

**REPLY BY THE PRESIDENT OF
THE COMMITTEE FOR HOME AFFAIRS
TO QUESTIONS ASKED PURSUANT TO RULE 14 OF THE
RULES OF PROCEDURE BY DEPUTY S KAZANTSEVA-MILLER**

1. How many female offenders were or are in Prison in each year between 2015 and year-to-date 2021 who were mothers of children under 18 years of age?

Year	No. of Females with children under 18 years of age*
2015	4
2016	4
2017	11
2018	6
2019	10
2020	2
2021	3

*Not all prisoners were in the prison at the same time

2. What is the protocol for children visiting parents?

If any prisoner wishes to have contact with a child under the age of 18, they must complete the necessary application forms and consent for contact will be obtained from the parent currently providing care for the child (and additional advice sought from Children's Services/Family Proceedings Advisory Service (FPAS) if relevant).

If a parent in custody is identified as ordinarily being primary carer of a child(ren), they are permitted to have contact with their child(ren) during every allocated visit session and this will not be deducted from their Visits allowance under the Incentives & Earned Privileges scheme.

Every child under the age of 18 that visits the prison must be accompanied by an adult.

Additional Children's Visits sessions are provided on a monthly basis – craft and games activities are provided and during these sessions, the child can be left with the parent in custody under supervision of prison staff.

If there is a requirement for contact to be supervised, liaison takes place with Children's Services and arrangements can be made for supervised contact to take place in The Cabin (dedicated, child friendly space). This space can also be used for parenting assessments and family therapy in those cases with an identified need for this intervention.

3. What happens in the case of a pregnant female offender giving birth during her sentence? Is birthing care provided in the Prison or is the birthing mother taken to the Hospital?

The pregnancy is likely to have already been highlighted during preparation of pre-sentence reports by the Probation Service and consent will be sought to share this information with the Prison Healthcare Dept so they are prepared for the prisoner on reception into custody.

The Prison Healthcare Team will liaise with Midwifery Services and the Offender Management Unit (OMU) Team will liaise with Children's Services.

Pregnant prisoners are able to access ante-natal appointments in the Prison Healthcare Department if appropriate but escorts to Loveridge Ward can also be facilitated. Healthcare professionals are invited to book appointments in the prison at the same frequency as they would should the female be in the community.

A pre-birth planning meeting is convened in each case and this meeting is attended by the mother, Prison staff, midwifery services and Children's Services. The mother is escorted to Loveridge Ward for the labour and necessary period of post-natal care (with accompanying Prison officers). Arrangements are individually risk assessed and the mother is located in a private room on the ward as far as is possible and approved, immediate family members permitted to visit.

Post-natal appointments for mother and baby are facilitated in the prison or by external appointment if necessary.

4. What allowances are made to allow for the early bonding and breastfeeding of the mother and child at the Hospital and/or Prison?

A mother in custody receives the same midwifery advice as she would if she were in the community and breast feeding is generally promoted as being best for baby. If mother chooses and is able to breastfeed, the prison provide the necessary equipment for the mother to continue breast feeding on return to the prison. During periods of separation from the child, the mother will be given support to express and appropriately store breast milk which can be handed out to the carer of the child in the community. Mothers are able to breastfeed during contact with the baby in prison.

The Prison offer mothers daily contact with their baby in The Cabin facility – the prison is able to accommodate the baby being brought to the prison during the core working day period (approx. 9:15am – 4pm each day). This arrangement requires the approval of Children's Services and the carer in the community to be able and willing to bring the child in each morning and return to collect them each afternoon. The baby is not able to remain in the prison overnight and does not spend any time in the main body of the prison but remains in the specialist family facility. Additional

visiting sessions as a family can be arranged as per normal visiting arrangements for the main prison population.

5. What mother and baby/toddler facilities are provided in Prison? Is the baby able to remain with the mother in Prison?

The primary facility is The Cabin (see above) – this unit is designed to replicate home conditions and consists of a lounge/play area, small kitchen area and toilet with baby change facility. A pram, baby bath, steriliser can be made available if the mother does take up the offer of extended periods of contact within the prison.

6. What regulation or legislation governs the protocol around expectant mothers who will have their baby while in Prison as well as mothers with very young children?

[The Prison \(Guernsey\) Ordinance, 2013](#)

“Governor authorised to issue Prison Orders.

50. (1) *Subject to subsections (2) and (3), the Governor may issue a Prison Order by giving written notice of it within the prison in any manner the Governor thinks fit.”*

Prison Order 37 Mother and Baby Policy, Prison Order 54 Female Prisoners Policy

[The Prison \(Guernsey\) Regulations, 2013](#)

“Pregnancy and confinement.

78. (1) *A member of the healthcare team who is of the opinion that a prisoner is pregnant must promptly notify the pregnancy to the Governor.*

(2) *On becoming aware of a pregnancy, the Governor must ensure that the prisoner concerned –*

(a) *is not required to undertake any strenuous work or activity in the later stages of her pregnancy,*

(b) *is provided with food and drink which takes into account her dietary requirements during pregnancy, and*

(c) *if removed from association, is –*

(i) *kept under supervision so far as is reasonably practicable, and*

(ii) *required to share accommodation in a cell with another suitable prisoner, if a member of the healthcare team considers it necessary.*

(3) *A member of the healthcare team must arrange for the prisoner's transfer to hospital when required for the purpose of giving birth."*

7. Are the rights of the child under the UN Convention on the Rights of the Child (UNCRC), formally extended to Guernsey in 2020, considered when decisions are taken about sentencing of an expectant mother or mother of young children?

Under the separation of powers sentencing is not a matter for the Committee for Home Affairs neither is it a political one, rather it is a matter for the courts.

Whilst this is decision that rests solely with the judiciary, it is understood that in reaching this decision the Court would consider a comprehensive dossier of information. This would include, not only the circumstances and nature of the offence, but also information relating to the individual such as offending behaviour, and risk of reoffending or causing harm to others in the future.

8. Are the rights of the child under the UN Convention on the Rights of the Child (UNCRC), formally extended to Guernsey in 2020, a trigger to consider decisions about the Release on Temporary Licence (ROTL) of a mother, father or expectant mother?

Release on Temporary Licence (ROTL) is the mechanism that enables prisoner to participate in necessary activities, outside of the prison, that directly contribute to their resettlement into the community and their development of a purposeful, law-abiding life.

ROTL is not an entitlement, but a privilege for which prisoners must apply, in that regard the UNCRC do not trigger decisions about ROTL. There is no one determining factor which means an application for ROTL will be approved, applications are assessed individually, considering all relevant circumstances and in the full knowledge of all the circumstances of the prisoner's offence and offending behaviour. The decision informed by a rigorous risk assessment, necessary for maintaining public safety and the public's confidence in the judicial system.

In all cases, to be considered eligible, the prisoner must have no more than six months left to serve before their first potential release date. There are five different types of temporary release licences, these are set out in Prison Order 12, which is attached for reference. Prison Order 12 also details the criteria for all types of ROTL.

9. The 2020 Annual Prison report mentions that the Early Conditional Release Scheme, also known as Electronic Tagging, was launched as part of the Release on

Temporary Licence (ROTL) protocol. Could the Committee explain the rationale for launching the Electronic Tagging scheme?

The Early Conditional Release (ERC) was launched to provide opportunities for prisoners serving under 15 months' imprisonment or youth detention to be tested in the **local** community in Guernsey, prior to the end of their custodial sentence. This was not previously available for sentences of this length.

An example of when a prisoner might be considered for ERC could be if they were on the last year of an apprenticeship scheme, early release would allow them to complete their training and ultimately support their rehabilitation so that they might avoid re-offending in the future.

As with ROTL there is strict criteria for early release. A prisoner must still have served a minimum of 50% of their sentence and comply with a number of other requirements set out in Prison Order 18, which accompanies this response. In all cases, as with an application for ROTL referenced in question 8, the decision-making process includes a rigorous risk assessment.

In all cases a primary consideration is the need to maintain public safety and not undermine public confidence in the administration of justice.

10. What is the process by which it is decided who may be approved for the use of the Electronic Tagging scheme? Is it decided by the Prison, by judges or another method?

The criteria are set out in Prison Order 18 and referenced in response to question 9 above.

Section 7 of the Prison Order sets out the process by which applications are considered. The Deputy Governor will decide on the application, informed by the ECR Board Risk Assessment, in cases involving children this would include information from Children's Services and/or the Family Proceedings Advisory Services.

The prisoner receives written notification of the outcome of the ERC application from the Deputy Governor, if dissatisfied, the prison may request the Governor review the decision.

11. Does the Committee consider it important that the rights of the child under UNCRC should be considered as part of the process through which the decision to release offenders on temporary licence (ROTL) is made, in cases where offenders may have children?

See response under question 8 above. The Committee considers it important that all relevant factors, as set out in the relevant established Prison Order are consider

when determining an application for ROTL, this includes the requirement that the prisoner meets the criteria and that a rigorous risk assessment is undertaken by the relevant professionals.

12. Does the Committee consider it important that the criminal justice system takes into account the short, medium and long-term physical and psychological well-being and health of a mother and baby, especially given, but not limited to, the research on the importance of the bonding and care during the first 1000 days of a baby as well as the Early Years Foundation Stage (EYFS) for children under 5?

Under the separation of powers sentencing is not a matter for the Committee *for* Home Affairs neither is it a political one, rather it is a matter for the courts.

The Committee does consider the short, medium and long-term physical and psychological well-being and health of all individuals that encounter the criminal justice system to be important. This is a key element in for any offender to support their successful rehabilitation and reintegration into the community, which is an important objective for our prison service.

In terms of women who are awarded a custodial sentence the Committee is satisfied that prison policies have been developed and are in place have been appropriately informed by the United Nations Rules for the Treatment of Women Prisoner and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Guernsey Prison uses the HMIP Expectations to guide its policies and procedures and they are invited to inspect the Prison to audit its compliance to them. [Women's prison Expectations \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/women-prison-expectations/)