

Prisoners' Advice Service – Information Sheet

Public protection procedures: Contact with children and children's photos

Most of this information sheet is about child contact for prisoners where the prison says there are concerns they may pose a risk to children.

But the next two sections and the sections on children's photos are also relevant to prisoners who are not considered a risk to children.

The legal framework

Do prisoners have any legal right to contact with children?

Rule 4 of the Prison Rules 1999 states: 'Special attention shall be paid to the maintenance of such relationships between a prisoner and his family as are desirable in the interests of both.'

Article 8 of the European Convention on Human Rights (ECHR) protects your right, and a child's right, to private and family life. This right is not absolute and can be restricted where that is 'necessary and proportionate' for a lawful purpose. This means that the prison has to have a good reason to restrict contact and restrictions must not be out of proportion to risk.

The Children Act 2004 imposes a duty on the governor of a prison to consider the safety and welfare of children.

Prisoners who are not considered a risk to children

Contact with children if you are not considered to pose a risk to children.

If you are not considered a risk to children and the child's primary carer agrees to contact with the child you should be able to have visits and phone and letter contact with that child. If this is refused ask for reasons and make a complaint.

If you are not considered a risk to children, but the primary carer does not agree to contact with a child for whom you have parental responsibility then you may be able to apply to a family court for contact. See our 'Fathers in prison' guide for details.

Prisoners who are considered to pose a risk to children

Can I have contact if the prison thinks I may pose a risk to children?

If you are identified as someone who may pose a risk to children, the prison must follow the child contact procedures set out in sections 6.9 and 7.9 of the Prison Public Protection Policy Framework. The prison library will have a copy that you can look at. If you cannot get to the library, you can ask us to send you a copy.

How does the prison identify prisoners who may pose a risk to children?

Soon after you arrive in prison staff will check your offending history. You will be identified as a **potential 'Person Posing a Risk to Children' (PPRC)** if you have been convicted or charged with: a sexual offence against a child; murder or assault of a child; a domestic abuse offence involving a child or witnessed by a child; an offence involving harm or neglect of a child; or if you offended against someone else knowing a child could see or hear and was likely to suffer as a result.

You could also be considered a risk to children if your behaviour, or information received from another agency (for example Local Authority Children's Services) indicates a risk to children.

What happens if you are identified as a potential PPRC?

If you are identified as a potential PPRC, you will be given a written notification. Staff should explain what this means if you do not understand.

Then a full risk assessment must be done as soon as possible to decide whether you pose a 'continuing risk to children'.

You can have no visits, phone calls, video calls or correspondence with any child until the risk assessment has been done.

All social numbers will be checked before being added to your PIN.

Children's Services and your Offender Manager (OM) will be notified and asked for relevant information.

Risk assessment for potential PPCR

Prison staff must consider all relevant matters including: details about your offending history; your OASys; security and other reports about your behaviour in prison; information from other agencies; the views of your OM; and any information on the Violent and Sex Offender Register (VISOR).

A senior manager will confirm the decision whether or not you pose a 'continuing risk to children' and you will be informed.

The assessment can be reviewed at any time if there are further concerns about your risk in future.

What happens if you are assessed as 'No continuing risk to children'

If you are assessed as 'no continuing risk to children' you will no longer be a potential PPCR. Restrictions on contact with children will be lifted - unless the prison thinks it necessary to continue to restrict contact with a child victim of yours in their best interest.

What happens if you are assessed as a 'continuing risk to children'

You will be considered a 'Person Posing a Risk to Children' (PPCR). You will be notified and so will Children's Services and your OM. You can ask for the reasons for the decision and the information it was based on. If you think the decision is unfair you can appeal by making a complaint.

The PPCR decision must be reviewed at least every 3 years, or earlier if (a) there is reason to believe that circumstances have changed or (b) there has been a change in risk. You must be informed of any changes to restrictions.

Can I apply for contact with a child if I am a PPCR?

If you are assessed as PPCR you can apply for contact with a child who is a close family member. This includes biological children, step-children, foster children, adopted children, children of a partner you were living with before coming into prison, grandchildren, brothers, sisters, nephews and nieces. In special circumstances permission might be given for contact with children who are not closely related.

If you want to have contact with more than one child you must make a different application for each child.

What happens when I apply for contact?

If you apply for contact with a child you must first agree for a summary of the risk you are considered to pose to be given to the child's primary carer. They will then be asked if they are happy for you to have contact.

What happens if the child's primary carer does not agree to contact?

If the primary carer does not want you to have any contact with the child the prison will not allow any contact. You will be informed of this. If you think the primary carer is being unreasonable and that contact is in the child's best interest you could consider an application to the family court. (See our Fathers in prison guide.) However, even if the family court makes an order that you should have contact, it cannot enforce its order against the prison, so the prison can still refuse contact on grounds of public protection. If that happens you should get advice about whether you have grounds for a judicial review where a prison will not follow an order.

What happens if the primary carer agrees to contact?

If the primary carer agrees to you having contact with the child, they will be asked to

send the prison either (a) a digital passport-style photograph of the child which can be emailed to the Offender Management Unit mailbox, or (b) 4 passport-sized photos of the child taken via a photo booth or shop. Then a multi-agency risk assessment must be done.

How is the multi-agency assessment done?

Full details about the process are set out in sections 7.9.13 to 7.9.24 of the Prison Public Protection Policy Framework.

The prison will contact the police, children's services, your OM, and NSPCC (where applicable), asking for relevant information and views.

Children's Services should do a home visit and find out the views of the child and the primary carer. They will send a written report to the prison.

A meeting may be held in the prison to consider all relevant information from inside and outside the prison, including the views of other agencies. The governor or a senior manager will then decide what level of contact with the child is appropriate.

Any restrictions on contact must be necessary and proportionate taking into account your right to family life, your risk and the best interests of the child.

You will be notified in writing about the decision. You should be given reasons for the decision. You can ask to see all the information it was based on but some information may be redacted or withheld for various reasons. However the information you receive should be enough for you to understand the basis of the decision. The child's primary carer and your OM will also be notified of the decision.

What contact will I be allowed?

The Prison Public Protection Policy Framework sets out various types of contact which may be permitted, including written correspondence, telephone calls, social video calls and visits. The Head of Offender Management Services (HOMS) can approve one type of contact, a combination of types

which best meet the child's needs, or all contact types where this is suitable.

How can I appeal the decision?

If you think the decision is unreasonable you can appeal by making a complaint. A different senior manager must then review the information and make a fresh decision. If still not satisfied you can escalate the complaint. See our information sheet on complaints.

If the decision is so unreasonable as to be irrational, or if the proper procedures weren't followed you might have grounds for a judicial review. Legal aid is available for judicial review in some circumstances.

When will the decision be reviewed?

Contact decisions must be reviewed at least every 3 years, or earlier if (a) there is reason to believe that circumstances have changed or (b) there has been a change in risk. There is nothing to stop you submitting representations setting out your views. You must be notified about any changes.

The primary carer must provide updated photographs at least every 3 years, or more often if the child's appearance changes a lot.

If I am allowed written or phone contact with a child will it be monitored?

At first the prison will monitor your correspondence and phone calls with children and this may continue but should be reviewed regularly. The Authorised Communications Controls and Interception Policy Framework deals with the interception of communications. We can send a copy on request if you cannot access it from the prison library. If staff are worried about inappropriate contact they must report this.

If I am allowed visits will they be monitored?

Staff will check the identity of the child against the photograph provided by the primary carer. They will pay attention to the appearance of the child and the behaviour of everyone on the visit and must report any concerns about neglect, abuse or distress.

Photographs of children

Can I have photographs of children?

These provisions apply to all prisoners, not just those who are PPRC.

You will not be allowed to keep photographs of a child if the prison thinks this will undermine your offending behaviour work, or put the child at risk from you or from other prisoners (if for example there are concerns you might pass the photographs to other prisoners).

What happens to photographs in my possession when I arrive in prison or which are sent in?

Any photograph of a child in your possession when you arrive in the prison will be held while checks are made to see if it was allowed in a previous prison. If the photo is not already authorised, a risk assessment must be carried out.

Any photo which is sent in by post will be held until a risk assessment has been completed

Any photo which has not been authorised which is found in your possession will be confiscated and held until a risk assessment is done. You could also be charged with possession of an unauthorised article.

How is the risk for children's photos assessed?

Full details about the risk assessment can be found in sections 6.10 and 7.10 of the Prison Public Protection Policy Framework.

Staff will check the identity of the child in the photo and check whether you are allowed contact with them. If you are allowed contact they will still have to consider whether there is a risk of the photo being shared.

If you are not allowed contact they will check with the primary carer to see if they agree to you having the photo. If they don't you will not be allowed the photo. If they do then the governor will decide whether it is in the child's best interest for you to have the photo.

They will consider various factors including your relationship with the child, your offending history and any evidence of grooming or conditioning of the child or their carer.

You will not usually be allowed possession of a photo of your victim. Although in some circumstances an exception could be made.

If you are allowed the photo it will be given to you. The details of the assessment will be placed with your records.

What happens if I am not allowed to keep photos?

You will be notified and given reasons. The photos will either be returned to the sender, placed on your record or taken and destroyed. If you think the decision is unfair you can appeal by making a complaint.

What if there is more than one child in the photo?

If there is more than one child in a photo then the risk assessment must be done for each child separately. If you are not allowed to keep a photo of all the children it may be possible to cut/crop the photo so you can keep the part you are allowed.

Can I share photos with other prisoners?

You must not share photos of children with other prisoners. Disciplinary action may be taken against all prisoners involved if a prisoner is found in possession of an unauthorised photo of children.

Does it make a difference if the child in the photo is now an adult or has died?

A risk assessment will still have to be done.

How can I appeal a decision about photographs?

You can appeal by making a complaint. If still not satisfied you can escalate your complaint to the Prisons and Probation Ombudsman.

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Mondays - Wednesdays - Fridays
10.00am-12.30 pm and 2-4.30pm;