners, provides that **Provisional** Category A prisoners will have their categorisation reviewed at set intervals:

If on remand, every 12 months up to the beginning of trial or sooner, if there is new information to suggest Category A status is no longer warranted;

Immediately upon conviction and sentence;

If still Category A after sentence, roughly three months later – this is the “first formal review” (discussed below).

If, after the first formal review you are still deemed to be Category A, you will become Confirmed Category A.

What is the procedure for reviews of Provisional Category A prisoners?

Reviews leading up to Conviction and Sentence

Prior to conviction and sentence, the Category A Team will coordinate reviews within the timeframes outlined above, taking into account any new information from police advisers or trial proceedings. You should receive a notification of the decision within four weeks of the review.

Prior to conviction and sentence, any recommendation for the downgrading of Provisional Category A status or continuation of Category A Status will be forwarded to the Deputy Director of Custody (DDC) High Security (or person to whom s/he has delegated authority). The DDC High Security (or person to whom s/he has delegated authority) is responsible for all final decisions to downgrade provisional Category A prisoners during remand reviews, on conviction or at their first formal review.

Reviews immediately following conviction and sentencing

Immediately following conviction and sentencing, the Category A Team will coordinate rapid reviews of Provisional Category A Prisoners. You may be removed from Category A status if any significant development suggests it is appropriate to do so (e.g. serious charges do not result in your conviction, or you are convicted of a lesser role in serious offences than had previously been suggested). Otherwise, you will remain Provisional Category A until your first formal review.

First formal review

Provisional Category A prisoners normally have their first formal review shortly after conviction and sentence.

In advance of the first formal review, the Category A Team will complete a review dossier containing information intended to facilitate an assessment of your risk level. The document will be based on the Crown Court warrant or order for imprisonment, the trial record sheet and any previous convictions you may have. Other information may also be used, including the judge's sentencing remarks, the indictment(s), and any relevant information from the police. You should receive a copy of the dossier together with an explanatory letter inviting you to make written representations in response. You must be permitted four weeks to submit your representations (for guidance in relation to preparing representations, see the section below entitled "Making Representations").

The DDC High Security (or delegated authority) will conduct the first formal review with an advisory panel including police advisers, a psychologist and

staff from the Category A Team. If you submitted written representations in response to the dossier, they should be considered by the panel at this stage of the review.

If you are confirmed as Category A following the review, a review of your escape risk classification may also take place at the same time (for more details of escape risk classification reviews, see page 8 onwards).

You will be sent a notification of the decision, detailing reasons for the decision, four weeks after the formal review takes place.

If you are unhappy with the outcome of the review, you can appeal the decision via the complaints system and/or submit further representations in support, giving reasons for why you are requesting a reconsideration of the decision. Your request will be sent to the Directorate of High Security for a response. The DDC High Security (or delegated authority) may retake the decision where it is considered that your representations highlight information not previously considered that could make a material difference to the decision that was initially reached.

3. Confirmed Category A Prisoners

When is the categorisation of Confirmed Category A prisoners reviewed?

If you are **Confirmed** as Category A status at a first formal review, you will normally have your security category reviewed two years later. Thereafter it will be reviewed annually on the basis of progress reports by the prison (although at your first formal review the DDC High Security may order that your first annual review should take place sooner).

The DDC High Security (or delegated authority) may grant a special review earlier where there are exceptional circumstances suggesting that the highest level of security may no longer be needed (e.g. your sentence has been substantially reduced or your health or mobility has seriously deteriorated) or if you have been recommended for parole.

Annual reviews may be deferred in certain circumstances: for example, if further information, such as offending behaviour reports, is needed or if prison staff need to link the review with other forms of assessment, such as parole reviews. You may also request a deferral of an annual review yourself. If your annual review is deferred, this must not affect the timing of your future reviews (i.e. subsequent reviews should return to the previous schedule of annual reviews).

What is the procedure for reviews of Confirmed Category A prisoners?

Prison staff must prepare annual review report forms (see Annex B of Prison Service Instructions 08/2013) using the guidance provided in the report forms. They should produce a comprehensive summary of your behaviour and progress to date, so as to allow any reduction in your level of risk to be assessed. Any

further relevant documents, such as offending behaviour report programmes, Sentence Planning Review Board assessments, OASys assessments, psychological or psychiatric assessments or parole reports, may be included or referred to in the reports.

The completed reports **must** be disclosed to you **at least four weeks prior** to the **prison's Local Advisory Panel (LAP)**. This is to allow you to make written representations to the panel, if you wish.

All reports must be disclosed to you in order for the categorisation process to be open and to enable you to understand why you have been placed in a particular category. If you have difficulty understanding the report, it must be explained to you verbally.

However, sensitive and/or confidential information relevant to the categorisation decision may be withheld in certain circumstances (see paragraph 4.21 PSI 08/2013). In such circumstances, if the withheld information impacts on the categorisation decision, you must be informed of its inclusion. You should be given a brief description of the type of information being withheld. Consideration should also be given to providing you with a summary or an edited form of the information, as far as is compatible with maintaining security/protecting other persons.

Under the Data Protection Act 1998, you are entitled to request a copy of all of your personal data. The Prison Service has a statutory duty to disclose such data (subject to a number of exemptions). Our information sheet on Data Protection Act requests gives further information on this.

What about legal representation?

Legal advice for CAT A reviews can be funded by legal aid; provided you pass the Means Test set by the Legal Aid Agency (LAA).

Can I make representations?

If you wish to make representations to the prison's LAP you must do so within four weeks of receiving the reports. An extension of this time limit may be granted at the discretion of the prison, if requested. For guidance in relation to preparing written representations, see the section below entitled "Making Representations".

Will I get an oral hearing?

An oral hearing allows a prisoner or, if he is represented, his solicitor to submit representations verbally rather than in writing.

Previously oral hearings for Category A reviews were extremely rare. They are currently still far from the norm; however, the Supreme Court decision in the case of *Osborn v The Parole Board (& two others)* (2013) widened the type of situations in which an oral hearing should be held, thereby making an oral hearing more likely.

Updated March 2020

PSI 8/2013 says that the Deputy Director of Custody for High may grant an oral hearing in certain circumstances, but that *'each case must be considered on its own particular facts'*.

The following factors are listed as ones that would tend in favour of an oral hearing being appropriate:

- a. **Where important facts are in dispute.** Facts are likely to be important if they go directly to the issue of risk. Even if important, it will be necessary to consider whether the dispute would be more appropriately resolved at a hearing. For example, where a significant explanation or mitigation is advanced which depends upon the credibility of the prisoner, it may assist to have a hearing at which the prisoner (and/or others) can give his (or their) version of events.
- b. **Where there is a significant dispute on the expert materials.** These will need to be considered with care in order to ascertain whether there is a real and live dispute on particular points of real importance to the decision. If so, a hearing might well be of assistance to deal with them. Examples of situations in which this factor will be squarely in play are where the LAP, in combination with an independent psychologist, takes the view that downgrade is justified; or where a psychological assessment produced by the Ministry of Justice is disputed on tenable grounds. More broadly, where the Parole Board, particularly following an oral hearing of its own, has expressed strongly-worded and positive views about a prisoner's risk levels, it may be appropriate to explore at a hearing what impact that should or might have on categorisation.
- c. **Where the lengths of time involved in a case are significant and/or the prisoner is post- tariff.** It does not follow that just because a prisoner has been Category A for a significant time or is post tariff that an oral hearing would be appropriate. However, the longer the period as Category A, the more carefully the case will need to be looked at to see if the categorisation continues to remain justified. It may also be that much more difficult to make a judgement about the extent to which they have developed over the period since their conviction based on an examination of the papers alone.

The same applies where the prisoner is post-tariff, with the result that continued detention is justified on grounds of risk; and all the more so if he has spent a long time in prison post-tariff. There may be real advantage in such cases in seeing the prisoner face-to-face.

Where there is an impasse which has existed for some time, for whatever reason, it may be helpful to have a hearing in order to explore the case and seek to understand the reasons for, and the potential solutions to, the impasse.

- d. **Where the prisoner has never had an oral hearing before**; or has not had one for a prolonged period.

What does the LAP consider?

The LAP must consider the reports and any representations that you submit. Based on this, the LAP will recommend whether you should remain Category A. The recommendation should record and comment on any representations made by you or any factual inaccuracies in the reports that have been taken into account or resolved. The reports, representations and the LAP's recommendation must then be sent to the Category A Team as soon as possible for the final decision to be made. **At this time, the prison will also forward the LAP report to you.**

What happens to the LAP report?

Once you have received this report, you may make further written representations to the Category A Team. As the Category A Team must complete its review within four weeks of receipt of the LAP's report, in practice you should provide your representations as soon as possible upon receiving your copy of the LAP report, and in any case within this four week period in order that they can be considered. For guidance in relation to preparing representations, see the section below entitled "Making Representations".

The Category A team will consider reports about you, any representations submitted by you to the LAP and the LAP's recommendation. It will either complete the review or forward the case to the DDC High Security (or delegated authority) for the final decision. It will take into account or forward to the DDC High Security (or delegated authority) any representations you have made to the Category A Team following the prison LAP's recommendation.

If the Category A Team supports a recommendation from the LAP that you should remain Category A, it will normally complete the review without reference to the DDC High Security (though see exceptions below).

In such cases, the Category A Team should send you a notification of the decision confirming that you will remain Category A within four weeks of receipt of the reports. The notification of the decision should provide detailed reasons for the decision, taking into account any progress you have made in reducing your risk and addressing any relevant points made in your representations.

What if the Category A Team does not make the final decision?

The Category A Team may refer a case to the DDC High Security (or delegated authority) if:

The LAP or Category A Team recommends that you should be downgraded; or

The DDC High Security (or delegated authority) has made a special request at your previous review that your case should be referred to the DDC High Security (or delegated authority) and the DDC's panel; or The DDC High Security (or delegated authority) has not reviewed your case for five years.

What does the DDC High Security or delegated authority do?

The DDC High Security (or delegated authority) will be assisted in its review of your security category by an advisory panel (similar to that present at a first formal review – see above in respect of Provisional Category A prisoners). Meetings are usually held once a month. (A review of your escape risk classification may be carried out at the same time).

The Category A Team will inform prison staff of any decision immediately. It will immediately put into effect any decision to downgrade you from Category A (or amend your escape risk classification).

The Category A Team will send you a notification of the decision four weeks after the date of the panel, including a summary of information taken into account and detailed reasons for the decision.

What happens if I am downgraded?

If you are to be downgraded from Category A, responsibility for deciding your further allocation and categorisation immediately passes to the Governor and staff at the prison in which you are currently housed.

However, the DDC High Security (or delegated authority) may recommend that although you can be downgraded from Category A to B you should remain in high security conditions. In this case, the notification of the decision will include the recommendation that you remain in high security conditions for a specified period of time, unless you are approved by the prison's Governor for a progressive move before this period is completed.

What if I am unhappy with the decision?

You can appeal a decision via the complaints system and/or submit further representations in support of your case, giving reasons for your request that the decision be reconsidered. The Category A Team must consider any representations. The DDC High Security (or delegated authority) may reconsider its decision if your representations highlight information not previously considered that could make a material difference to the initial decision.

Escape risk classification

How and when will my escape classification be reviewed?

As noted above, all Category A prisoners are also placed in one of three escape risk classifications: standard, high and exceptional.

Provisional and **Confirmed** Category A prisoners will have their escape risk classification reviewed every 12 months if a 'high escape' risk or every 6 months if an 'exceptional escape' risk. However, if new information becomes available that suggests a prisoner's escape risk classification may be too low or too high, a review will be completed immediately regardless of when the next review is due.

When preparing to complete a high or exceptional review, a caseworker will gather all relevant information and summarise it in a single submission to the DDC (or delegated authority). If it is considered that information from police sources is required, this can be included. Only information relevant to a prisoner's escape risk should be included in the submission for consideration by the DDC; irrelevant information should not be included.

A copy of the submission must be disclosed to you at least six weeks prior to the review so that you can submit representations.

When can I make representations?

If you wish to make representations to the DDC (or delegated authority), you **must** do so **within four weeks** of receiving a copy of the submission. An extension of this time limit may be granted (at the discretion of the prison) if requested. For guidance in relation to preparing written representations, see "Making Representations" below.

If you submit representations, they will be passed to the Category A Review Team two weeks prior to the review.

Who will make the decision?

The Category A Review Team will assess the escape risk classification based on the submission from the caseworker and any representations submitted by you. Following the review, the Category A Review Team will make a recommendation on whether your current escape risk classification should be retained or downgraded.

The submission, representations and recommendation will then be forwarded to the Head of High Security Prisons Group (or delegated authority). The Head of High Security will then review these documents and make a decision as to whether your escape risk is to remain at the current level or to refer the case to the DDC High Security (or delegated authority).

The Head of High Security is not required to refer the case to the DDC High Security (or delegated authority), unless:

- a recommendation for downgrade has been made by the Category A Review Team; or

- the Head of High Security Prisons Group would recommend downgrading; or

- it is the third consecutive review where no downgrade recommendation has been made.

If your case is referred to the DDC High Security (or delegated authority), they will conduct a review with an advisory panel including police officers, a psychologist and staff from the Category A Team. This review will consider the submission, representations and recommendations from the Category A Review Team and Head of High Security Prisons Group.

How will I know about the decision?

You should receive a notification of the decision, detailing the reasons for the decision, within 4 weeks after the DDC's review. If the decision is made to downgrade you to a lower escape risk classification, it will be put into effect immediately.

What if I am unhappy with the decision?

If you are unhappy with the outcome of the review, you can appeal via the complaints system and/or submit further representations in support, giving reasons for why you are requesting a reconsideration of the decision. The Category A Review Team must consider your representations and the DDC High Security (or delegated authority) may reconsider the decision if your representations highlight information not previously considered that could make a material difference to the initial decision.

If you need further assistance, please contact PAS 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 4pm and 6pm 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.



www.prisonersadvice.org.uk

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