RESEARCH INVOLVING STAFF OR OFFENDERS IN UK PRISON ESTABLISHMENTS OR UNDER SUPERVISION OF THE PROBATION SERVICE

Advisory: the new Worktribe Research Ethics System is being phased in from July to December 2024. If your department is still using the old system (Microsoft Word forms), this Approved Procedure will indicate which CUREC form you should use according to risk criteria. Please check which application system your department is using before proceeding.

1. SCOPE

Several research groups in the University carry out studies of and with adult prisoners. For the purposes of this Approved Procedure, a prisoner is defined as any adult inmate of prison systems of England and Wales, Scotland or Northern Ireland, who is

- **not** detained in a high security prison setting (including high security wings);
- **not** a patient detained under the Mental Health Act at special hospitals or other psychiatric secure units, and
- **not** a juvenile offender under 18 years of age.

This Approved Procedure can be used by graduate students and researchers applying to both the Social Sciences and Humanities IDREC, the Departmental Research Ethics Committees (DRECs) and the Medical Sciences IDREC at the University of Oxford.

This Approved Procedure will **not** apply to research undertaken by undergraduate students. Applications must have a lead researcher at a minimum of postgraduate level with research expertise in Criminology. It is essential that researchers have the appropriate skills, knowledge and experience to be able to undertake the proposed fieldwork.

Because prisoners need to be classed as "participants at risk" and/ or "people whose ability to give free and informed consent is in question", and because research projects dealing with these participants often deal with very sensitive issues, ethics applications for research projects in this category cannot be made using a CUREC 1 or CUREC 1A form if using the Microsoft Word ethics application forms. This Approved Procedure has been devised with the aim of specifying a set of procedures that will be acceptable to the SSH IDREC, DRECs and the MS IDREC, to enable researchers to apply for ethical review and approval via the CUREC 1 or CUREC 1A process.

This Approved Procedure also applies to research involving offenders released into the community under supervison of the Probation Service (see section 1.3).

The applicable scope of this Approved Procedure is further dependent on the level of research risk, research setting, and types of research methods involved.

1.1 Health-related research with prisoners[1]

Health research involving prisoners should relate directly to their health care and be of such a nature that it could only be conducted in this population.

Research projects that are health related require approval from an NHS research ethics committee (not CUREC) **and** permission for the research from the Healthcare Provider. **Health-related research or research with NHS patients therefore must undergo University Sponsorship review by the Clinical Trials and Research Governance team in the first instance before they are submitted for review to the appropriate NHS research ethics committee.**

The Health and Justice Research Network publishes guidance on the various approvals and permissions required to conduct research involving prisoners in England and Wales, and may be able to assist with specific queries. Ethics applications involving prisoners should be booked with the Health Research Authority's Online Booking Service, which will arrange allocation to one of the research ethics committees (RECs) designated by the Health Research Authority (HRA) to review such research.

1.2 Level of Research Risk

The level of permissible research risk in order to apply this Approved Procedure is based on a risk analysis of a given research project at three levels:

1. Does the research cover a sensitive topic – a field of research that may be ethically, emotionally or politically sensitive (e.g. gender issues, race relations, education, preparation for release, talking about the prisoner's experience during the trial; daily life in prison, relationships in prison). In analysing this level of risk, it need not be assumed that risky topics carry serious risk in themselves, provided that proper safeguards are put in place, including secondary trauma training by researchers (see sections below).

2. Might the research present serious risks to or harm the participants (for example, but not exclusively: topics involving serious mental health issues, threats of or actual violence, suicide, self-harm, serious communicable diseases; severe bullying, intimidation or harassment, involvement in current criminal activities)?

3. Might the research present serious physical or emotional risks to researchers or others?

This Approved Procedure covers situations that are assessed as carrying **no serious significant risk** (level 1 only). If the project classes as level 2 or 3 above, this Approved Procedure does not apply and approval **must** be sought by completing a full CUREC 2 application (if using the Microsoft Word ethics application forms). In this case, the guidance given in this Approved Procedure document will still be helpful.

Examples given in levels 2 and 3 above are not exhaustive, so advice on whether a CUREC 2 application is needed should be sought from the relevant IDREC on a case-by-case basis. In assessing safety risks, official inspection reports by the HM Inspectorate of Prisons also may be helpful.

[1] Based on guidance from the Integrated Research Application System (IRAS) (accessed 9 October 2023)

1.3 Research Setting and Permissions

This Approved Procedure applies to research where participants are accessed through prisons and the research is conducted on prison premises, with the permission of the prison and the voluntary, informed consent of the participant. Researchers will need to ensure that they have assessed the prisoner's capacity to consent.

Permission to conduct the research in the prison must be gained before applying for CUREC ethics approval.

All researchers wanting to conduct research with staff and/ or offenders in UK prison establishments, the Probation Service or within His Majesty's Prison and Probation Services' (HMPPS) Headquarters are required to apply to the HMPPS National Research Committee (NRC) for research approval. For projects also requiring approval from health and social care bodies, researchers will need to apply for NRC approval through the Integrated Research Application System (IRAS).

The fieldwork can only start once the following have been obtained:

- ethics approval from either a University of Oxford Ethics Committee **or** an NHS ethics committee;
- HM Prison and Probation Service/ NRC approval
- Permission from the specific prison(s) involved
- A fieldwork risk assessment has been undertaken.

1.4 Research Methods

The following methods are permissible under this Approved Procedure with prisoners **and** prison staff, as long as the prison and HMPPS/ NRC has approved this:

- Semi-structured interviews
- Questionnaires
- Participant performs verbal/ paper and pencil/ computer-based tasks
- Observation of participants
- Focus groups
- Online surveys.
- Audio recording of and by participant
- Making still images of and by participant
- Video recording of and by participant

2. TRAINING OF RESEARCH STAFF

All researchers working with prisoners must be trained in the following before embarking on the research project:

- to use appropriate research methods
- how to deal sensitively with difficult issues
- to recognise and address ethical issues
- to recognise and address situations where abuse and/ or serious risk is identified

It is crucial that senior researchers ensure that those working under their supervision are able to obtain a good rapport with prisoners and prison staff, and that they have appropriate safeguarding clearance.

Researchers must follow the guidance set out in the University's 'Safeguarding Code of Practice', including completing the online training course 'An introduction to Safeguarding Adults' provided by the Oxford Safeguarding Board, as well as undertaking risk assessments of the proposed research.

Any risk assessment must include how researchers will ensure their own physical and emotional safety while conducting their research in the prison, in addition to complying with any security measures the prison will put in place. The University's Social Sciences Division's Fieldwork website provides information about resources available to support researchers who may experience secondary trauma or psychological distress as a result of their research.

Researchers should also take responsibility for complying with safeguarding regulations and research practices which relate to the setting(s) of their research. As well as such compliance, researchers are strongly encouraged to consult guidance from relevant professional associations (see section 12).

The issue of unequal relationships needs to be addressed. There will be unequal relationships to the extent that prisoners will be in a position of reduced power compared to the researcher. Hence, it is especially important that prisoners are fully aware, *at the information-giving stage and well before the project starts,* that they need not volunteer for the project, that they can withdraw themselves and their data at any time, without any consequences for them and without giving a reason. It is also important to emphasise that taking part (or not) in the study will not affect the prisoners' sentence, parole or status in any way.

3. METHODS FOR RECRUITING PARTICIPANTS

As mentioned above, researchers recruiting prisoners and/ or prison staff through prisons or other responsible institutions will have to gain permission of the prison/ institution for the study.

Researchers may recruit prisoners through newspaper articles (e.g. 'Inside Times') or a letter to the prison's governor, but they need to ensure that the following points in the recruitment advertisement or poster are covered:

- University logo and departmental contact details
- Background and aims of the study
    - What questions the study hopes to answer
    - Names/ departmental (not private!) contact details of the researcher (**only** if this is deemed appropriate by the prison/ HMPPS)
- Why participants have been invited to take part
- What the study will involve, i.e.
    - Purpose
    - Duration
    - Location (e.g. room)
    - Frequency (e.g. any follow-up interviews)?

3.1 'Opt-in' research only

Only 'Opt-in' research is permitted for the purposes of this Approved Procedure. Prisoners are invited to participate but are under no obligation to take part. In all cases, criteria for inclusion and exclusion need to be specified.

Justification is required if prison staff are being used to select or approach suitable participants.

In order to manage prisoner expectations, it should also be made very clear that inclusion (or not) in the research study will **not** change the prisoner's status, trial or treatment in prison in any way.

4. OBTAINING PARTICIPANTS' INFORMED CONSENT

The information sheet and consent form **must be provided in an accessible format, using language easily understood by the participants**.

Please see CUREC's guidance on the informed consent process, including template information sheets, consent forms and oral consent scripts.

4.1 Providing participants with the information they need to make an informed decision

After gaining approval from HMPPS, the prison's governor and the appropriate ethics committee for the study, the participants need to be provided with information to enable them to make an informed decision about taking part in the research **and** a record of the details of each participant's informed consent must be kept.

The specific details provided to participants will vary depending on the study, but will include:

- the name of the study
- the name(s) and status(es) (e.g. doctoral student) of the researchers carrying out the study and how to contact them **[only if appropriate]**
- a brief rationale of the study, including its purpose and value
- why potential participants are being invited to take part in the research
- an explanation of what the participant would do, including estimated duration of the session and when it would take place
- that potential participants can ask questions about the study before they decide whether to participate
- that potential participants can choose whether they participate and, if they agree, they may withdraw from the study without any consequences for them at any time by advising the researchers of this decision.
- details of any additional personal information that might be requested from them
- information about who would have access to the data, how it will be stored and what will happen to the data at the end of the study; including secure encryption of all data
- statement that the data will be at least pseudo-anonymised
- a statement that neither taking part nor not taking part in the research study will not alter the participant's life in prison, parole or his court case in any way
- If applicable, what benefits (direct or indirect) may accrue to the participants in the study
- what risks are involved in the study, including limits to confidentiality (see section 10)
- that the project has received ethics approval through the University of Oxford's ethical approval process for research involving human participants and personal data.
- where applicable, a note to explain that the research will be written up as a student's thesis / academic publication
- how the personal data included in that thesis will be published and stored

- the procedure for raising a concern or making a complaint. The usual CUREC complaints/ concerns procedure may need to be altered, given that, as a general rule, prisoners should not be given the researcher's or CUREC's direct contact details. Instead, any complaints/ concerns should be expressed first to the prison establishment, who will then inform the researcher and the relevant IDREC/ DREC Secretariat.

The Information Sheet **must be written in simple but non-patronising language**. Most word-processing packages provide readability statistics for a document, and researchers should aim for an average reading age of **7 - 10**. If there are literacy issues, an **oral consent script** will be acceptable.

4.2 Obtaining a record of participants' consent

Either written or oral consent (or a mixture of both) may be used for prisoners and prison staff (oral consent may be used e.g. in case of literacy issues.)

Please see CUREC's guidance on the informed consent process, including sample templates to be adapted.

4.3 Consent for audio or video recordings or photography

In the case where audio or video recordings (including still images or photography) are to be made, the consent form or script **must** contain an additional statement for the participant to sign or agree to, in order to give explicit consent for the use of these methods. The information sheet or script will need to clarify whether recordings might be made available to those outside the research team. If identifiable data could be used in a publication or scientific presentation then specific consent for this should be requested via in the consent form. If aspects are optional, eg prisoners can take part without being recorded, this should be made clear.

For example, "I agree that I can be photographed/ videoed" and for using this type of data for research purposes, e.g. "I understand that any photographs/ videos may be used in conference presentations/ on a project website/ in peer-reviewed journal publications".

4.4 Capacity to consent

Extra care should be taken during the consent process, both to ensure participants have the capacity to consent and to minimise any potential for coercion. Research involving participants who lack the capacity to consent falls outside the scope of this Approved Procedure.

5. REIMBURSEMENT

Researchers who are considering offering a small payment to participants should seek the advice of the prison governor on its suitability. Further guidance is available in CUREC's Best Practice Guidance 05, Payments and Incentives in Research.

6. MINIMISING RISKS TO PARTICIPANTS/ RESEARCHERS/ OTHERS

The researcher **must** conduct a risk assessment and obtain safety guidance from each prison they will be attending. All researchers will need to obtain security clearance and complete training on

safety, security and personal protection, and abide by the prison's safety protocols. In addition, an internal/ departmental risk assessment must be completed and University travel insurance sought if applicable. A copy of each should be submitted to the relevant IDREC or DREC with the research ethics application.

Any risk assessment must include how researchers will ensure their own physical and emotional safety while conducting their research in the prison, in addition to any security measures the prison will put in place. Please also see the Social Sciences Division's resources available to support researchers who may experience secondary trauma or psychological distress as a result of their research. Safety measures might include researchers being accompanied, surveillance cameras and/ or alarm buttons in the room, and security officers either in the room or within sight. Prisoners should be fully informed of the possibility of security officers being in the room if this is the case.

Electronic devices such as laptops must be encrypted; similarly, audio recording devices must be PIN-protected. Further guidance is available via Research Support research data management FAQs, Research Data Oxford's guidance on data management and the University's Information Security webpages for further advice on this.

7. MONITORING AND REPORTING OF ADVERSE OR UNFORESEEN EVENTS

- Researchers should be aware of the general levels of mental health of the prison population. If a participant should become unwell or seriously distressed during their participation in the research, the session must be terminated, and the event immediately reported to the nearest prison officer.
- Researchers should have a plan of who to speak to or refer to in case there are concerns related to the prisoners or prison staff. It is best practice to be acquainted with the support services available to prisoners and to have additional information about online resources/ helplines and face-to-face resources to hand if needed (e.g. Listeners, Mind, etc.).
- Researchers should ensure they are familiar with the criminal justice process/ system and keep a list of useful organisations with them, so that they can respond appropriately to queries or comments by prisoners or prison staff. For example, the Criminal Cases Review Commission will be helpful for any complaints about e.g. wrongful conviction; there are also organisations who will deal with concerns or complaints about prison conditions.[2]
- Audio recordings should be wiped from the audio recorder between prison visits (if there are multiple visits to the research site).
- In prisoner interview guides, it is a good idea to end on a positive and hopeful note, rather than ending with a question on e.g. barriers and challenges.

8. COMMUNICATION OF RESULTS

Information about individual prisoners should not usually be reported back to the prison, and this should be made clear within information provided to prisoners and prison staff. It is up to the researcher to decide whether general feedback should be offered about the results from the study as a whole.

[2] See the Offenders' Families Helpline website for some useful contacts and recommended procedures (accessed 26 January 2018).

9. DUTY OF CARE ISSUES/ CONFIDENTIALITY

Researchers should be very cautious about managing prisoners' expectations or offering advice to a prisoner or prison staff on the basis of research findings, particularly when the researcher is not qualified to offer assistance. On the other hand, the researcher does have a duty of care, and should not withhold information that could have serious implications for the participant. The question that the researcher needs to consider is whether drawing attention to a potential problem could lead the offender to gain access to services that might be of help.

For instance, if a researcher suspects the prisoner may have a treatable medical condition that has not been diagnosed, such as a hearing loss or visual impairment, then advice should be sought from a senior researcher. Depending on the circumstances, a decision may be made to inform the prison governor, and recommend that the prisoner has a fuller assessment. The researcher might discuss with the prison governor how best to liaise with other service providers if necessary (such as psychologists, therapists or priests) who have a professional role in assessing prisoners.

Researchers should be very clear about the limits of confidentiality they can offer to prisoners or prison staff, both in information sheets and when explaining the study verbally. The information sheet and/ or script should include a statement saying that confidentiality cannot be guaranteed if the participant discloses anything of a criminal/ illegal nature, behaviour against prison rules, or if the researcher strongly suspects that the participant or others in the prison or outside of the prison are suicidal or at risk of serious or imminent harm. Extra care needs to be taken to address the kind of information that can and cannot be disclosed to and by the researcher at information stage. Researchers may wish to ask participants specifically not to inform them of instances of illegal activity for which they have not already been convicted. The prison may also have its own policy for dealing with instances where confidentiality might need to be breached, and researchers should be aware of this. If the researcher feels that it is necessary to break confidentiality, the "participant will normally be informed of what action is being taken by the researcher unless to do so would increase the risk to those concerned" (including the risk to the researcher).[3]

In some cases, there will be a legal obligation to inform the authorities: any terrorist plans/ activities, a (planned) act of treason; and knowledge of a body that requires burial. If allegations of abuse of vulnerable adults/ children come to light, it is very likely that these cases will need to be reported. [4] Knowledge of money laundering may also need to be reported.[5]

It is important to seek specific guidance, on a case-by-case basis, in the first instance from Legal Services and the Head of Department, as well as the relevant IDREC Chair.[6]

10. DATA PROTECTION

It is good practice to pseudonymise the research data unless there is a good reason to retain the identities of the participants.

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[3] *Statement of Ethics for Researchers in the Field of Criminology* (2015) (accessed 9 October 2023)

[4] "Annex D - Illegal activities: implications for researchers", in *Guidance on issues in research ethics*, University of Brighton (version 2, July 2016)

[5] *Statement of Ethics for Researchers in the Field of Criminology* (2015) (accessed 9 October 2023)

[6] Legal duties of disclosure will be significantly different outside UK jurisdiction. Any research conducted overseas (not covered by this Approved Procedure) will be subject to different legislation, which researchers will need to be aware of when planning their projects.

Particular care should be taken to ensure confidentiality of audio and video recordings. These should be labelled with code numbers and date only, and kept securely, typically in an encrypted form. Researchers using audio/ video recordings should follow CUREC's guidelines on procedures for storing such data, please see its Best Practice Guidance on Data collection and management (BPG 09).

The basic rule is that if researchers do intend to divulge results to anyone outside the research team, this must be made clear at the outset in the information sheet or script.

There is no time limit on retention of completely anonymised data. If non-anonymised data is to be retained, the consent form must seek consent for this retention.

Research data needs to be kept for a minimum of three years after publication, and funders may have additional data retention requirements. Please see the University's Research Data Policy and guidance on funder requirements for data storage.

11. FURTHER INFORMATION

Guidance from the British Society of Criminology, the ESRC Framework for Research Ethics, the Social Research Association, the British Association of Social Workers and the Oral History Society should be consulted before the research starts. Other appropriate professional codes may apply. Please also refer to guidance on how to apply for HMPP clearance and, for projects also requiring approval from health and social care bodies, IRAS clearance. For more information on professional associations see the University's Research Ethics webpage on ethics guidance.

Moser DJ, Arndt S, Kanz JE, Benjamin ML, Bayless JD, Reese RL, Paulsen JS, Flaum MA. Coercion and informed consent in research involving prisoners. Compr Psychiatry. 2004 Jan-Feb;45(1):1-9. doi: 10.1016/j.comppsych.2003.09.009. PMID: 14671730.

12. CHANGE HISTORY

Version No.	Significant Changes	Previous Version No.
1.0	New Approved Procedure	n/a
1.1	Broken hyperlinks corrected	1.0
1.2	Updated to improve accessibility	1.1
2.0	Change of title to "Research involving staff or offenders in UK prison establishments or under supervision of the Probation Service". Clarification of the scope of the Approved Procedure, e.g that it includes offenders released into the community who are under the supervision of the Probation Service. Updated signposting to resources within and external to the University, including: a) Relevant BPGs; b) The Research Data Oxford website; c) The revised Health and Justice Research Network. Updated guidance on obtaining informed consent and data management.	1.2

Version No.	Significant Changes	Previous Version No.
2.1	Added reference to Worktribe Ethics online application system	2.0