What happens at an adjudication

1. When you are charged with an offence against prison discipline the officer making the charge (the ‘reporting officer’) completes a form DIS1 Notice of Report setting out brief details of the alleged incident and the relevant Prison Rule, and telling you when the case will be heard. The charge should be laid within 48 hours of the discovery of the offence, and the hearing, known as an ‘adjudication’, takes place on the following day but not normally on a Sunday or public holiday.

2. Prisoner Discipline Procedures (Prison Service Instruction 47/2011) explains how adjudications work, and you must be allowed to see a copy. You must also be able to look at other reference books if you wish so that you can properly defend yourself against the charge, and you should be allowed at least two hours for this.

3. If you want to write in your own words about what happened please do so in the space at the end of this form and if necessary you may continue on a blank sheet of paper.

4. The adjudication will take place in a room set aside for this purpose. Adjudications are important events which must be orderly but fair. You will be allowed to sit down and take notes if you wish. The Governor (or Director in a contracted prison) in charge of the hearing will confirm your name and other details, and check that you have been given your copy of form DIS1 and any other written evidence.

Referral to the Police

5. If the Governor or Director or believes that the charge against you is so serious that it should be referred to the police for further investigation he or she will adjourn the adjudication until the outcome of police enquiries is known.

Preparation for the hearing

6. You will be asked whether you understand what happens in an adjudication and what the charge against you is, whether you have had enough time to prepare your defence to the charge, and whether you have written down what you say happened.

7. If the charge is a serious one but the case is not referred to the police or there is no prosecution, the Governor or Director will decide whether it should be referred to an independent adjudicator, who can give a punishment of additional days. If you are serving an indeterminate sentence such as life, an IPP or DTO this would not happen. If the charge is not referred, the Governor or Director will continue to hear the adjudication.

Pleading guilty or not guilty

8. You will be asked whether you plead guilty or not guilty to the charge.

 Witnesses

9. The Governor or Director will ask whether you want to call any witnesses, and what evidence they might give. Witnesses will normally be called, but may be refused if the Governor or Director believes their evidence would not add anything. For instance if you wanted prisoners to give evidence and they would say the same thing, only one would be called. You, the reporting officer, and the Governor or Director can question the witnesses.

Legal advice and legal representation

10. The Governor or Director will ask whether you want legal advice or legal representation, or to be helped by a friend (perhaps another prisoner), known as a ‘McKenzie friend’. If you want legal advice the hearing will usually be adjourned until a later date, to give you time to contact a solicitor. If you want legal representation at the hearing (that is, a solicitor to attend and put your case for you) the Governor or Director will consider your request, using the guidance set out in PSI 47/2011 (Annex A paragraph 2.10). Legal representation is rarely allowed in cases heard by Governors or Directors (but you are entitled to be legally represented if your case is referred to an independent adjudicator – see paragraph 15 below).

The hearing

11. The Governor or Director will ask the reporting officer to describe the allegation against you, and you may ask questions about his or her evidence. The reporting officer may call witnesses in support of the
allegation, and may present any relevant physical or written evidence (for example, unauthorised items said to have been found in your possession, or a positive MDT result). You will have an opportunity to explain what happened and offer a defence, if you wish to plead not guilty.

**Verdict**

12. After hearing all the evidence and your defence the Governor or Director must decide whether the charge has been proved beyond reasonable doubt, or whether it should be dismissed. If you are found guilty he/she will ask whether you have anything to say about why you should be treated leniently (‘mitigation’), and will hear reports on your general behaviour in prison and about any previous adjudications.

**Punishments**

13. The Governor or Director will then decide on the punishment(s) for your offence, which will take effect immediately. You will be given a form DIS7 giving you details of your punishment(s), and explaining what to do if you want to ask for a review of the decision.

14. If the Governor or Director is considering cellular confinement he or she will ask a doctor or nurse to assess whether there are any medical reasons why this would not be appropriate for you on this occasion.

**Independent Adjudications**

15. At any time up to announcing the punishment the Governor or Director may decide to refer your case to an independent adjudicator (District Judge) if they think that the charge against you is serious enough for a punishment of additional days if you are found guilty. If the case is referred to an independent adjudicator it will start again from the beginning, with all the evidence being heard again; this is called being ‘de novo’; and you will be entitled to legal representation at the hearing. For further details see Annex A paragraph 2.8 of PSI 47/2011.

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**Prisoner’s statement**

If you wish to write a statement about the disciplinary charge against you please use the space below. Ask for more paper if you need it.