



The rising tide:

Additional days for rule-breaking in prison

Howard League for Penal Reform

Key points

- A total of 359,081 days of additional imprisonment were imposed as punishment in 2017 across prisons in England and Wales – the equivalent of 983 additional years of imprisonment
- This represents a rise of almost a quarter from 2016. Additional days have more than doubled over the past three years
- Additional days are overwhelmingly imposed for non-violent infractions of rules. Days can be added for something as simple as disobeying an order to go back to one's cell
- Prisons should operate in a way that reflects the highest standards of justice. The system of awarding additional days is variable and capricious, which undermines justice
- Additional days contribute to a deteriorating prison system by exacerbating overcrowding and producing a sense of unfairness among prisoners
- It doesn't have to be this way. Between 2016 and 2017, the number of additional days rose in 85 prisons and fell in 30 prisons
- Some prisons manage to buck the trend by using restorative approaches or by training and empowering officers to respond to conflict in other ways. This can enable prisoners to resolve their own problems and restores an overall sense of fairness in the prison
- This is possible even in busy, high-churn local prisons holding adult men but it requires culture change in prisons from top to bottom
- Additional days should be abolished, bringing England and Wales in line with Scotland. Instead, conflict should be dealt with via restorative methods, using the approach pioneered in Durham as a guide
- Inspection guidelines on adjudications should be augmented so that the over-use of punishment is seen as a warning sign of an unhealthy prison.

What are additional days in prison?

Imagine being imprisoned and afraid of your cell-mate. Refusing an order to return to your cell might feel like your only option. You know that you could be punished by having extra time added onto the end of your sentence. Would this stop you saying you will not go back into your cell? Imagine being a young person imprisoned and locked in your cell for 22 to 23 hours a day, with minimal opportunity while unlocked to contact a parent. Would the prospect of spending longer in prison at the end of your sentence be likely to deter you from obtaining an illegal mobile phone to speak to your mum?

When someone in prison breaks a prison rule they can be disciplined. Additional days can be imposed as part of this process. When a prisoner is charged with breaking a rule, there is a disciplinary hearing called an 'adjudication'. This first hearing usually happens in front of a prison governor, who cannot impose additional days.

At that hearing the prison may refer the case to an 'external adjudicator'. This is a district judge who attends the prison regularly to hear disciplinary cases. The judge is able to impose up to 42 days of additional imprisonment for a set of related offences. These days are added to the end of the custodial part of a person's sentence. Some prisoners end up with hundreds of extra days added to their sentence.

Why are additional days important?

Prisons are in crisis: they are crowded, understaffed and unsafe. Adding days to people's time in prison is both caused by this broader crisis, and a factor contributing to it.

The extra days mount up to months and years. A total of 359,081 days of additional imprisonment were imposed in 2017 across prisons in England and Wales. This is the equivalent of 983 additional years of imprisonment. The prison population has almost doubled since 1993 and the majority of prisons are now holding people in crowded conditions. The almost one thousand potential years of additional incarceration are a further pressure on an already creaking system.

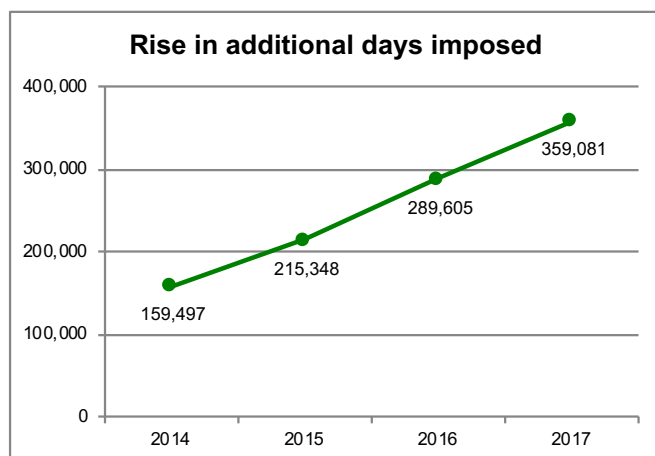
Why are additional days imposed?

Additional days are imposed for breaking prison rules. If people commit crimes in prison, they can be referred to the police. Adjudications are used to deal with rule-breaking or misbehaviour in prison that is not considered suitable for criminal prosecution.

Additional days are overwhelmingly imposed for non-violent infractions of rules, even though the deprivation of liberty is the most severe form of punishment. In 2017, 7 per cent of all additional days were imposed for disobeying a lawful order, 44 per cent were for the possession of unauthorised articles and 19 per cent were for drug related offences. Incidents involving violence accounted for 11 per cent.

The rising tide of additional days is not working

The total number of additional days handed down has risen as conditions in prisons have deteriorated. Fewer than 160,000 extra days were imposed in 2014. By 2017 this had more than doubled, reaching more than 359,000 days. Additional days are not helping to make people safer: over the same period, incidents of self-injury rose to record highs.



Additional days are added on to a release date, so are allocated far in advance of having any real impact on the person punished. This makes additional days an ineffective means of influencing behaviour. Additional days are particularly ineffective for children and young adults, whose lack of maturity means their decision-making is known to be more influenced by short-term consequences.

As well as being ineffective, additional days are expensive. The Howard League has calculated that the additional days imposed in 2017 alone would cost approximately £37 million if all were served. This is based on the annual average cost of a prison place, which is currently £38,042 (Ministry of Justice, 2017). This does not include the additional costs of running adjudications and the fees paid to external adjudicators. At a time when the MoJ is facing steep budget cuts, this is money wasted on an ineffective disciplinary measure.

Establishment	Number of additional days imposed		Population at 30 June 2017
	2016	2017	
<i>Prisons holding men:</i>			
Altcourse	1,874	5,335	1,132
Ashfield	145	106	397
Bedford	411	760	241
Belmarsh	331	345	858
Berwyn ¹	n/a	3,455	426
Birmingham	5,519	7,958	1,417
Brinsford	5,742	7,133	424
Bristol	3,226	4,311	514
Brixton	6,494	6,038	775
Buckley Hall	1,550	1,082	457
Bullingdon	583	1,131	1,110
Bure	324	631	637
Cardiff	2,829	3,840	752
Channings Wood	3,187	5,508	691
Chelmsford	1,123	2,285	738
Coldingley	2,306	1,616	418
Dartmoor	4,551	4,149	632
Deerbolt	3,327	4,130	409
Doncaster	6,891	5,918	1,136
Dovegate	3,968	3,064	1,040
Durham	558	1,034	937
Elmley	2,321	3,673	1,252
Erlestoke	2,140	2,223	514
Exeter	3,372	4,121	486
Featherstone	3,045	7,966	653
Ford	973	1,356	532
Forest Bank	4,751	5,573	1,460
Frankland	491	717	814
Full Sutton	472	767	557
Garth	1,706	2,320	830
Gartree	7	21	698
Glen Parva ²	2,395	1,190	583
Grendon/Spring Hill	20	111	536
Guys Marsh	6,823	5,228	497
Hatfield	261	80	338
Haverigg	2,392	743	285
Hewell	2,220	2,496	1,132
High Down	4,341	3,534	1,014
Highpoint	8,066	10,830	1,278
Hindley	3,255	6,489	569
Hollesley Bay	16	56	461
Holme House	1,233	3,684	1,201
Hull	535	2,426	1,045
Humber	3,090	5,062	1,068
Huntercombe	143	889	475
Isis	6,596	5,020	624
Isle of Wight	158	386	1,086
Kirkham	2,637	3,722	630
Kirklevington Grange	73	182	269
Lancaster Farms	6,357	7,903	555
Leeds	4,394	4,307	1,128

Establishment	Number of additional days imposed		Population at 30 June 2017
	2016	2017	
Leicester	253	2,564	325
Lewes	1,118	2,064	640
Leyhill	9	60	514
Lincoln	126	859	665
Lindholme	5,686	6,150	998
Littlehey	484	290	1,213
Liverpool	3,566	3,745	1,078
Long Lartin	312	426	517
Lowdham Grange	3,008	1,723	917
Maidstone	7	0	606
Manchester	2,897	3,924	1,005
Moorland	1,051	4,118	1,001
The Mount	5,328	6,561	1,004
North Sea Camp	68	0	414
Northumberland	4,269	6,461	1,328
Norwich	2,531	2,458	760
Nottingham	2,096	4,193	1,000
Oakwood	3,663	11,609	2,082
Onley	4,943	4,976	739
Parc	6,293	6,358	1,721
Pentonville	9,355	13,971	1,259
Peterborough ³	1,022	1,993	910
Portland	8,380	7,957	474
Prescoed	0	50	256
Preston	976	1,719	710
Ranby	3,984	5,617	1,031
Risley	2,331	4,747	1,103
Rochester	10,286	7,093	734
Rye Hill	48	362	657
Stafford	626	507	742
Standford Hill	131	27	460
Stocken	1,363	2,263	833
Stoke Heath	5,717	5,177	769
Sudbury	1,177	937	574
Swaleside	4,668	4,711	1,046
Swansea	1,219	1,511	469
Thameside	113	574	1,224
Thorn Cross	0	54	379
Usk	0	0	273
Wakefield	238	656	738
Wandsworth	8,131	10,525	1,603
Warren Hill	0	0	250
Wayland	3,583	3,871	944
Wealstun	1,427	3,978	819
Whatton	303	350	832
Whitemoor	947	350	433
Winchester	1,540	2,152	641
Woodhill	133	374	713
Wormwood Scrubs	3,372	6,583	1,243
Wymott	2,187	4,313	1,159
Subtotal	250,187	323,865	78,933

1. Berwyn opened in February 2017

2. Glen Parva closed in June 2017. Population figure is for 31 March 2017

Establishment	Number of additional days imposed		Population at 30 June 2017
	2016	2017	
<i>Prisons holding women:</i>			
Askham Grange	0	40	103
Bronzefield	580	831	560
Downview ³	93	512	310
Drake Hall	1,266	2,297	332
East Sutton Park	104	56	95
Eastwood Park	996	1,216	399
Foston Hall	972	1,428	334
Low Newton	361	1,035	343
New Hall	848	1,674	395
Peterborough ⁴	180	267	380
Send	137	166	277
Styal	514	987	479
Subtotal	6,051	10,509	4,007
<i>Children's and young adult prisons⁵</i>			
Aylesbury	12,100	11,676	431
Cookham Wood	1,059	521	158
Feltham	3,027	3,265	520
Swinfen Hall	10,063	7,063	608
Werrington	615	1,336	114
Wetherby	586	846	276
Subtotal	27,450	24,707	2,107
Total (all prisons)	283,688⁶	359,081	85,047

3. Downview re-opened in May 2016

4. Figures for Peterborough men's and women's prisons shown separately

5. Feltham, Swinfen Hall and Aylesbury included here as they all have wings that predominantly hold young adults. Parc holds all ages so is listed under men's prisons

6. Difference between 2016 total here and total in 2016 briefing is due to closure of Kennet prison (not included)

Disadvantaging the disadvantaged

Prisons should operate in a way that reflects the highest standards of justice. The system for awarding additional days is inherently capricious, inconsistent and disadvantageous for vulnerable people in prison.

Under the current system, two people breaking the same rule can receive different punishments. This arbitrariness is particularly acute for children. Children serving Detention and Training Orders cannot be given additional days. This results in a two-tier system where children in the same institution can behave the same way but be treated differently. Children held in secure children's homes and secure training centres also cannot get additional days.

Despite these restrictions, there were 3,419 additional days imposed on children aged 15 to 17 in 2017.

The Ministry of Justice data does not show how these days are distributed among the

population, but responses to Parliamentary Questions reveal that some children accumulate vast numbers of additional days. Between 2013 and 2017, there were eight children in Werrington and five children in Feltham who had received 100 or more extra days as punishment. Over the same period there were three children in Wetherby who had accumulated 150 or more additional days, the equivalent of an extra five months in prison.

The situation in some institutions holding young adults is also particularly bad. Last year, Aylesbury imposed 11,676 additional days of imprisonment. On 30 June 2017 there were 431 young men in Aylesbury. Over 27 days were imposed per person, a rate far higher than any other prison. Between 2013 and 2017, 68 young men in Aylesbury accumulated 100–149 extra days. Another 63 young men accumulated 150 or more.

Meanwhile, just 3 per cent of additional days in 2017 were handed down to women. The mix of reasons for which days are given is different in women's prisons. In women's prisons, 13 per cent of days were given for disobeying a lawful order; in men's prisons it was 7 per cent.

There are also concerns that black and minority ethnic (BAME) prisoners are disproportionately impacted by additional days and adjudications. On 30 June 2017, BAME people made up approximately a quarter of the prison population (Ministry of Justice, 2017) but received almost a third (32 per cent) of the additional days.

Information on religion has now been provided for the first time and this indicates another potential disproportionality. On 30 June 2017 Muslim prisoners represented 15 per cent of the prison population (Ministry of Justice, 2017) but 22 per cent of all the additional days handed down in 2017 were to Muslim prisoners, which may be a result of covert race discrimination.

It doesn't have to be this way

People held on remand or serving indeterminate sentences cannot receive extra days. This arbitrariness leads to a sense of unfairness. If prisons can manage the behaviour of some prisoners without resorting to imposing additional days, why can this not be done for all prisoners?

There are vast differences in how frequently days are imposed at different prisons. Between 2016 and 2017, the number of additional days imposed rose in 85 prisons and fell in 30 prisons. In some institutions, the rise has been dramatic. Oakwood prison, run by G4S, handed down 3,663 days in 2016 and 11,609 in 2017. The number of additional days imposed at Pentonville over the same period increased by almost half, while at Highpoint and Wandsworth it rose by roughly a third. In other prisons, additional days fell – by almost a quarter at Isis and 30 per cent at Rochester and Swinfen Hall.

The Howard League legal team represented a child who received more than 300 extra days and spent a significant amount of time in the segregation unit in a YOI. We worked with the prison and the Youth Custody Service to negotiate a move to a different prison where he could make a fresh start. Usually a child has to go four months without any adjudications to apply for additional days to be remitted. As part of the move, we negotiated that the new prison agree to consider remitting a significant proportion of the extra days without the child having to wait four months. The move was successful as his behaviour transformed and was found to be exceptional. The new prison stuck to its promise and agreed to remit 145 extra days, resulting in his release.

Analysis shows that there is nothing about the nature of certain types of prisons that makes additional days inevitable.

Some local prisons imposed additional days at high rates well above the average across the prison estate. Exeter and Bristol both imposed more than 4,000 additional days in 2017, a rate of 8.5 and 8.4 days per prisoner respectively. Wandsworth handed down more than 10,500 additional days in 2017, a rate of 6.6 days per prisoner in this very large prison.

Meanwhile, other local prisons managed to avoid these peaks. Hull imposed 2,426 days, a rate of 2.3 days per prisoner, despite being more than double the size of Exeter. Durham, another prison with a fast-changing population, imposed just 1,034 days, a rate of 1.1 days per prisoner.

Lincoln prison imposed 859 days but Nottingham prison, 40 miles away, imposed almost five times that number. In January 2018 Nottingham was described as “fundamentally unsafe” by Her Majesty’s Inspectorate of Prisons. The inspectorate triggered the Urgent

Notification process for the first time and demanded improvements.

Significant variation can be seen among comparable private prisons. Thameside and Doncaster are both large category B prisons run by Serco holding a mixture of sentenced and remand prisoners. In 2017, 574 additional days were imposed on prisoners at Thameside while more than 10 times this number (5,918 days) were imposed at prisoners at Doncaster.

These are all similar kinds of prisons and the difference between their additional days figures cannot be explained in terms of their populations, locations, churn, the types of prisoners/sentences or size. Instead it appears to come down to prison leadership and institutional culture. Running a prison that imposes substantial numbers of additional days is a choice. It is an enactment of a punitive and unjust culture. It is not inevitable or necessary.

How to do things differently

High numbers of additional days can be a warning sign of a prison that is unhealthy in other respects. Inspection guidelines currently include indicators for inspectors to watch out for. One guideline is that formal disciplinary procedures are only used as a last resort when dealing with antisocial behaviour. Another is that adjudication data is monitored and any emerging patterns are identified and acted on. Inspectors should be trained and supported to assess whether punishments are really being given as a last resort and whether patterns – such as the dramatic rise in extra days in some prisons – are being robustly tracked and addressed. The inspection guidelines should also be augmented to mention explicitly additional days, making clear that high numbers of days can indicate an unhealthy, overly punitive prison culture.

A category C prison received a prisoner who had spent 21 years in secure mental health settings. The man became distressed one day and climbed on to the gym equipment. Prison officers talked him down from the top of the exercise bars and took him back to his cell. Frustrated and upset, the man kicked at the door of his cell all day. Eventually one of the officers opened the door and started singing to the prisoner, who rapidly calmed down and started singing along with the officer. The non-punitive culture of the prison made the difference.

Prioritising restorative approaches offers one way to break out of a negative cycle of imposing too many extra days. Additional days, if over-used, can be a form of over-intervention – a formal, time-consuming process that gets in the way of prisoners and staff having interactions that more closely mirror life outside prison walls. Instead, prisoners should be given the autonomy and responsibility to manage their own problems. The use of restorative principles encourages prisoners to take control of their situation and gives them skills to communicate.

Durham prison has implemented a restorative justice programme. In the event of fights or disputes, officers have been trained to facilitate conferences in which prisoners can discuss what happened, what they were thinking and feeling, who has been affected and what they should do as a result. Officers and prisoners draw up behavioural compacts and prisoners keep copies so they have their own record and gain agency over the process. The programme at Durham has been so successful that the regional custody team has picked it up, with courses to be rolled out elsewhere in the region. So far, between 70 and 80 officers have been trained.

This kind of culture change is also empowering for staff. Currently, the system is too reliant on punishment. There are insufficient consequences for prison officers for over-reacting or over-using the disciplinary process. Restorative approaches and training can embolden and empower staff to find other ways of resolving conflict. While restorative schemes take effort to set up, in the long run they save prison officer time.

Ways forward

Additional days should be abolished, bringing England and Wales in line with Scotland. Prisons already have adequate measures with which to punish prisoners who break the rules, such as removing privileges. Governors should provide strong leadership, discouraging

excessive use of additional days. Conflict should be resolved using restorative approaches, with prison officers trained to do things differently.

Following a very poor inspection report in December 2016, Guys Marsh commenced the Growth Project. This whole-prison, research-informed programme involved training officers on relationships and how to deal with conflict. Wellbeing days were organised on the wing for prisoners to provide an incentive for good behaviour. The prison has introduced 'rehabilitative adjudications' aimed at understanding the reasons for people's behaviour and referring them to support services. Guys Marsh's additional days decreased by 23 per cent in one year. Crucial to the process was the support of the senior leadership, who went on two study trips to Norway as the programme was being set up.

Inspection guidelines on adjudications should be augmented so that the over-use of punishment is seen as a warning sign of an unhealthy prison.

The prison system in England and Wales is fundamentally unsafe, understaffed and overcrowded. Ultimately these deeper problems need to be addressed by further reducing the prison population. Removing additional days and replacing them with evidence-based restorative approaches would relieve some pressure on a creaking system. It should be done immediately.

About the Howard League for Penal Reform

The Howard League is a national charity working for less crime, safer communities and fewer people in prison.

We campaign, research and take legal action on a wide range of issues. We work with parliament, the media, criminal justice professionals, students and members of the public, influencing debate and forcing through meaningful change.

References for this report are available on our website: www.howardleague.org

Howard League for Penal Reform

1 Ardleigh Road
London
N1 4HS

020 7249 7373
info@howardleague.org
www.howardleague.org
[@TheHowardLeague](https://twitter.com/TheHowardLeague)

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