Earned regression?

How a flawed approach to punishment risks making the prisons crisis worse





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Introduction

Additional days of imprisonment are a form of punishment awarded through prison disciplinary procedures. The Howard League has long campaigned for their abolition¹ but the government has elected to make the existing mechanism of additional days the cornerstone of its new 'earned progression' model, as detailed in the Sentencing Bill recently introduced before Parliament.² This briefing will explain how additional days are awarded, analyse their current use, and outline our concerns as to the government's plans around 'earned progression'.

Disciplinary systems are used to enforce prison rules. When a prisoner is accused of breaking a prison rule, this will be tried in a formal disciplinary hearing, known as an adjudication. This can be either an internal adjudication before a prison governor or, for more serious offences, an external adjudication before an independent adjudicator, who is usually a district judge. If the charge is proven against a prisoner at an internal adjudication, a range of punishments can be imposed, including the removal of privileges, exclusion from work, stoppage of earnings and confinement in a cell. Prisoners are entitled to legal representation at external adjudications. At internal adjudications, prisoners can receive legal advice, but they can only be represented if they meet certain exceptional criteria determined by the governor.

In addition to these punishments, an external adjudicator can impose additional days on determinate sentenced prisoners. Sentences can be extended by up to 42 days for each single incident of prison indiscipline. These incidents can be alleged criminal offences (if, after referral to the police to be dealt with in the usual course, the police decide not to proceed to charge), as well as for breaches of the prison rules, such as refusing an order from an officer. Additional days are not treated in the same way as sentences handed down by the criminal courts, which have release part of the way through and the remainder of the sentence on licence; people serve the entire period of additional days in custody.

Earlier this year, the Independent Sentencing Review recommended the implementation of an earned progression model to manage people's sentences and facilitate release one-third of the way through. The government has now stated that any additional time served due to non-compliance or poor behaviour will be administered under the current additional days system.³

¹ The Howard League for Penal Reform, A Million Days (2016) https://howardleague.org/wp-content/uploads/2016/11/A-Million-Days.pdf accessed 8 January 2024 accessed 01/08/2025; The Howard League for Penal Reform, The rising tide: Additional days for rule breaking in prison (2018) https://howardleague.org/wp-content/uploads/2018/08/The-rising-tide-Additional-days-for-rule-breaking-in-prison.pdf accessed 1 August 2025; The Howard League for Penal Reform, Out of control (2017) https://howardleague.org/wp-content/uploads/2017/08/Out-of-control.pdf accessed 1 August 2025; and The Howard League for Penal Reform, Justice does not stop at the prison gate: Justice and fairness in prisons (2020) https://howardleague.org/wp-content/uploads/2020/11/Justice-Fairness-briefing-2-FINAL-2.pdf accessed 1 August 2025

² Sentencing HC Bill [299] 2024-25 https://bills.parliament.uk/bills/4012 accessed 8 September 2025

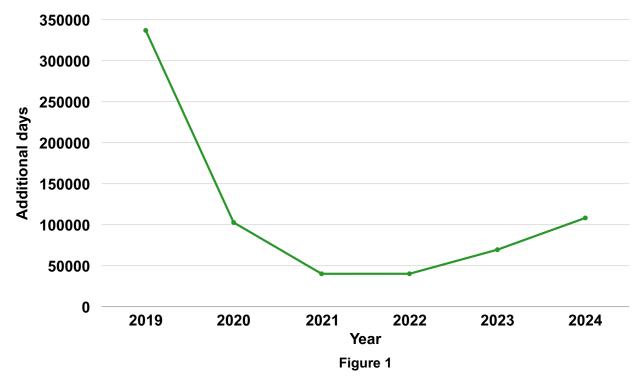
³ Ministry of Justice, Independent Sentencing Review: Final report (2025) https://www.gov.uk/government/publications/independent-sentencing-review-final-report accessed 1 August 2025

The Ministry of Justice (MoJ) has indicated that it intends to double the maximum number of added days per incident that an independent adjudicator can impose (from 42 to 84). There will not be a maximum cap on time in custody under the new earned progression model, as recommended by the Independent Sentencing Review in its final report. In the Howard League's view, both these proposals are a serious mistake and should be urgently reconsidered by the MoJ.

Far from incentivising good behaviour, the evidence suggests that additional days do not have a positive effect on good order and discipline. As they apply only to determinate sentenced prisoners (not people on indeterminate sentences, those serving civil orders, or those on Detention and Training Orders) they foster a sense of injustice and unequal treatment within the prison community. They are used disproportionately against certain groups, such as young adults and people from ethnic minorities. There are also concerns around whether the process is fair and just, commonly referred to as procedural fairness.

The impact on future prison capacity is a serious concern, as the number of additional days awarded are already increasing again. There were 108,366 additional days awarded in 2024 – totalling almost 297 years of imprisonment – a 56% rise on the number awarded in 2023.⁴ The Howard League is concerned that if additional days become the default mechanism in enforcing an earned progression model in prisons, then their use – already rising – would increase dramatically in short order.

Total additional days of imprisonment awarded by year, 2019-2024



Analysis of the use of additional days in 2024

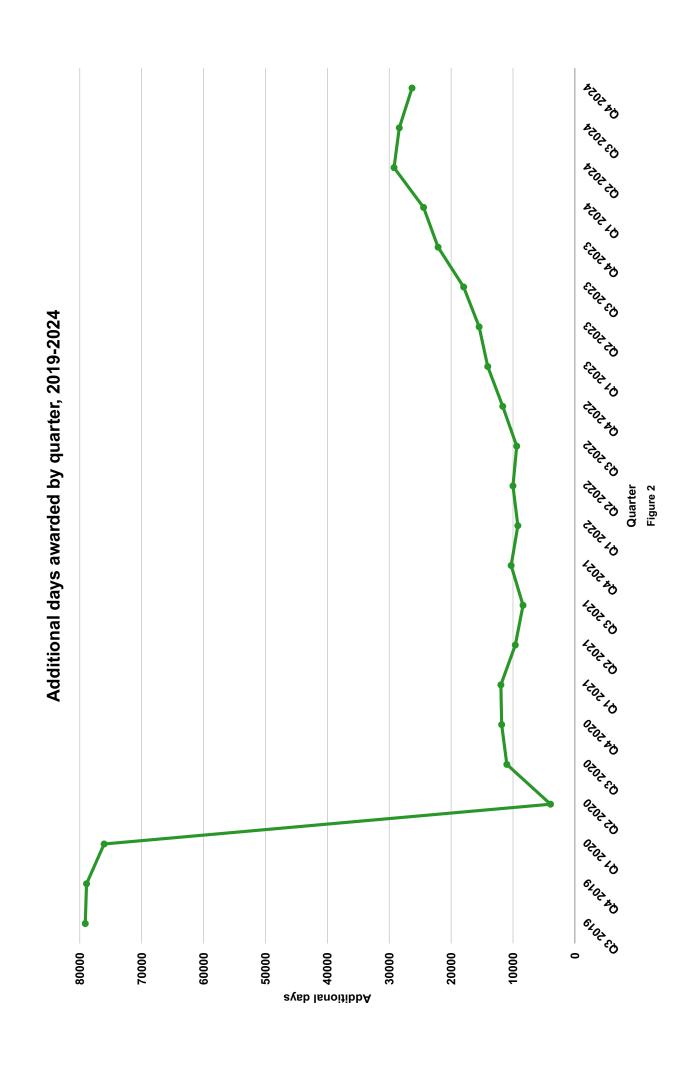
Prior to 2020, the use of additional days was high and rising – in 2018, for example, more than 1,000 years of additional days were awarded. The MoJ's own research has shown that additional days became a more frequently used punishment in the years after 2011, with an average annual increase of 17%.⁵

This trend was halted primarily by the Covid-19 pandemic, when regime and association were severely restricted and people were kept in their cells.⁶ The pandemic also had an impact on the adjudication process – at the start, independent adjudications were paused entirely for a time while remote hearings were set up.

Figure 1 illustrates changes in the use of additional days from just before the pandemic to present. A steep decline can be observed at the outset and duration of the pandemic, followed by marked increases in 2023 and 2024 as prisons emerged from pandemic restrictions.

The number of additional days awarded decreased by 69% from 2019 to 2020, and by 60% from 2020 to 2021 (note: the use of additional days was still high in the first quarter of 2020, prior to the implementation of pandemic restrictions). Numbers remained stable in 2021 and 2022, before increasing by 73% in 2023, and 56% in 2024.

Figure 2 shows total additional days awarded by quarter, highlighting the steep decline and more recent return to rising numbers in more detail.



1. Number and Frequency of Additional Days

The average number of additional days awarded in prisons holding adults in 2024 was 20.01 per person who received them. Additional days were awarded throughout the adult estate, with numbers close to the average recorded across each of the different categories of prison.⁸ The numbers have gone up: in 2018, the average was 17 days for men and 15 days for women.⁹

In 2024, additional days were awarded on 6,738 occasions. They were awarded most frequently and in greatest number (72,781 days in total) at Category C prisons, which form the largest proportion of the prison estate. Given that Category C establishments are training prisons, which are meant to offer purposeful regimes, it is particularly concerning that so many additional days are awarded here.

Three-quarters of the prisons surveyed by HM Inspectorate of Prisons (HMIP) were rated poor or not sufficiently good for purposeful activity. Category C prisons were among those rated worse for purposeful activity (behind high security prisons and prisons holding people convicted of sexual offences). HM Chief Inspector of Prisons' annual report for 2023-24 encapsulates the relationship between purposeful activity (or lack thereof), indiscipline and punishment at local and training prisons:

Many prisoners in these jails were trapped in a cycle of boredom, frustration and poor behaviour, which fuelled the demand for drugs and increased violence, debt and self-harm. This was often underpinned by poor relationships with staff, a failure to establish or reinforce the rules, and far too little purposeful activity. 12

The high rate of additional days seen in training prisons underlines the danger of inserting additional days into an earned progression model, particularly within the current context of impoverished regimes and problems with drugs and violence.

⁸ The average number of additional days awarded per prison category is as follows: Category A, 20.17; Category B, 20.07; Category C, 20.07; Category D, 20.08; Female, 20.04; Local, 19.9

⁹ MoJ, Adjudications (n4)

¹⁰ HM Chief Inspector of Prisons for England and Wales, HM Chief Inspector of Prisons for England and Wales: Annual Report 2023—24 (2024) https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/19/2024/09/25.13 HMI-Prisons AR-23-24 v6a Final-WEB,pdf; and HM Chief Inspector of Prisons for England and Wales: Annual Report 2024—25 (2025) <a href="https://cloud-platform-platfor

e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/19/2025/07/Annual-report-FINAL.pdf accessed 1 August 2025

¹¹ HM Chief Inspector, Annual Report 2024-25 (n10)

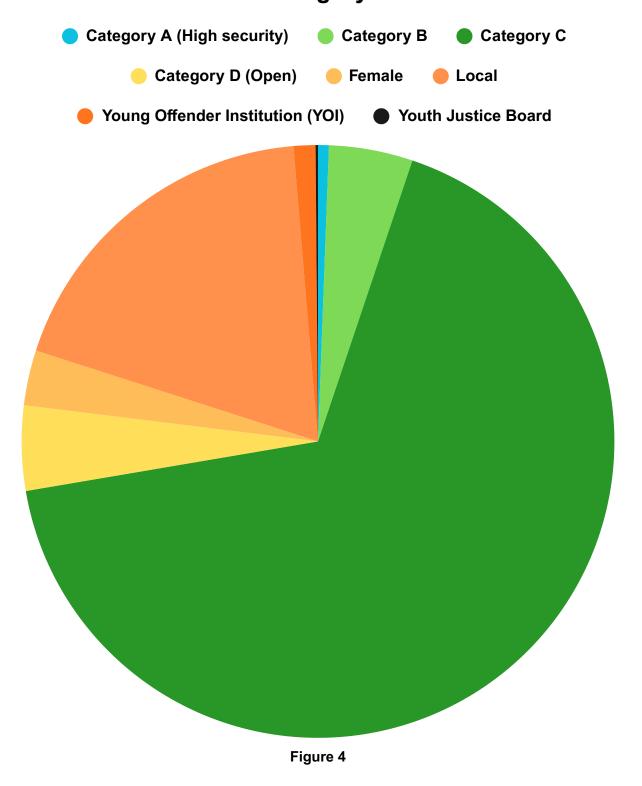
¹² HM Chief Inspector, Annual Report 2023-24 (n10)

In terms of individual institutions, the prisons where the most additional days were awarded, and where additional days were awarded most frequently, were Isis and Brinsford. Both prisons hold young adults and are experiencing issues with violence and safety, as well as use of force. Most of the top 10 prisons awarding the highest number of additional days were Category C establishments. The exceptions were two local Category B prisons (Pentonville and Leeds) and Holme House, which is dual purpose Category B and C.

Prisons where additional days were awarded most frequently in 2024		
Prison	Category	Occasions on which additional days were awarded
Brinsford	С	365
Isis	С	344
Featherstone	С	294
High Down	С	273
Holme House	B and C	259
Hindley	С	251
Leeds	Local	242
Pentonville	Local	201
Mount	С	196
Highpoint (North and South)	С	169

Figure 3

Additional days awarded in 2024, by prison category



2. Why are additional days awarded?

Sixty-one per cent of the additional days awarded were for 'unauthorised transactions'. Within this umbrella category, common infractions included the possession of unauthorised articles and drug-related offences. Any alleged breaches of the prison rules which are also criminal offences are usually referred to the police to deal with. They only return to the prison to be heard by the Independent Adjudicator where the police do not proceed with a charge, either for lack of evidence or because the alleged breach is insufficiently serious.

Not all adjudications lead to the imposition of additional days. In fact, additional days comprised only a little more than 1% of all punishments awarded. This small proportion raises questions about whether the imposition of additional days is even necessary, when its use has such a significant impact on the prison population and adds to the burden on an overstretched system. The Howard League is concerned that, if additional days become the default mechanism in enforcing an earned progression model in prisons, their use will increase dramatically.

Of cases awarded the maximum number of days (42), half were for unauthorised transactions and one-third were for violence. Sixteen per cent were concerned with assaults on staff. It should be noted that any serious assault will be referred to the police, so assaults dealt with via the Independent Adjudicator process are likely to be more minor altercations.

In 2024, 26 people received more than 100 additional days.¹³ Fifty-eight per cent of these offences were unauthorised transactions. The highest number of additional days a person was awarded within the reporting period was 168 days, equating to five-and-a-half months of imprisonment. In this case, eight sets of 21 additional days each were awarded for unauthorised transactions.

The reasons why additional days were awarded differ greatly by gender. Figure 5 shows that unauthorised transactions accounted for 62% of additional days awarded in prisons holding men, but only 36% of additional days in prisons holding women. Meanwhile, 25% of additional days for women were awarded for wilful damage, compared with only 7% for men.

Additional days awarded in 2024, by offence category and gender			
Offence category	Total	Male	Female
Disobedience / disrespect	12,953 (12% of additional days awarded in all prisons)	12,380 (12% of additional days awarded in prisons holding men)	573 (18% of additional days awarded in prisons holding women)
Escape / abscond	49 (<1%)	28 (<1%)	21 (<1%)
Sexual offences	345 (<1%)	309 (<1%)	36 (1%)
Unauthorised transactions	66,524 (61%)	65,354 (62%)	1,170 (36%)
Violence	15,131 (14%)	14,614 (14%)	517 (16%)
Wilful damage	8,476 (8%)	7,654 (7%)	822 (25%)
Other offences	4,888 (5%)	4,767 (5%)	121 (4%)

Figure 5

3. Age

Figure 6 below provides an overview of how additional days of imprisonment were awarded in 2024, broken down by age category, as recorded by HM Prison and Probation Service (HMPPS). The figures show that more than one-third of the additional days were given to young people aged 24 and under.

Additional days awarded in 2024, by age group		
HMPPS age category	Total additional days awarded	
15 to 17	650 (1%)	
18 to 20	11,484 (11%)	
21 to 24	25,393 (23%)	
25 to 29	24,287 (22%)	
30 to 39	32,701 (30%)	
40 to 49	10,887 (10%)	
50 to 59	2,370 (2%)	
60 to 69	548 (1%)	
70 and over	46 (<1%)	

4. Ethnicity

Racial disproportionality is evident in the use of additional days. Despite making up just 12% of the prison population, people from Black backgrounds received 22% of all additional days. Eight per cent of additional days were awarded to people from mixed backgrounds, despite this ethnic group making up 5% of the prison population. People from White backgrounds comprise 72% of the prison population but received just 58% of the additional days awarded. Among those who received more than 100 additional days, people from non-White backgrounds were again over-represented. Twenty-three per cent were from Black backgrounds, and 15% from Asian backgrounds. This compares to 54% from White backgrounds.

This disproportionality is long established, yet continues to persist. When the Lammy Review looked at adjudications almost a decade ago, it found that charges made by individual officers were brought disproportionately against adult men from a Black or a Mixed ethnic background, but that, once reviewed by a panel, they were less likely to be upheld. More recently, at two prisons inspected, HMIP found that certain ethnic groups were more likely to be over-represented in adjudications.

Recommendations for policy change

Evidence shows us that additional days are not necessary to enforce good order and discipline.¹⁷ They serve as a long-term, as opposed to short-term consequence (being added on to the end of the custodial term of a sentence), and are therefore an ineffective means at influencing behaviour.

Poor behaviour is managed adequately among people who cannot receive additional days, for example those on remand or serving life sentences. No adverse effect on behaviour was reported when the use of additional days was suspended during the pandemic. The use of additional days for non-violent infractions such as unauthorised transactions is a disproportionate use of the deprivation of liberty, itself the most severe form of punishment.

Learning from other jurisdictions confirms this. The use of additional days was abolished in Scotland in 2001 and yet a functioning disciplinary system is maintained. Stakeholders at the time, and more recently, did not observe any negative impact on order and discipline. In December 2017, Colin McConnell, then Chief Executive of the Scottish Prison Service observed:

Many prisoners in these jails were trapped in a cycle of boredom, frustration and poor behaviour, which fuelled the demand for drugs and increased violence, debt and self-harm. This was often underpinned by poor relationships with staff, a failure to establish or reinforce the rules, and far too little purposeful activity. ¹⁹

Scottish stakeholders noted that punishments with more immediate and tangible consequences were more effective at managing behaviour. Examples included the removal of privileges that would affect an individual's daily life. An HMIP thematic report into behaviour management supports the idea that rewarding incentives and a positive culture were more motivational and effective than disciplinary procedures.²⁰

¹⁷ Howard League, The Rising Tide (n1)

¹⁸ Howard League, Justice and Fairness (n1)

¹⁹ Howard League. Justice and Fairness (n1)

²⁰ HM Chief Inspector of Prisons, Improving behaviour in prisons (2024) https://cloud-platform-

The current use of additional days is concerning and disproportionate, particularly in light of the pressures faced by the prison system currently. Data presented in the HM Prison and Probation Service (HMPPS) Annual Digest paints a picture of an increasingly chaotic system where overcrowding, finds of unauthorised items and protesting behaviour continue to increase. Research by the MoJ suggests that prisoners in overcrowded cells are 19% more likely to be involved in an assault. Independent Advisory Panel on Deaths in Custody (IAPDC) has predicted that, as the prison population grows and resulting overcrowding persists, deaths by suicide in prison could increase by one-fifth. HMIP described adjudications as too often doing 'little to deter the most serious rule breaking'. Adding to the time that individuals spend in these environments through additional days will only serve to increase these pressures.

We also have concerns about additional days regarding procedural justice and fairness. Although people are entitled to legal representation, through our legal work we know that most adjudications proceed without representation. This would not happen in criminal courts, where a duty solicitor would be assigned or the case would be adjourned by the sentencing judge while legal representation was sought. There is no equivalent system in place for prison adjudications.

Despite a robust Policy Framework governing adjudications, in practice the laying of charges and hearings fail to meet procedural standards. Crucial administrative and evidence-gathering procedures such as the completion of paperwork, availability/viewing of CCTV, and hearing logistics are carried out poorly and legal thresholds are not always followed, including for reasons to refer to the Independent Adjudicator in the first instance, or meeting the criminal standard of proof for a guilty finding.

²¹ MoJ, HMPPS Annual Digest, April 2024 to March 2025 (2025) https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2024-to-march-2025 accessed 1 August 2025

²² MoJ, The impact of overcrowding on assaults in closed adult public prisons (2025) https://www.gov.uk/government/publications/the-impact-of-overcrowding-on-assaults-in-closed-adult-public-prisons accessed 1 August 2025

²³ IAPDC, Prison overcrowding and deaths in England and Wales: findings from a predictive analysis and modelling study (2025) https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/21/2025/09/Prison-overcrowding-and-deaths-in-England-and-Wales-findings-from-a-predictive-analysis-and-modelling-report.pdf accessed 23 September 2025 24 HM Chief Inspector, Annual Report 2024-25 (n10)

Since the pandemic, the default position has been to hold adjudications as online hearings. The Prison Discipline Policy Framework allows for face-to-face hearings to take place at the district judge's discretion, when in the interests of justice to do so. Although they were allowed to resume in August 2022 following the pandemic, there have been no face-to-face hearings involved in the more than 21,000 independent adjudications that have taken place since. This risks fairness and access to justice, particularly for vulnerable prisoners or those with communication needs. The implications for justice extend beyond the incident in question – the findings of independent adjudications have subsequent impact on categorisation decisions and Parole Board decisions. There is no right of appeal against conviction – the Chief Magistrate's Office reviews sentence only. To challenge a guilty finding, a prisoner must judicially review the decision of the district judge – a complex, lengthy and potentially expensive process.

Adjudications are particularly unfair for children. The length of duration for all other adjudication punishments (e.g. forfeiture of privileges) is halved for children – the policy framework specifies that maximum period of duration should be 21 days as opposed to 42 as in the adult estate. However, this is not the case for additional days, where there is no stipulated maximum. Sentencing guidelines suggest there should be a maximum of 40% reduction compared to the equivalent adult sentence. It is not yet clear whether proposals to double the maximum number of additional days will extend to children.

HM Chief Inspector of Prisons' Urgent Notification for Pentonville prison highlighted ongoing challenges in prison bureaucratic processes, in this case illegally detaining people beyond sentence completion because release dates had been incorrectly calculated. As it happens, Pentonville was among the top 10 prisons for handing out additional days in 2024. Expanded use of additional days would increase bureaucratic workload, and, under a stretched system, present ripe opportunity for error in many prisons.

The Howard League remains of the view that additional days of imprisonment are an ineffective tool for enforcing discipline and should be abolished. With the government intending to use them as the cornerstone of its new earned progression model, however, these operational concerns regarding additional days must be addressed. Moreover, the government should rethink the proposal to double the number of days that can be awarded per incident. The Independent Sentencing Review recommended a halfway point limit on how long an individual can be kept in custody through additional days. Such a safeguard is necessary if earned progression is to operate fairly and safely.

The safety dimension is of real concern as the lack of any upper limit on how many additional days can now be awarded means that it would be possible for individuals in custody to receive so many additional days of imprisonment that they reach the end of their sentence; they would therefore be released into the community without any form of supervision from probation. Doubling the number of additional days that can be awarded also means individuals will get to their Sentence End Date twice as fast. Given some individuals would be presenting a frequent degree of troubled behaviour in custody to receive so many additional days, it seems perverse that the system will now mean they receive no supervision or support in the community.

On fairness, the use of additional days of imprisonment already presents a challenge as not all people in prison can receive them. But the government's proposal to double the number of days that can be awarded per incident creates a compound unfairness, as the proposal appears to apply not only to those individuals on Standard Determinate Sentences (SDS) who will be part of the earned progression model – but also those individuals excluded from earned progression, including more than 9,000 prisoners serving Extended Determinate Sentences (EDS) as well as children. Although the Independent Sentencing Review recommended EDS prisoners were also moved to an earned progression model, functioning differently from the model for SDS prisoners, this recommendation was rejected by the government. And yet EDS prisoners and others who will not benefit from earned progression (including, potentially, children in custody) are now facing a more punitive approach to behaviour management without any associated incentives for good behaviour. This is not only unfair but, given the pressure on prison places, it is a bizarre approach to take in terms of managing demand on capacity.

The government commissioned the Independent Sentencing Review because it understood that change was needed to address the capacity crisis in prisons. But in proposing greater use of additional days of imprisonment, it risks making the crisis even worse. This blunt instrument only adds to the injustice and distress that exists within the prison system, and it contributes directly to the chronic overcrowding that prevents people receiving the support they need to move on from crime.

Appendix

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Aylesbury	2,032	15th
Bedford	1,245	34th
Belmarsh	14	103rd
Berwyn	2,046	14th
Birmingham	190	78th
Brinsford	5,552	2nd
Bristol	668	50th
Brixton	1,205	35th
Bronzefield	1,250	33rd
Buckley Hall	259	73rd
Bullingdon	895	43rd
Bure	559	57th
Cardiff	1,016	39th
Channings Wood	1,160	37th
Chelmsford	755	48th

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Coldingley	406	61st
Cookham Wood*	18	102nd
Dartmoor	803	=45th
Deerbolt	1,415	27th
Dovegate	590	55th
Downview	85	90th
Drake Hall	975	41st
Durham	58	96th
Eastwood Park	394	62nd
Elmley (Sheppey Cluster)	93	88th
Erlestoke	607	=53rd
Exeter	803	=45th
Featherstone	4,645	3rd
Feltham A	183	79th
Feltham B	2,842	11th

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Five Wells	1,842	18th
Ford	1,412	28th
Forest Bank	607	=53rd
Foston Hall	262	72nd
Frankland	115	85th
Garth	68	93rd
Guys Marsh	1,793	19th
Hewell	315	66th
High Down	3,818	5th
Highpoint (North and South)	2,986	10th
Hindley	4,251	4th
Hollesley Bay	62	95th
Holme House	3,243	8th
Hull	558	58th
Humber	443	60th

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Huntercombe	1,192	36th
Isis	5,775	1st
Isle of Wight	1,996	16th
Kirkham	1,407	29th
Lancaster Farms	652	51st
Leeds	3,143	9th
Lewes	551	59th
Leyhill	70	92nd
Lincoln	88	89th
Lindholme	1,625	22nd
Littlehey	720	49th
Liverpool	265	71st
Long Lartin	236	74th
Low Newton	33	101st
Lowdham Grange	134	83rd

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Maidstone	2,066	13th
Manchester	78	91st
Moorland	151	81st
Morton Hall	765	47th
Mount	3,437	6th
New Hall	46	98th
Northumberland	338	64th
Norwich	1,483	24th
Nottingham	384	63rd
Oakwood	903	42nd
Onley	1,462	25th
Parc B	152	80th
Pentonville	3,246	7th
Peterborough (Female)	114	86th
Peterborough (Male)	1,402	30th

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
Portland	1,033	38th
Preston	150	82nd
Ranby	1,427	26th
Risley	865	44th
Rochester	983	40th
Spring Hill (Grendon / Spring Hill)	314	67th
Stafford	214	77th
Stocken	1,722	20th
Stoke Heath	620	52nd
Styal	101	87th
Sudbury	1,708	21st
Swaleside (Sheppey Cluster)	1,321	31st
Swansea	223	75th
Swinfen Hall	1,914	17th
Thameside	63	94th

Additional days awarded in 2024, by prison		
Prison	Additional days awarded in 2024	Rank (highest to lowest number of additional days)
The Verne	215	76th
Thorn Cross	45	99th
Wakefield	275	=69th
Wandsworth	285	68th
Wayland	332	65th
Wealstun	1,267	32nd
Werrington	132	84th
Wetherby	589	56th
Whatton	38	100th
Winchester	1,520	23rd
Woodhill	50	97th
Wormwood Scrubs	275	=69th
Wymott	2,233	12th

Prisons holding women are shaded red. Prisons holding children are shaded green.

^{*}Cookham Wood prison became an adult establishment midway through 2024.



Howard League for Penal Reform

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