



Robert Neill MP  
House of Commons  
London  
SW1A 0AA

27 April 2018

Dear Bob,

### **STATUTORY INSTRUMENT TO AMEND THE PRISON RULES 1999**

I write to inform you, in your capacity as chair of the Justice Select Committee that on 1 May the Government will lay a negative Statutory Instrument to make two changes to The Prison Rules 1999. The amendments reflect the current position in relation to smoking in prisons, and remove the requirement for the Secretary of State to approve local prison privilege policies. The amendment to the privileges rule will also be made to the Young Offender Rules 2000.

The Statutory Instrument amends the prison rule relating to tobacco by removing it as a privilege and removes the prison governor's authority to authorise prisoners to have tobacco in their possession.

Air quality assessments in prisons highlighted that despite previous restrictions to where a prisoner could smoke; the air quality was still of an unacceptable level and risk of harm to health to any individual within the prison remained, due to smoking being allowed.

On the 29 September 2015 the Government committed to moving to a smoke-free prison estate in a safe and controlled way to protect staff and prisoners from the harmful effects of second-hand smoking. Since May 2016 this initiative has been carefully rolled out across the prison estate in a phased approach. To date, 100 prisons are smoke free with the process ongoing. In smoke free prisons; there is no smoking allowed for staff, prisoners or visitors within the prison. This includes both inside buildings and within the prison grounds.

It is a phased and controlled process to move a prison to smoke free status with information provided to prisoners, staff and visitors as to when it will be implemented. This process involves a coordinated approach with the NHS, smoking cessation teams, staff and prisoners being involved in the preparation to become smoke free. A prison is only moved to smoke free status once it has been deemed safe to do so.

Prisoners are offered access to NHS approved smoking cessation programmes, or they can choose to purchase e cigarettes, vaping devices or alternatively decide to abstain from smoking without any additional help from nicotine replacement items.

Prisons in Scotland are moving to smoke free status and other countries are also looking at how smoke free has been implemented in England and Wales, to consider their own prison status.

The Statutory Instrument will also empower governors to establish their local Incentives and Earned Privileges (IEP) policy without the Secretary of State having to approve each one. Under current arrangements, senior officials in Her Majesty's Prison and Probation Service approve local privilege policies on behalf of the Secretary of State.

This rule change will support the Government policy of providing greater authority and flexibility to prison governors.

Prison Service Instruction (PSI) 30/2013, Incentives and Earned Privileges is the current national policy. This contains mandatory requirements on which governors must base their local schemes to allow prisoners to earn additional privileges by demonstrating responsible behaviour and participation in work or other constructive activity. The system of privileges is a tool for encouraging and rewarding positive and responsible behaviour in prisoners. It is currently under review and will be replaced with a Policy Framework which will provide greater empowerment to governors, but continue to include mandatory requirements to ensure that practice is lawful, safe and decent, with consistency across the estate where necessary. The Government will soon consult with stakeholders on the draft Policy Framework.

BT notes.  
Rory

**RORY STEWART MP**