

**MEMORANDUM OF UNDERSTANDING (MOU)**

**BETWEEN**

**SCOTTISH POLICE SERVICE**

**SCOTTISH PRISON SERVICE**

**PROCURATOR FISCAL SERVICE**

**THE RECOVERY OF DRUGS IN PRISON**

The purpose of this MOU is to provide officers of the Scottish Police Service and the Scottish Prison Service with a generic standard enabling them to fulfil the policy on the recovery of controlled drugs in prison. This memorandum takes cognisance of prisons managed by the private sector.

The Association of Chief Police Officers in Scotland (ACPOS), the Scottish Prison Service (SPS) and the Procurator Fiscal Service will review this memorandum and corresponding documentation on an annual basis.

It will be the responsibility of **SCDEA (or SPS)** to initiate the review process for this memorandum and corresponding documentation on behalf of the Group and to ensure that it is completed within the relevant time frame agreed by the Group.

Signatory	Signatory	Signatory
_____	_____	_____
Date	Date	Date
_____	_____	_____
Ms Angela Wilson Assistant Chief Constable Chair ACPOS/SPS Liaison Group	Ms Rona Sweeney Director of Prisons Scottish Prison Service	XXXXXXX XXXXXXX COPFS



## THE RECOVERY OF DRUGS IN PRISON

### GUIDELINES

<b>Version No.</b>	
<b>Date activated</b>	
<b>Review Date</b>	
<b>Review Organisation</b>	

The Lord Advocate has decided that it is no longer appropriate or necessary for all cases involving prisoners found in possession of a controlled drug, within the meaning of the Misuse of Drugs Act 1971, to be reported to the Procurator Fiscal. Accordingly, the Lord Advocate has agreed that subject to the conditions specified below Governors or Controllers in Private Prisons may deal with, as a matter of internal discipline and without report to the Procurator Fiscal, prisoners tried or untried, who have been found to be in possession of small quantities of Class B or C drugs (possessed for personal use). It is necessary that this policy operates consistently throughout Scotland.

### **DRUG FINDS**

All prisoners found in possession of illegal drugs are in breach of Prison Rules and will be subject to the SPS internal discipline process. In cases where drugs are reported to the Police the prison adjudicator should refer the case for Police investigation. If the Police or the PF decide not to progress with criminal proceedings this should be notified to the Prison as soon as possible to enable the prison to conclude internal discipline procedures. Procedures and mechanisms relating to the security, recording, packaging, testing and transferring of controlled drugs will be agreed between the Governor/Controller and the appropriate Police Force. All drugs found in the prison and dealt with through the internal disciplinary process – must ultimately be passed to the relevant Police Force for the area for disposal. In addition all drugs found where there is insufficient evidence to connect the drug with an individual i.e. drugs found within a perimeter fence must also be passed to the relevant Police Force for further enquiry and/or disposal.

### **CLASSIFICATION OF DRUGS UNDER THE MISUSE OF DRUGS ACT 1971**

#### **Class A Drugs – Action to be taken.**

**All finds of Class A drugs must be reported to the police**

- **Class A Drugs** includes Heroin, Ecstasy (MDMA), Cocaine, Methadone, Fluroamphetamine and LSD.

#### **Class B Drugs – Action to be taken.**

- **Class B Drugs** include Cannabis, Cannabis Resin, Amphetamine, Mephedrone, Barbiturates and Dihydrocodeine.

Cases involving the possession of small amounts of Class B drugs, in the absence of any factor indicating supply; being concerned in the supplying or possession with intent to supply may be dealt with by Governors/Controllers as a matter of internal discipline. Where a prisoner is found in simple possession of 5 grams or more of cannabis or cannabis resin or in simple possession of more than 5 tablets of any Class B drug, the case must be reported to the police.

**Class C Drugs – Action to be taken.**

- **Class C Drugs** include Temgesic, Temazepam and Diazepam. Cases involving the possession of small amounts of Class C drugs (less than 5 tablets) may be dealt with by Governors/Controllers as a matter of internal discipline, and need not be reported to the police.
- Where the nature of the substance is unknown, the case must be reported to the police.
- All drugs in liquid form must be reported to the Police
- Thereafter, Police to inform prisons of weights and nature of substances recovered and handed over to the police for action.

Crime Recording Standards – The above procedures have been agreed with due consideration been given to crime recording standards.

**SUPPLY**

Any offence which involves the offer to supply, actual supply, being concerned in the supplying or possession with intent to supply **any** class of controlled drugs must be reported to the police and ultimately the Procurator Fiscal. Circumstances from which supply or being concerned in the supply may be inferred include:

- The possession of quantities which exceed that for personal use;
- Possession of large sums of money;
- Tick lists and paraphernalia of drug dealing; and/or
- The manner in which the drugs were divided and/or packaged.

Where there is doubt or difficulty in relation to whether supply is involved, the case must be reported to the police.

**VISITORS**

Any offence by a visitor visiting a prison or involving both a visitor and a prisoner must be reported to the police.

## **MANAGEMENT OF SUSPECTED DRUG FINDS IN SCOTTISH PRISONS**

To ensure consistency of approach in every SPS establishment the following procedures must be adhered to at all times.

### **Training**

It will be the responsibility of Chief Constables and Governors, Directors for Private Prisons to provide appropriate training and direction for their officers with regards to the recovery, packaging, recording, testing and retention of suspected controlled drugs.

### **Prison Production Officers**

Governors have identified and should maintain sufficient numbers of trained staff who perform the role of Prison Production Officers.

### **Packaging of Productions**

Procedures are in place to ensure that when a substance suspected of being a controlled drug is recovered within the confines of a prison it will, as soon as practicable, be placed and sealed within the recognised Production Bag which has been approved by the Scottish Prison Service. The recovery, packaging and movement of productions must be corroborated to ensure no break in the chain of custody and therefore should always be witnessed by another member of staff.

### **Recording of Productions**

All such productions found in prisons are recorded in a standardised Productions Register as approved by the Scottish Prison Service.

### **Storage of Productions**

All drug productions recovered in prisons will be stored in a lockable cabinet/safe in the Intelligence Management Unit

### **Weighing of Suspected Substances**

Appropriate weighing equipment approved by the Scottish Prison Service is used in prison establishments for weighing suspected substances.

### **Presumptive Testing of Suspected Drugs**

Presumptive Testing Kits approved by the Scottish Prison Service are held within prison establishments for testing suspected substances and adequate numbers of prison staff are trained in their use. ***Refer to SPS Presumptive Testing Protocol.***

### **Production Bag Sealing**

All prisons are provided with Scottish Prison Service approved sealing equipment for re-sealing Production Bags following the weighing and presumptive testing of suspected substances.

### **Uplifting / Disposal of Suspected Substances**

The police will undertake to uplift/dispose of all suspected substances retained by Prison Service staff. The regularity of uplifting these productions should be determined at local level within the terms of the agreed lines of communication. A signature should be obtained from the Police on receipt of any production.

**Note: On no account will Prison Service staff convey suspected substances from a prison establishment to a police officer or any other location out with a prison establishment.**

### **Drugs Paraphernalia**

Governors may destroy as appropriate any drug paraphernalia found in isolation and not capable of leading to criminal charges. There must be no such destruction if found with associated substances, or along with other types of paraphernalia which in aggregate could infer criminality.

**Note: Paraphernalia may include: syringes, cling film, foil or any article made or adapted for drug abuse.**

### **Police Procedures as Regards Prison Productions**

The police will only accept productions from the Prison which are contained in the approved Prison Production Bag.

Police officers on receiving Prison Production Bags will record and dispose of same in line with local force procedures.

### **Summary of Working Practices**

When in the course of their duties, a member of the Scottish Prison Service or contracted out prisons recovers a substance which they suspect to be drugs, the preservation of this substance is essential to prevent contamination and the following procedures should be adhered to.

It is imperative that 2 staff are involved through the whole process to ensure corroboration of the chain of custody at all times.

The suspected substance should be placed in a Scottish Prison Service approved production bag which should then be sealed. The officer should thereafter complete the proforma displayed on each production bag and convey same to the designated Prison Production Officer.

The designated Prison Production Officer will, upon receipt of the production, enter all relevant information in to the Scottish Prison Service approved Production Register, and thereafter place the production in the secure Production Cabinet.

Where the circumstances indicate involvement of possession of small amounts of Class B drugs or Class C Drugs, in the absence of any factor indicating supply, being concerned in the supply, or possession with intent to supply, the case may be dealt with by Governors/Controllers as a matter of internal discipline. (as aforementioned on page 3)

The suspected substance in these cases should be subjected to weighing and presumptive testing by the designated prison officer using the Scottish Prison Service approved weighing and testing kit.

Once tested, the remaining substance should be returned to the production bag which should be re-sealed and returned to the Prison Production Officer for secure storage. The weight and test result should be recorded on the Production Bag and Production Register.

When dealing with all other circumstances then reference should be made to pages 3 and 4 of this document on guidance for appropriate action.