

## Serving Process in Prisons – England & Wales

### Booking the Legal Visit

First you will need to arrange a legal visit with the specific prison. The method of contacting the prison and the available legal visit time periods vary considerably from prison to prison. With some prisons you can only book appointments by fax, and others it is telephone or e-mail. You will need to supply the inmate's full name and at least a date of birth or possibly also a Prison Number.

To locate details of the relevant prison and their rules for legal visits, see this link:

<https://www.gov.uk/find-prison>

Once the appointment is booked, you should receive either an e-mail or fax confirmation from the prison. It is recommended that you retain a print-out of same in case there are any subsequent problems. Most prisons will also require a 'Letter of Introduction' briefly explaining who you are and the purpose of your visit. This can generally be achieved in a very short one paragraph letter. It may be that you will need to secure such a letter from your Solicitor or other client.

### Attending Prison

You should have photographic ID to produce, together with any letter of introduction. It is also recommended that you take an envelope in which the documentation can if necessary be left. Such envelope marked 'Prison Rule 39 – Legal Correspondence'.

It is recommended that you attend at least 15 minutes before the appointment to allow time to progress through the various security procedures. This will generally include at least a 'pat-down' and sometimes a search by a drugs dog.

Unless you have secured specific permission, it is generally the rule that you are not allowed to take any electronic/digital devices into a prison, including a Fitbit or similar. It's probably easiest to leave your mobile telephone in your vehicle. As a rule, after you have booked in at the prison, there will be lockers available for you to leave anything which is not required for the visit. Generally, you will be allowed to take in a watch, a clipboard or case, together with any documentation and paper to take notes, also 2 pens (one as a backup!).

**Tip:** *It is very useful to secure a prison number (also known as NOMS number) for the inmate you are serving. It makes it easier if you need to make a return serve. Often at the time of making the initial legal visit, you may not have the number. It is a good rule if you meet with the inmate and they are co-operative, to secure their prison number from them. The easiest way to do this is to have a copy of the covering letter which you are serving or the main documentation with a receipt for the prisoner to sign which shows ‘Signed ... Dated ... Prison No. ...’ Invariably inmates know their prison number off by heart and will automatically write the number in. Each prisoner is allocated a number when they first enter a prison and the same number is given for them if they serve subsequent prison sentences.*

*Inmates are often friendly and happy to chat. It’s a break from their boring daily routine. Could be useful to your client to ascertain a rough idea of what they are in prison for (if not already known), also when they’re due for release.*

### **Inmate refuses to see**

From time to time an inmate will refuse to see you in prison. The Prison Authorities cannot make them attend a legal visit. Believe it or not, they can even refuse to see Police Officers!

In those circumstances, depending upon the documentation (not with documents that can only be personally served) you can seal it up in an addressed envelope additionally marked “Prison Rule 39 – Legal Correspondence” and hand it to the first available Prison Officer (PO) with the request that they pass it on to the inmate. The PO will generally confirm that the documentation will be passed to the inmate, normally the same day. You will struggle to secure more precise confirmation. Please additionally note:

- Obtain the number & name (if possible) of the PO.
- If you do not already have it, ask the PO for the inmate’s prison number then add that to the addressed envelope and make a note of it for your records.
- Fully detail the sequence of events in your proof of service (be it Certificate, Statement or Affidavit). Right from booking the legal visit to receiving the confirmation. Even consider exhibiting a print-out of the legal visit confirmation from the prison.

### **To post or not to post**

Each prison tends to be a law unto itself and adopts its own “rules”. Some seem to actively discourage legal visits by process servers and instead request that any documentation is posted to an inmate.

You may find that in the event of a refusal (as detailed above) some prison staff will decline to take any documentation and insist that it is instead posted to the inmate.

This is, if nothing else, a confirmation that the inmate continues to “reside” at that prison.

If decide to post the documentation to the inmate via Royal Mail, ideally do so by tracked mail to confirm receipt. Always put the inmate’s full name and Prison Number on the envelope, also add – “Prison Rule 39 – Legal Correspondence”. The latter should ensure it’s passed directly to the inmate.

Some process servers (with their client’s consent) automatically post service documentation to the inmate by tracked mail **and** in addition arrange a legal visit. If the inmate is then met with, the process server seeks their confirmation that they have safely received the documentation. If the inmate declines the visit, the process server can still, as a minimum, exhibit the tracking page / proof of delivery from Royal Mail. Some process servers go a stage further and seek confirmation from prison staff that the posted documentation was distributed to the prisoner, although this can be an almost impossible task.

***Tip:*** *When serving process, such as a Statutory Demand or Bankruptcy Petition upon an inmate, it’s a good idea to book the legal visit at least a week ahead. Then send a conventional appointment letter to the inmate confirming the booked legal visit time and date. It’s the writer’s experience that persons who would otherwise decline a visit are more likely to keep the appointment if they’ve received a letter advising what it’s concerning. Again mark the envelope – “Prison Rule 39 – Legal Correspondence”.*