
DIRECTIONS

Scottish Prison Rules (Virtual Visits) Direction 2020

Made - - - -

16 June 2020

The Scottish Ministers make the following Direction in exercise of the powers conferred by section 39 of the Prisons (Scotland) Act 1989(a) and rules 78A and 156 of the Prisons and Young Offenders Institution (Scotland) Rules 2011(b) (“the Prison Rules”) and all other powers enabling them to do so.

Citation, commencement and application

1.—(1) This Direction may be cited as the Scottish Prison Rules (Virtual Visits) Direction 2020 and comes into force at 15:45 hours on 16 June 2020.

(2) Any reference in this Direction to a rule is a reference to the rule in the Prison Rules bearing that number.

(3) References in this Direction to prisons and prisoners are to be construed as including young offenders institutions and young offenders respectively unless otherwise specified or the context otherwise requires.

Interpretation

2.—(1) Subject to sub-paragraph (2), words and expressions used in this Direction have the same meaning as they have in rule 2(1).

(2) In this Direction—

“logging” means the automatic storage of the information specified in paragraph 6 and “logged” is to be read accordingly;

“monitoring” means viewing and listening to a virtual visit (either during the course of the virtual visit or subsequently viewing and listening to a recording of it), and “monitored” is to be read accordingly;

“officer” has the same meaning as in rule 2(1) but also includes any other person authorised by the Governor;

“virtual visit” has the same meaning as in rule 78A(12)

Prisons in which a prisoner may use an authorised device

3. A prisoner may receive a virtual visit in any prison.

(a) 1989 c.45; section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9), sections 24 and 25, schedule 5, paragraph 6(6)(b) and schedule 7, paragraph 1; the Criminal Justice and Public Order Act 1994 (c.33), section 116(4); the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), schedule 4, paragraph 75(4)(a); the Crime and Disorder Act 1998 (c.37), schedule 8, paragraph 71 and schedule 10, paragraph 1; and the Management of Offenders (Scotland) Act 2019 (asp 14), section 52(2). The functions of the Secretary of State, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(b) S.S.I. 2011/331; amended by S.S.I. 2011/356; S.S.I. 2012/26; S.S.I. 2013/119; S.S.I. 2014/26; S.S.I. 2015/39; S.S.I. 2016/131; S.S.I. 2017/393; 2018/293, S.S.I. 2020/122 and S.S.I. 2020/175.

Conditions applicable to a prisoner receiving a virtual visit

4.—(1) A prisoner may receive a virtual visit subject to the conditions in subparagraphs (2) to (6).

(2) Only verified visitors that are on the prisoner's approved visitor list who are over the age of 16 can request a virtual visit with a prisoner.

(3) The identity of visitors will be verified prior to approval of a virtual visit and requests may be declined if the identity of the visitor cannot be verified.

(4) A maximum of 3 adult visitors can be in attendance at a virtual visit.

(5) Only persons who are on the prisoner's approved visitor list will be able to join a virtual visit.

(6) A virtual visit must not include—

- (a) information which is intended for publication via any media channel, including social media;
- (b) discussion of plans or information which would assist or encourage any disciplinary or criminal offence;
- (c) information that might jeopardise the security or good order of the prison;
- (d) information associated with the making of any weapon, explosive, poison or other destructive device;
- (e) obscure or coded messages;
- (f) behaviour or words which are threatening, abusive or insulting;
- (g) behaviour which may be connected with a criminal activity or attempted criminal activity;
- (h) material or information which would create a clear threat, risk to the safety of any person or present danger of violence or physical harm, to any person;
- (i) material which is intended to cause distress or anxiety to the recipient or any other person, such as messages which are indecent or grossly offensive, or a threat, or information which is known or believed to be false; and

The restriction or removal of the entitlement to receive virtual visits

5.—(1) The Governor may restrict or remove the entitlement of a prisoner to receive virtual visits where the Governor has reasonable grounds to suspect that a prisoner has breached, or is about to breach any of the conditions specified in paragraph 4(2) to (6).

(2) The Governor may, under sub-paragraph (1), temporarily restrict or remove the entitlement of a prisoner to receive virtual visits pending an investigation into the suspected breach of those conditions.

(3) The Governor may restrict or remove the entitlement of a prisoner to receive a virtual visit where it is necessary in order to—

- (a) protect the security or good order of the prison;
- (b) protect the health, safety and welfare of prisoners and those working in the prison;
- (c) enable the maintenance or repair of the equipment required to enable virtual visits to take place.

(4) Any decision to restrict or remove a prisoner's entitlement to receive a virtual visit under sub-paragraph (1), (2) or (3)—

- (a) is to have effect for an initial period of no more than one month; and
- (b) must be reviewed by the Governor at intervals of no more than one month thereafter.

Logging, monitoring and recording of virtual visits

6.—(1) The Governor must make arrangements for the logging, monitoring and recording of virtual visits.

(2) The following information must be logged in respect of all virtual visits—

- (a) the date and time of each virtual visit;
- (b) the identification number of the prisoner receiving the virtual visit;
- (c) the identity of the visitor who requested the virtual visit; and
- (d) whether the virtual visit was terminated.

(3) A virtual visit must be recorded and may be monitored by an officer.

(4) A virtual visit must be preceded by:—

- (a) a displayed message which—
 - (i) advises the parties to the virtual visit that the virtual visit is taking place with a prisoner detained in a Scottish prison;
 - (ii) advises the parties to the virtual visit that the virtual visit will be logged and recorded and may be monitored; and
 - (iii) requests the visitor who requested the virtual visit to indicate whether or not they agree to continue with the virtual visit on the terms set out in the message.
- (b) the virtual visit may only proceed where the visitor who requested the virtual visit checks the box on the screen confirming that the visitor agrees to continue with the virtual visit on the terms set out in the message displayed under paragraph 6(4)(a).

(5) When a virtual visit is monitored the officer should make a record of the following information:—

- (a) the time and date of the monitoring;
- (b) the prisoner number of the prisoner receiving the virtual visit;
- (c) details of any recording stored in accordance with sub-paragraph (6); and
- (d) the reasons for the monitoring.

(6) Where a recorded virtual visit is to be stored for potential use as evidence in criminal or disciplinary proceedings, an officer must—

- (a) ensure that the recording is stored electronically on a portable storage device;
- (b) place the recording in a sealed envelope in the presence of one other officer;
- (c) sign the envelope, and arrange for the officer mentioned in (b) to sign it; and
- (d) store the envelope in a secure place.

(7) Where a recording has been stored in accordance with sub-paragraph (6), the recording may only be monitored with the authorisation of the Governor.

(8) Any information which is logged in terms of sub-paragraph (2) may only be retained for a period of 3 years from the date of logging.

(9) Subject to sub-paragraph (10), all recordings must be destroyed within 6 months of the date of the recording.

(10) The Governor may authorise recordings to be stored for a longer period than that specified in sub-paragraph (9), but must review the continued storage of a recording at least once every 6 months.

(11) If the Governor considers, from the content of a virtual visit, that the prisoner may be involved in a criminal activity, the Governor must as soon as practicable—

- (a) notify a constable; and
- (b) make available to a constable a copy of any recording made of that virtual visit.

This direction consisting of this and the preceding three pages, and the schedule annexed, is subscribed as follows—

It is signed for and on behalf of the Scottish Prison Service, an executive agency of the Scottish Ministers at Edinburgh at 15:45 hours on 16 June 2020 by Teresa Medhurst, Chief Executive before this witness, Pauline Oliver

For the Scottish Prison Service: ~~Teresa~~ Medhurst

Witness: Pauline Oliver

SCHEDULE

Form of notice to be displayed beside virtual visit equipment

Conditions of virtual visits

1. Virtual visits in this prison are subject to the conditions specified in the Direction made by the Scottish Ministers under rule 78A of the Prisons and Young Offenders Institutions (Scotland) Rules 2011.

2. All virtual visits will be preceded by a displayed message which—

- (a) advises that the virtual visit is taking place with a prisoner detained in a Scottish prison;
- (b) requests the visitor who requested the virtual visit to indicate whether or not they agree to continue with the virtual visit on the terms set out in the message.
- (c) advises the parties to the virtual visit that it will be logged and recorded and may be monitored.

3. Virtual visits will be logged automatically (i.e. the date and time of the virtual visit, the identification number of the prisoner receiving the virtual visit, the identity of the visitor who requested the virtual visit and whether the virtual visit was terminated).

4. Virtual visits will also be recorded and may be monitored (i.e. listened to whilst they are being made or via the recording afterwards). You should not therefore use the virtual visit to discuss matters which you would wish to remain confidential.

Breach of discipline

5. Failure to comply with this Direction may result in any of the following—

- (a) termination of the virtual visit;
- (b) restriction or removal of a prisoner's entitlement to receive virtual visits;
- (c) disciplinary action under Part 11 of the Rules.

It is a breach of discipline to remove this notice or damage it in any way.
