



**Isle of Man**  
Government

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# Department of Home Affairs

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## **Independent Adjudicator's Punishment Guidelines**

**Department of Home Affairs**

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1. Before making any award of additional days the Adjudicator must consult with an appropriate health care professional and give effect to any recommendation of that health care professional before imposing punishment
2. The Adjudicator should then decide the starting point for the punishment. This starting point will normally be within the guideline range. The starting point suggested is for a prisoner (i) with no previous findings of guilt on adjudications and (ii) following a not guilty plea.
3. The starting point should be increased to reflect any aggravating features of the offence itself and of the offender (such as previous findings of guilt) to ascertain the provisional punishment.
4. The starting point may exceed the range if the aggravating features justify this, in which case the Adjudicator should make a written entry on the punishment sheet explaining why the punishment is outside the guideline range.
5. The provisional punishment should then be adjusted to reflect any personal mitigating factors.
6. Having thus ascertained the provisional punishment that takes into account all aggravating and mitigating factors the punishment should then be reduced by a third to reflect a discount for a TIMELY plea of guilty if that has been entered.
7. In all cases the Adjudicator should consider the imposition of loss of privileges, as an additional punishment. In particular when dealing with the most serious charges and repeat offenders.

[Note: These Guidelines only apply to added days. Independent Adjudicators may award any other punishment(s) available by virtue of rule 51(1) and rule 52(1) instead of or (with the exception of a caution) in addition to, added days but must, if additional punishment is imposed, bear in mind proportionality.]

<b>Rule</b>	<b>Description</b>	<b>Sub-type of offence</b>	<b>Starting point (days)</b>	<b>Range of added days</b>
44(a)	Commits any assault; Upon staff, visitors or members of the IMB	Push	8	5-30
		Deliberate blow	28	21-84
		Spitting	28	21-84
		Weapon used	38	35-84
		Sustained attack	35	31-84
	Upon prisoner	Push	5	3-20
		Deliberate blow	16	10-60
		Spitting	16	21-84
		Weapon used	35	31-84
		Sustained attack	35	31-84
(Also apply rule 52A for offences aggravated by hostility)		+7	+14	
44(b)	Detains any person against his or her will; (dependent on duration and nature of detention)		35	28-84
44(c)	Without authority denies access to any part of the institution to any person		28	21-84
44(d)	Fights with any person		14	7-56
		Multiple participants	28	21-70
		Sustained attack	35	31-84
44(e)	Acts recklessly		20	16-70
44(ea)	Intentionally endangers: (i) His or her own health or personal safety; or (ii) the health or personal safety of any other person;		36	28-84
44(f)	Intentionally obstructs an officer in the execution of his or her duty, or any person (other than a detainee) who is at the institution for the purpose of working there, in the performance of that person's work		14	6-60
44(g)	Escapes or absconds from an institution or legal custody:		Refer to Police initially	No Charge
		Escapes	32	28-84
		Absconds	22	14-84
44(h)	Is absent from any place the detainee is required to be or is present at any place where the detainee is not authorised to be		16	10-84

<b>Rule</b>	<b>Description</b>	<b>Sub-type of offence</b>	<b>Starting point (days)</b>	<b>Range of added days</b>
44(i)	Fails to comply with any condition upon which he or she is temporarily released under rule 16		16	10-60
44(j)	Is found with any substance in a sample which demonstrates that a drug or alcohol has whether in an institution or while on temporary release under rule 16 been administered to the detainee by the detainee or another person (but subject to rule 45)	Class A	34	30-84
		Class B/C	18	10-56
		Non-prescribed medication	18	10-56
		Alcohol	15	10-60
44(k)	Without reasonable excuse fails or refuses to provide a sample in accordance with rule 38		16	10-84
44(l)	Is intoxicated as a consequence of consuming alcohol, drug or other substance (but subject to rule 45)		15	10-60
44(m)	Smokes or consumes any tobacco, or consumes any alcohol or drug (but subject to rule 45)		15	10-60
44(n)	Has in the detainee's cell or room or in the detainee's possession – (i) any prohibited article (ii) any unauthorised article (iii) a greater quantity of any article than the detainee is authorised to have	Non-prescribed medication (including 'legal highs')	18	10-56
		Weapons	35	31-84
		Class A drugs	38	35-84
		Class B/C drugs	18	10-42
		Item to cheat MDT	38	35-84
		Mobile phone and/ or accessory	40	36-84
		Alcohol	32	35-84
		Other item	13	5-60
44(o)	Sells or delivers to any person, without permission, any article which the detainee is allowed to have only for the detainee's own use		24	10-84

<b>Rule</b>	<b>Description</b>	<b>Sub-type of offence</b>	<b>Starting point (days)</b>	<b>Range of added days</b>
44(p)	Takes improperly any article belonging to another person or to an institution		28	10-84
44(q)	Intentionally or recklessly sets fire to any part of an institution or any other property, whether or not the detainees own (Also see rule 53)	Intentionally	36	30-84
		Recklessly	26	14-70
	(Also apply rule 52A for offences aggravated by hostility)		+7	+14
44(r)	Destroys or damages any part of an institution or any other property, other than the detainee's own (Also see rule 53)	Intentionally	32	30-84
		Recklessly	20	14-70
	(Also apply rule 52A for offences aggravated by hostility)		+7	+14
44(s)	Is disrespectful to any person at an institution (Also apply rule 52A for offences aggravated by hostility)		10	6-42
	(Also apply rule 52A for offences aggravated by hostility)		+7	+14
44(t)	Uses threatening, abusive, insulting or indecent words or behaviour (Also apply rule 52A for offences aggravated by hostility)		14	5-60
	(Also apply rule 52A for offences aggravated by hostility)		+7	+14
44(u)	Intentionally fails to work properly or, being required to work, refuses to do so		10	5-42
44(v)	Disobeys or fails to comply with any lawful order, rule or regulation applying to the detainee	MDT	34	30-84
		Other	16	10-60
44(w)	Receives any drug or, without the consent of an officer, any other article, during the course of a visit (not being a document		38	60-84

<b>Rule</b>	<b>Description</b>	<b>Sub-type of offence</b>	<b>Starting point (days)</b>	<b>Range of added days</b>
	given to the detainee by the detainee's legal adviser at an interview such as mentioned in rule 65)			
44(x)	Attempts to commit, incites another detainee to commit, or assists another detainee to commit or attempt to commit, any of the foregoing offences		The days awarded will be the same as the substantive offences above and subject to rules 52A and 53 as well	The days awarded will be the same as the substantive offences above and subject to rules 52A and 53 as well
<b>Rule    Offences aggravated or motivated by hostility</b>				
52A	Increase in punishment for offences aggravated or motivated by hostility by membership (presumed or otherwise) - of a racial group - of a religious group - of a sexual orientation group - or that person having a particular disability		+7	+14
<b>Rule    Compensation Requirement</b>				
53	Requirement to pay for damage to institution property [further to rule 51(1)(g) for an offence under rule 44(q) or 44(r)		The amount required to be paid under a compensation requirement must not exceed the cost of making good the damage from, or replacing the property destroyed as a result of, the commission of the relevant disciplinary offence and, in any event, must not exceed £1000	