



Ministry of JUSTICE

National Offender
Management Service

LICENCE CONDITIONS		
This instruction applies to :		Reference :
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Issued on the authority of	NOMS Agency Board	
For action by	<i>Probation Trust Contract Managers</i>	
For information	Community Leads Offender Managers Victim Liaison Officers	
Contact	Brian Chapman Deputy Head of Casework Development, Public Protection Casework Section Email: ppcs.policy@noms.gsi.gov.uk Tel: 020 7035 1450 For extremism issues: CPPC@noms.gsi.gov.uk For victims issues: Laura.Toze@noms.gsi.gov.uk For Bespoke Condition queries: James.Hough@noms.gsi.gov.uk	
Associated documents	<i>PSI 04/2009 "Licence Conditions Polygraph Test"</i> <i>PI 02/2011 "Approved Premises National Rules & Guidance for Residents"</i> <i>PSI 34/2011 "Licences and Licence Conditions"</i>	
Replaces the following documents which are hereby cancelled :- PI 13/2010 "Licence Conditions"		
Audit/monitoring :		
Compliance with this instruction will be monitored by the Parole Performance Monitoring Board.		

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Executive Summary

- 1.1 This Probation Instruction updates PI 13/2010. It is the same instruction in the majority with the exception of the following changes: further explanation given in instances of placing licence conditions for the protection of victims where they have not given consent; clarification on small exclusion zones; a requirement for staff to take into account learning disabilities when explaining licence conditions; a new additional licence condition has been added to [Annex A and] Annex B and additional licence condition 4 in Annex B has been rewritten.

Background

- 1.2 The aims of the licence period are to protect the public, to prevent re-offending and to secure the successful re-integration of the offender into the community. Licence conditions should be preventative as opposed to punitive and must be proportionate, reasonable and necessary. How they are to be monitored and enforced must be evident. This instruction updates advice on the setting of conditions as well as updating the menu of additional conditions available. Please be aware that the service specification for Deliver Supervision on Licence is currently being produced which will define the mandatory outcomes and outputs to be delivered as part of this service.

Desired Outcomes

- 1.3 This Instruction has been issued to ensure that all Offender Managers are aware of:
- the arrangements for the setting of licence conditions;
 - the menu of additional licence conditions available to facilitate the effective management of risk in respect of offenders on licence;
 - the menu of additional licence conditions available, if necessary, in respect of extremist offenders;
 - the process for getting additional licence conditions approved; and,
 - the new arrangements for seeking an electronically monitored curfew as a condition of licence.

Application

- 1.4 Chapter 2 of this Instruction provides guidance on the process to be followed when seeking additional licence conditions, as well as the criteria to be met when considering whether such conditions are both necessary and proportionate:
- Annex A provides the menu of additional licence conditions available;
 - Annex B provides a menu of additional licence conditions that are available for extremist offenders only;
 - Annex C sets out the processes for the application of additional licence conditions, depending upon the sentence being served; and
 - Annex D sets out the process for liaising with electronic monitoring (EM) contractors when putting in place the arrangements for an electronically monitored curfew as a condition of licence, as well as providing a template of the protocol that should be used between the probation provider and the contractors.

Mandatory Actions

- 1.5 *Probation Trust Contract Managers must ensure that all relevant staff are aware of, and comply with, the mandatory requirements which are summarised below.*
- *Offender Managers must ensure that any additional licence condition in respect of indeterminate and extended sentence prisoners has a causal link to the kind of risk to the public that the sentence was imposed to address (i.e. intended specifically to manage and reduce the risk of further sexual or violent re-offending). It must also be possible to demonstrate that the condition is both necessary to manage the risk and proportionate to the level of risk.*
 - *Offender Managers must ensure that all licence conditions are necessary and proportionate in order to manage and/or reduce the risk of further offending of any nature. This will be determined by the offender's identified risk factors, which in turn will be based upon his previous offending.*
 - *Requests for licence conditions must be made on the PD1 form and should be made no later than 28 days prior to the offender's release.*

- *Prior to release (six months for MAPPA cases and four months for non MAPPA cases unless sentence length prevents it) Offender Managers must contact the local police and the relevant Victim Unit and take into account MAPPA meetings where applicable, to establish if there is a case for additional conditions to be inserted, although the final responsibility for recommending licence conditions remains with the Probation Provision.*
- *Offender Managers must ensure that any additional licence condition is taken from the menu of specified agreed conditions at Annex A to this PI.*
- *The menu of licence conditions in Annex B to this PI is for use for extremist offenders only. For the purposes of this document, extremist offenders includes all those convicted of offences under terrorism legislation and those whose offending is known to be linked to extremist organisations or causes including but not limited to Al Qaida inspired, extreme right wing or extreme left wing, animal rights or environmental issues. These conditions have been designed to manage the specific risks to the community that may be posed by these offenders as with other additional conditions, they should only be used where they can be demonstrated to be necessary and proportionate.*
- *Offender Managers must gain approval from the Public Protection Casework Section (PPCS) for any additional bespoke conditions not included in Annex A or Annex B.*
- *Offender Managers must explain each condition of the licence and consequences of breach on the first occasion the offender reports following release from custody. The offender must be asked to sign the licence in order to show that they understand their conditions.*
- *In cases where offenders have EM conditions, Offender Managers are now responsible for contacting the monitoring company in respect of electronic monitoring as a licence condition, to arrange for the equipment to be fitted and for the offender to be inducted.*

Resource Impact

- 1.6 The arrangements set out in this circular for the setting of licence conditions are already in place but are being updated. The introduction of a menu of licence conditions for extremist offenders should assist with the application of conditions to their licences and make the process speedier and more resource efficient. Responsibility for agreeing the protocol for the implementation of EM arrangements has been delegated to probation providers to liaise with EM contractors or the prison direct. The additional resource implications arising from this delegation is negligible.

Contacts

Please see front cover if you require further information about this PSI.

(signed)

Colin Allars
Director of Probation and Contracted Services

2. Operational Instructions

Standard Conditions for all Determinate Sentences

- 2.1 Examples of offenders who should be subject to these conditions include those standard determinate sentence prisoners released under the provisions of the Criminal Justice Act 2003 (2003 Act), short term determinate sentence prisoners serving 12 months and over but less than 4 years under the Criminal Justice Act 1991 (1991 Act), long term determinate sentence prisoners serving 4 years and over under the 1991 Act, extended sentence prisoners sentenced before and after 14 July 2008, and DCR prisoners who are released pursuant to the arrangements in s50A 1991 Act.
- 2.2 In order to ensure consistent treatment of cases, the menu of licence conditions derived from the Criminal Justice (Sentencing) (Licence Conditions) Order 2005 (2005 Order) is also used as guidance for licence conditions for those determinate sentenced offenders who fall to be released under the provisions of the Criminal Justice Act 1991.
- 2.3 *A determinate sentenced prisoner released on licence must be released on a licence containing the six standard licence conditions set out below.*
- i) To keep in touch with your supervising officer in accordance with any instruction you may be given;*
 - ii) If required, to receive visits from your supervising officer at your home/place of residence (e.g. an Approved Premises);*
 - iii) Permanently to reside at an address approved by your supervising officer and notify him/her in advance of any proposed change to address or any proposed stay (even for one night) away from that approved address;*
 - iv) Undertake only such work (including voluntary work) approved by your supervising officer and notify him or her in advance of any proposed change;*
 - v) Not to travel outside the United Kingdom unless otherwise directed by your supervising officer (permission for which will be given in exceptional circumstances only) or for the purpose of complying with immigration/deportation;*
 - vi) To be well behaved, not to commit any offence and not to do anything which could undermine the purpose of your supervision, which is to protect the public, prevent you from re-offending and help you to re-settle successfully into the community.*
- 2.4 Licences may also include additional conditions, for example, requiring electronic monitoring, drug testing and such other conditions, provided (in the case of standard determinate sentence prisoners who were sentenced under the provisions of the 2003 Act) they fall within one of the licence requirements prescribed in Statutory Instrument No 648 of 2005 of the Criminal Justice (Sentencing) (Licence Conditions) Order 2005.
- 2.5 These requirements are:
- (a) a requirement that he/she reside at a certain place;
 - (b) a requirement relating to his/her making or maintaining contact with a person;
 - (c) a restriction relating to his/her making or maintaining contact with a person;

- (d) a restriction on his/her participation in, or undertaking of, an activity;
- (e) a requirement that he/she participate in, or co-operate with, a programme or set of activities designed to further one or more of the purposes referred to in section 250(8) of the 2003 Act;
- (f) a requirement that he/she comply with a curfew arrangement;
- (g) a restriction on his/her freedom of movement (which is not a requirement referred to in sub-paragraph (f));
- (h) a requirement relating to his/her supervision in the community by a responsible officer.

2.6 A menu of additional conditions is at annex A. All of these conditions fall within one of the prescribed requirements. The menu of conditions should be sufficient to cover most, if not all risk factors. Nevertheless, it is recognised that, exceptionally, there may be occasions where a “bespoke” condition is needed as none of the conditions listed on a menu are deemed to be adequate to manage a specific area risk.

2.7 *Any further condition which seeks to impose something different from the additional conditions must:*

- (i) *fall within one of the requirements; and,*
- (ii) *not be applied to a licence without seeking agreement to this “bespoke” condition from the PPCS.*

Standard Conditions for Indeterminate Sentences Including Life Sentences and Sentences of Imprisonment for Public Protection (IPP)

- 2.8 Offenders serving a life sentence are released on licence pursuant to section 28(5) of the Crime (Sentences) Act 1997. Those serving an IPP sentence are also released under the 1997 Act as amended by Schedule 18 to the Criminal Justice Act 2003.
- 2.9 All indeterminate sentenced prisoners released on licence are subject to standard licence conditions similar to those listed for determinate offenders in 2.3.
- 2.10 Again, the menu of licence conditions derived from the 2005 Order should be used as guidance for licence conditions for indeterminate sentenced prisoners.

The “Good Behaviour” Condition

- 2.11 For both determinate and indeterminate offenders the good behaviour condition is designed to cover the majority of eventualities. For example, it can be used to deal with failure to adhere to Approved Premises rules, associating with other known offenders, inciting hatred in respect of extremist offenders, and any behaviour or incident that might give rise to an increase risk of serious harm or re-offending. Additional conditions should only be used to cover specific areas of concern which Offender Managers feel cannot explicitly be covered by this condition. In short, the “Good Behaviour” condition contains sufficient authority to manage the majority of risks in the community.

The Initial Induction Meeting

2.12 *At the initial induction meeting Offender Managers must explain that this condition covers all aspects of behaviour and can be used to recall offenders to prison if they do something that undermines their supervision in the community. If Offender Managers are aware of a particular area of risk they must highlight it at this meeting. A note of this discussion must be recorded on the contact log/Delius/Crams etc.*

Additional Licence Conditions

2.13 *If Offender Managers assess that standard conditions are not sufficient to assist the offender's successful integration into the community, to prevent further re-offending and ensure the protection of the public, consideration may be given to using the additional conditions at Annex A or B to this PI. If a condition is used from this list then the exact wording must be used and it must not be altered or tailored in any way.*

2.14 Before release the Offender Manager must contact the local police force, and/or the relevant Victim Unit where applicable, to ascertain if there is a genuine case for the inclusion of additional and/or bespoke conditions. In some cases additional conditions are proposed at MAPPA meetings. It is for the Offender Manager to make requests for additional licence conditions as part of their Risk Management Plan.

2.15 The Offender Manager must decide, in consultation with senior probation colleagues, if the request for an additional licence condition(s) is both necessary and proportionate to manage the offender's risk.

- **Necessary** means that the condition is necessary to enable the Offender Manager to manage the risks identified within the Risk Management Plan and no other less onerous condition will suffice. The condition must be needed to allow for effective management of the offender.
- **Proportionate** means that any restriction or loss of liberty arising from the imposition of the condition is proportionate to the level of risk presented by the offender that no other less intrusive means of addressing the risk is available or appropriate. The condition cannot go further than is necessary to manage the risk.

2.16 If the Offender Manager and senior probation colleagues are so satisfied on both counts, they must make a formal application for the condition to be included in the licence. *Offender Managers must complete the PD1 when requesting licence conditions and must provide a full explanation as to why additional conditions are deemed necessary and by the required deadline of no later than 28 days before the offender's release. Where additional conditions have to be approved by the Parole Board, Offender Managers must factor in the need to allow for sufficient time for the request to be considered.*

2.17 Additional conditions can only be inserted and can only be enforced if they are lawful. In practice, this means:

- The general rule to be followed is that where there is a statutory duty for the Secretary of State to release a prisoner automatically, the Governor will be responsible for setting the licence conditions; but where release is at the discretion of the Parole Board, then the Board will be responsible for approving the conditions.
- A full breakdown is available in Annex A.

- 2.18 Prison governors can only approve requests for licence conditions and do not have the authority to insert licence conditions that have not been recommended by Offender Managers.

MAPPA

- 2.19 MAPPA meetings do not have the authority to set licence conditions; their role is to make recommendations based on previous offending behaviour, criminal associations, victim considerations and any other community risk factor. It is for the Offender Manager to make requests for additional licence conditions as part of their Risk Management Plan.

Requesting Additional Licence Conditions.

- 2.20 The processes for requesting additional licence conditions or variation to licence conditions or, in respect of indeterminate sentence offenders, cancellation of conditions, have not generally changed. However, in respect of long-term 'non-converted' 1991 Act prisoners who are released at their Non- Parole Date (NPD), responsibility for setting the licence conditions has become a matter for the Governor on behalf of the Secretary of State, rather than the Parole Board (as a result of the implementation on 2 August 2010 of s145 Coroners and Justice Act 2009). This reflects the general position that where release is automatic the Governor sets the conditions on behalf of the SofS but where a prisoner is released at the discretion of the Parole Board, the Board must approve the conditions. Annex D sets out the processes for different types of offenders.

Judicial recommendations

- 2.21 The Criminal Justice Act 2003 introduced a power for sentencers, when passing sentences on those who have committed offences on or after 4 April 2005, to recommend to the Secretary of State the inclusion of specific additional licence conditions. The Secretary of State is required to give due regard to any such recommendation. There is a presumption that wherever possible, all such recommendations will be included when releasing a prisoner on licence. However, it is accepted that in some cases, the circumstances of the offender may have changed to such a degree that the concerns leading to the judicial recommendation are no longer relevant or that the condition may be detrimental to managing the offender's risk.
- 2.22 The Governor of the holding prison will send information on any judicial recommendations to the relevant Probation Trust shortly after the prisoner has been received after sentencing into custody using a copy of the record sheet 5089. Chief Executives of Probation Trusts have been advised to record locally any court-recommended condition(s) and ensure that it is considered prior to ANY type of release under Chapter 6 of the Criminal Justice Act 2003 occurring.
- 2.23 *If the OM assesses the recommended instructions as not being necessary or proportionate to managing the risk of the offender in the community, they must consult with PPCS to seek authority to omit such conditions from the licence. In cases where PPCS feels it to be detrimental or inappropriate to include the court-recommended licence condition in the licence, it will write to the sentencing judge to advise him/her of the decision and will provide reasons, and will also inform the Governor of the holding prison so that it may be recorded.*

Bespoke Conditions

- 2.24 *If standard or additional licence conditions set out in Annex A or B are not judged to be sufficient to manage specific risk factors, consideration must be given as to whether,*

exceptionally, an application needs to be made for a “bespoke” condition. If so a formal application must be made to the PPCS (Licence Variation Team). The application must set out why it is necessary and proportionate to manage a specific risk factor by a condition not listed in Annex A or B. PPCS will consider such requests within two days of the application being received. Where necessary, the caseworker will consult with legal advisors, not only on the lawfulness of the condition, but on how it should be drafted. Where an application is refused, the PPCS caseworker will provide reasons and will advise on what other conditions may be used or adapted to assist in managing the risks identified in the application.

Conditions for Extremist Offenders

- 2.25 *These conditions are set out in Annex B and have been designed to manage the specific risks to the community that may be posed by offenders convicted of terrorist or terrorism related offences in the event that the Offender Manager considers the management of the risk in the community requires additional licence conditions not covered by those listed in Annex A. As with other additional conditions, they must only be used where they are necessary and proportionate*
- 2.26 *Pre-release planning for extremist offenders should start with a multi-agency meeting at least six months before release. The MAPPA panel may recommend certain conditions based on the information that they have on the offender but it is up to the Offender Manager to decide, in consultation with senior probation staff, what conditions are necessary to manage the risk posed. Annex B sets out examples of the type of conditions that can be used to manage specific risk factors associated with extremist offending. They must not be used for other types of offenders.*

Victim Issues

- 2.27 Victims who qualify for statutory victim contact have the right to make representations about licence conditions that relate to them and be informed about relevant conditions which are included in the offender’s licence. Offender Managers, in consultation with Victim Liaison Officers (VLO), must be able to demonstrate that this condition is required because of the increased risk or perceived risk. If a request is made by a victim for a licence condition, it should be considered under the standard of grounds of necessity and proportionality; simply being requested is not in itself sufficient justification for inclusion without meeting those standard criteria.
- 2.28 A “no contact” condition or exclusion zone (see below) does not have to be restricted to the victim of the index offence. It could be the victim of a previous offence or the family of the victim, particularly where there is evidence that the offender may target them or seek to make contact even though contact may cause distress. It might also be appropriate to have a “no contact” or exclusion zone condition for someone who is at risk of becoming a victim, or who is vulnerable to the particular risk posed to the offender. This may be particularly pertinent with offenders who have a history of domestic violence, as evidenced by previous call outs, or intelligence from children’s services etc.
- 2.29 In some instances, the victim, or potential victim, may not support a “no contact” or exclusion zone condition, but the overriding objective of the licence is to prevent re-offending and protect the public. Where it is considered that the victim/potential victim is at risk from the offender, it is not therefore necessary to have the victim’s consent before applying these particular conditions. In the majority these cases it will be necessary for the victim to have opted into the victim contact scheme, as relevant information on the victim may be out of date, making it difficult to assess whether the related conditions are necessary or proportionate.

- 2.30 There is no requirement to name the victim or individual and in some circumstances there will be strong grounds for not doing so. In such cases the Offender Manager may apply for an additional condition which states that the offender should “not seek to approach, communicate with or contact the victim of the index (or recall offence) without the prior approval of.....” However, where circumstances allow, it is advisable to name the individual so that the offender understands unequivocally the purpose of the condition.

Exclusion Zones

- 2.31 In some instances it will be necessary to apply for an exclusion zone to prevent an offender from entering or visiting a specific area whilst under supervision. This could include restrictions around schools, addresses of previous victims or locations where the individual is at risk of drug and/or alcohol misuse. Exclusion zones are normally used to address criminality issues for example gang related offences or to address an identified threat to a victim or other person identified as being at risk.
- 2.32 A balance must be found in each case with the size and purpose of an exclusion zone condition needing to be reasonable, necessary and proportionate. Furthermore there may be occasions when it is necessary to balance the views of the victim with the need to support an offender’s effective resettlement. For example, in some cases the offender, with prior approval from the Offender Manager, may need to cross an exclusion zone by a prescribed route to get to work, or to enter the zone in order to seek medical care.
- 2.33 *Any exclusion zone must be spelt out clearly in terms of road boundaries. The offender should be given a map of the exclusion zones and the implications of the offender entering these should be explained at the initial meeting with the Offender Manager. A copy of the map should be sent to the Parole Board/Prison Governor as appropriate when applying for the condition.*
- 2.34 *It is important that an exclusion zone is drawn as tightly as possible, effectively to manage the risk that the offender presents while being proportionate and practical to manage and enforce. It may be necessary to obtain lifestyle details relating to the victim(s) and their families, such as where they live, work and socialise, together with similar information about the offender’s family and lifestyle patterns. Where there is a VLO involved, the Offender Manager must discuss the case so that the victim’s views are taken into account and their expectations are managed. Consideration must be given by the OM if an exclusion zone is the most appropriate measure in order to manage the offender’s risk in the community.*
- 2.35 *Although exclusion zones must be drawn as tightly as possible, OMs must take into account the possibility of increasing the risk to a victim by drawing the zone so tightly that it highlights where the victim resides when it is not already known to the offender. For instance, pin-point exclusion zones where only the victim’s home is in the zone should not normally be used due to the risks involved.*
- 2.36 *Where a wide exclusion zone is being considered, Offender Managers must consult with PPCS for advice, who in turn may seek legal advice.*

Electronic Monitoring

- 2.37 Electronic Monitoring (EM) as a licence condition is only available to those offenders who are considered a MAPPAs level 3 or a Critical Public Protection Case. It is no longer available more widely in the three pilot areas of Hampshire, Nottingham and West Yorkshire, the pilots in these areas were brought to an end in March 2010.

- 2.38 Where EM is applied as a licence condition to an offender's licence the relevant protocol should be drawn up between the Offender Manager and the monitoring company which will be either G4S or Serco depending on the area. A template for the protocol can be found in Annex E.
- 2.39 The Offender Manager will now be responsible for contacting the monitoring company to arrange for the equipment to be fitted and for the offender to be inducted onto electronic monitoring.

Explanation of Licence Conditions

- 2.40 *When explaining licence conditions to offenders prior to release, staff must ensure that the offender understands any such conditions, this is particularly important with additional and bespoke conditions as they may contain complex or detailed requirements. In addition, staff must take into account any issues such as English as a second language, or learning disabilities that may prevent the offender from understanding completely what is required of them.*

Review of Additional/Bespoke Conditions

- 2.41 *Offender Managers must ensure that Additional or Bespoke Licence Conditions are regularly reviewed to ensure that they remain both necessary and proportionate (as defined in 2.15). Thought should be given to the possible relaxation of each restriction if an offender is making progress, or their risk of harm has sufficiently decreased.*

Additional Licence Condition Criteria and Table

Any additional condition must be necessary and proportionate and where the sentence is an indeterminate sentence or an extended sentence must have a causal link to the index offence

Offender Managers should evidence that all conditions are reviewed on a regular basis. Conditions can be removed or altered (if necessary with approval of the Parole Board) if an offender is making progress and their risk of harm has sufficiently decreased.

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
<p>1. Contact Requirement</p>	<p>(a) Attend all appointments arranged for you with [... INSERT NAME ...], a psychiatrist/psychologist/medical practitioner and co-operate fully with any care or treatment they recommend.</p> <p>(b) Receive home visits from [insert name] Mental Health Worker</p>	<p>Where an offender manager requires an offender to attend a session with a psychiatrist / psychologist / medical practitioner, he or she must be named and must be willing to treat the offender concerned.</p> <p>This condition should only be used if the offender consents to the treatment. Declining to co-operate with this condition means the offender is not addressing his/her offending behavior and the possible consequence of this needs to be explained to the offender.</p> <p>Where consent is not forthcoming the expectation that the offender access psychiatrist/psychologist/medical intervention and treatment should be written in the RMP and SP. If the objective is not complied with then inference can be drawn that the ROH is not being addressed and the purpose of supervision/rehabilitation undermined. It will then be possible to recall under the relevant standard condition. This should be explained to the offender and recorded as the discussion having taken place.</p> <p>The requirement that an</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		offender attend a duly qualified medical practitioner also includes any reasonable request to undergo drug counselling.
2. Prohibited Activity Requirement	<p>(a) Not to undertake work or other organised activity which will involve a person under the age of ..., either on a paid or unpaid basis without the prior approval of your supervising officer;</p> <p>(b) Not to use directly or indirectly any computer, data storage device or other electronic device (including an internet enable mobile telephone) for the purpose of having access to the Internet or having access to email, instant messaging services or any other on line message board/forum or community without the prior approval of your supervising officer. You must allow a responsible officer reasonable access, including technical checks to establish usage.</p> <p>(c) Not to own or possess or permit in your address any computer without the prior approval of your supervising officer.</p> <p>(d) Not to own or possess more than one mobile phone or SIM card without the prior approval of your supervising officer and to provide your supervising officer with details of that mobile telephone, including the IMEI number and the SIM card that you possess.</p> <p>(e) Not to own or possess a mobile phone with a photographic function without the approval of your supervising officer</p> <p>(f) Not to own or use a camera without the approval of your supervising officer</p>	<p>It is possible to include conditions, which require offenders not to access the internet or own a computer, although these are difficult conditions to monitor and can normally only be achieved by setting a blanket restriction on the offender's access to computers. Similarly an additional condition may prohibit offenders from owning or using a camera or mobile phone with camera functions.</p> <p>These conditions should only be used where it is necessary and proportionate to manage the risk (such as members of a child sex offender ring who are known to use the Internet to distribute indecent material). Consideration will have to be given to practical exceptions, such as the use of a computer in a work environment. Prohibited activity conditions should always be subject to the clause "... without the prior approval of your supervising officer".</p> <p>Conditions prohibiting the consumption of alcohol, either on or off the site of an Approved Premises are difficult to enforce and there may be difficulties in arguing that limited consumption should always lead to recall. The condition to be of good behaviour contains sufficient power to request recall in those cases where risk is unacceptable after alcohol</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		<p>consumption or where an offender is ejected from an approved premises for consuming alcohol.</p> <p>There is no statutory provision to allow offenders who are released on licence to be required to comply with an alcohol test. Therefore, alcohol testing can only be conducted with the consent of the offender, though complying with alcohol testing can be made a condition of the Approved Premises rules which an offender is asked to sign on entry.</p>
<p>3. Residency Requirement</p>	<p>(a) To permanently reside at (name and address e.g. an approved premises) and must not leave to reside elsewhere, even for one night, without obtaining the prior approval of your supervising officer; thereafter must reside as directed by your supervising officer.</p>	<p>This condition is stronger than the standard condition to reside as approved. The standard condition requires the offender to notify the Probation Service of his address. This condition applies in cases where the supervising Probation Area decides it is necessary and proportionate to direct that the offender live at a particular address. Some offenders have in the past challenged the meaning of the term 'reside'. <i>Court judgments have confirmed that licence conditions formulated in terms of 'you must reside at' have the clear effect of requiring that the licensee spend <u>every</u> night at the place in question. It is therefore possible to insist that offenders stay <u>each</u> night in a particular address and must ask for permission to stay elsewhere.</i> If the offender should spend just one night away from the specified address they are in breach of this particular licence condition.</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
<p>4. Prohibited Residency Requirement</p>	<p>(a) Not to reside (not even to stay for one night) in the same household as any child under the age of ... without the prior approval of your supervising officer</p>	<p>Please see comments under Residency Requirement. Such a condition would normally be more effective if it is combined with a prohibited contact requirement.</p>
<p>5. Prohibited Contact Requirement</p>	<p>(a) Not seek to approach or communicate with [INSERT NAME OF VICTIM AND/OR FAMILY MEMBERS] without the prior approval of your supervising officer and/or the name of appropriate Social Services Department.</p> <p>(b) Not to have unsupervised contact with children under the age of without the prior approval of your supervising officer and [INSERT NAME OF APPROPRIATE SOCIAL SERVICES DEPARTMENT]</p>	<p>Licence conditions requiring an offender not to contact the victim or members of the victim's family should ordinarily include the names of the individuals to whom the 'no contact' condition applies. However, there may be exceptional circumstances particular to a case where the naming of an individual is not appropriate.</p> <p>In principle there are no legal difficulties in also inserting licence conditions requiring offenders not to contact or associate with children. However, as with all licence conditions, it should only be used where it is considered to be both necessary and proportionate to the risk involved. Even in those cases where it is considered appropriate, consideration may have to be given to practical exceptions, such as contact with family members under the age of eighteen, although even refusing in this type of contact may be justified in certain cases e.g. if the individual poses a risk to her/his own children.</p> <p>The use of such conditions is normally to supplement those conditions which prohibit living or working with young people. In terms of enforcement the wording of the condition does allow for</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		<p>travelling on public transport or going to the shops without breaching the condition relating to unsupervised contact.</p> <p>These conditions are usually considered in cases where other conditions are insufficient to protect children. When considering the upper age limit of the children to be protected, Offender Managers will have to consider the nature of the risk and there are no firm rules. For example, if the only available approved premises accommodation allows residents aged 17 and over, and if the supervising officer is satisfied the offender presents an acceptable risk, this might be the decisive factor.</p>
6. Programme Requirement	<p>(a) To comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your alcohol/drug/sexual/gambling/solvent abuse/anger/debt/prolific/offending behaviour problems at the [NAME OF COURSE/CENTRE].</p> <p>(b) Participate in a prolific or other priority offender project (PPO) [SPECIFY WHICH] and, in accordance with instructions given by or under the authority of your supervising officer attend all specified appointments with your supervising officer and any other agencies for the purpose of ensuring that you address your offending behaviour for the duration of the programme.</p>	<p>These conditions are routinely used to ensure offenders participate in offending behaviour programmes.</p>
7. Curfew Requirement	<p>(a) Confine yourself to an address approved by your supervising officer between the hours of [TIME] and [TIME] daily unless otherwise authorised by your supervising officer. This condition will be reviewed by your supervising officer on a</p>	<p>To be lawful the total number of hours allowed as a curfew is a maximum of 16 hours per day. However, any curfew over 12 hours needs to be cleared with PPCS and any</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
	<p>[WEEKLY/MONTHLY/ETC] basis and may be amended or removed if it is felt that the level of risk that you present has reduced appropriately.</p> <p>(b) Confine yourself to remain at [CURFEW ADDRESS] initially from [START OF CURFEW HOURS] until [END OF CURFEW HOURS] each day, and, thereafter, for such a period as may be reasonably notified to you by your supervising officer; and comply with such arrangements as may be reasonably put in place and notified to you by your supervising officer so as to allow for your whereabouts and your compliance with your curfew requirement be monitored [WHETHER BY ELECTRONIC MEANS INVOLVING YOUR WEARING AN ELECTRONIC TAG OR OTHERWISE].</p>	<p>reporting requirements within the non curfew hours could be unlawful, so these should be cleared as well. These curfew hours should also include any standard curfew added as part of residence at an Approved Premises (AP). For instance, where an AP has the standard curfew of 11pm to 8pm would count as nine hours towards the maximum of 12 and 16 hours. Blanket extended curfews across resident groups beyond those in the AP Rules are not allowed, and any extension to curfews must be considered on a case by case basis.</p> <p>EM is available for offenders who are MAPPA level 3 or for those offenders who are considered Critical Public Protection cases.</p> <p>Any requests in relation to Intensive Supervision and Surveillance Programme (ISS) being used as a condition of licence for Young Offenders, should be referred to the Youth Justice Board.</p>
<p>8. Exclusion Requirement</p>	<p>(a) Not to enter the area of [CLEARLY SPECIFIED AREA], as defined by the attached map without the prior approval of your supervising officer.</p> <p>(b) Not to enter [NAME OF PREMISES/ADDRESS/ROAD] without the prior approval of your supervising officer.</p> <p>(c) Not to enter or remain in sight of any [CHILDREN'S PLAY AREA, SWIMMING BATHS, SCHOOL ETC] without the prior approval of your supervising officer.</p>	<p>Requests for exclusion zones must be carefully applied in order to be lawful. Once the exclusion is shown to be necessary, it is critical to establish that it is proportionate, taking into account factors such as whether the offender has close family who live in the exclusion area, or where the exclusion would restrict his ability to work or to visit the doctor or dentist. Although the fact that an exclusion condition may have this effect might be relevant, it is not determinative in deciding</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		<p>whether the proposed condition is reasonable. The condition could be imposed, but the offender manager could grant occasional access.</p> <p>The exclusion area must be defined precisely. A blanket ban on entering a large town, for example, will not always be acceptable. The zone should be no bigger than is reasonably necessary to achieve the objective sought. In order to define the exclusion area as clearly and precisely as possible, it is necessary to draw the boundaries on a map or diagram. The offender must be in no doubt where the exclusion zone begins and ends.</p> <p>More limited exclusion zones may be used in order to prevent re-offending, for example, preventing an offender from entering an area where there are nightclubs and where previous offending has occurred.</p>
<p>9. Supervision Requirement</p>	<p>(a) On release to be escorted by police to Approved Premises</p> <p>(b) Report to staff at [NAME OF APPROVED PREMISES/POLICE STATION] at [TIME/DAILY], unless otherwise authorised by your supervising officer. This condition will be reviewed by your supervising officer on a [WEEKLY/MONTHLY/ETC] basis and may be amended or removed if it is felt that the level of risk you present has reduced appropriately.</p> <p>(c) Provide your supervising officer with details [SUCH AS MAKE, MODEL, COLOUR, REGISTRATION] of any</p>	<p>Conditions requiring compliance with Approved Premises or other accommodation rules must be avoided if possible. Such rules are many and varied and it is difficult to argue that recall is always a proportionate response to any breach. If an offender's consistent refusal to comply with rules presents a real risk to staff or other residents, it would be reasonable to seek to recall him under the condition to be of good behaviour.</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
	<p>vehicle you own, hire for more than a short journey or have regular use of, prior to any journey taking place.</p> <p>(d) Notify your supervising officer of any developing intimate relationships with women/men.</p>	<p>The condition requiring notification of vehicle details should normally only be applied for when the offending relates specifically to the use of a car and/or there is a direct causal link between the offender's identified risk factors and the use of a vehicle. As with all licence conditions, inclusion of this condition in a licence will have to be a necessary a proportionate way of achieving one or more of the aims of the licence to be lawful.</p> <p>Conditions relating to the notification of intimate relationships can be used if there is a specific risk of groups of people. Where specific risks are involved, a blanket ban may be difficult to justify and it would be preferable to say whether the condition relates to males or females and provide reasons.</p>
<p>10. Non-Association Requirement</p>	<p>(a) Not to contact or associate with [NAMED OFFENDERS/NAMED INDIVIDUAL] without the prior approval of your supervising officer.</p> <p>(b) Not to contact or associate with a known sex offender other than when compelled by attendance at a Treatment Programme or when residing at approved premises without the prior approval of your supervising officer.</p> <p>(c) Not to contact directly or indirectly any person who is a serving or remand prisoner or detained in State custody, without the prior approval of your supervising officer</p> <p>(d) Not to associate with any person currently or formerly associated with [NAME OR DESCRIBE SPECIFIC GROUPS OR ORGANISATIONS] without the prior approval of your supervising officer.</p>	<p>In most cases it will be difficult to justify a general condition preventing an offender from associating with "any ex-offender". The name of the offender must be inserted. It is acceptable to require non-association with named individuals who are linked with previous offending (for example, convicted members of a child sex offender ring) or individuals with whom the supervising officer has good reason to believe that association could lead to future offending (for example, a child sex offender who has forged links with other child sex offender whilst in prison). In cases where a person's offending is not linked to a restricted number</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		<p>of individuals it is more difficult to justify a non-association condition.</p> <p>In respect of associating with sex offenders the Offender Manager can consider this condition if it is reasonable that the offender could be expected to know certain individuals as they have served on the same wing, attended the same programme etc. The Offender Manager should evidence this at the point of enforcing this condition.</p> <p>Where an offender is associating with other criminals and there is reason to believe that the association is likely to lead to reoffending, the offender could be recalled under the good behaviour condition.</p> <p>This groups and organisation condition may be appropriate for certain offenders, but only if there is a clear link between the offending behaviour and/or current risk factors and one or more identifiable groups or organisations such as extremist groups or gangs. As with other conditions that engage the offender's rights, this condition can only be used where it is necessary and proportionate to manage the risk posed by the offender. You will need to take into account the nature of the offending to check that the condition is justified. Prohibited activity should always be subject to the clause ".....without the prior approval of your supervising officer".</p>

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
		[The Offender Manager must determine if it is appropriate to grant such approval in all the circumstances of the case.]
<p><i>Although this particular condition is <u>NOT</u> part of the list of 'Requirements', it is open to the Secretary of State to include it on a prisoner's release licence. However, decisions to include the condition in a licence MUST accord with the guidance set out in this particular page of this Appendix.</i></p>	<p>(a) Attend [INSERT NAME AND ADDRESS], as reasonably required by the probation officer, to give a sample of oral fluid / urine in order to test whether you have any specified Class A drugs (heroin or crack/cocaine) in your body, for the purpose of ensuring that you are complying with the condition of your licence requiring you to be of good behaviour.</p>	<p>Any offender who is found to be in possession of Class A drugs has immediately put himself in breach of the standard condition to be well behaved.</p> <p>This provision is limited to offenders defined as 'prolific and other priority' (PPOs) by local Crime and Disorder Reduction Partnerships (CDRPs). It is limited by the Secretary of State to particular drugs (currently heroin and cocaine/crack cocaine). <i>The condition must be necessary and proportionate. Beside being PPOs, offenders must be over 18, have a substance misuse condition linked to their offending, and have served their sentence for a 'trigger offence' specified by the Criminal Justice and Court Services Act, s.64 and Schedule 6 (as amended).</i> These are (broadly) acquisitive crimes and class A drugs offences. Details of the provision are laid out in PC34/05, 72/05, and 30/06.</p>

Annex B

Additional Licence Conditions ONLY for Extremist Offenders which may be used in addition to those listed at Annex A, providing proportionality is met.

Any additional condition must be necessary and proportionate and where the sentence is an indeterminate sentence or an extended sentence must have a causal link to the index offence

Extremist offenders may pose specific risks which cannot be sufficiently managed by the application of conditions designed for other offending groups. This list of conditions has been prepared to address the risks that have been identified to date and should significantly reduce the need for bespoke conditions.

A case must be made for the application of additional conditions on each individual offender and before applying any of the conditions offender managers must have clear evidence that they are necessary and proportionate. This should be recorded on the case record.

Offender Managers should evidence that all conditions are reviewed on a regular basis. Conditions can be removed or altered (if necessary with the approval of the Parole Board) if an offender is making progress and their risk of harm has sufficiently decreased.

REQUIREMENTS	LICENCE CONDITIONS	ADVICE
1. Prohibited Contact	(a) Not to contact directly or indirectly any person whom you know or believe to have been charged or convicted of any terrorist related offence, without the prior approval of your supervising officer.	These conditions are in addition to the prohibited contact ones in Annex A and cater for those charged under the Terrorism Acts.
2, Non-Association Requirement	(a) Not to attend or organise any meetings or gatherings other than those convened solely for the purposes of worship without the prior approval of your supervising officer.	It is possible to include conditions for these offenders surrounding their worship and engagement with religious activities if there is a concern that this will undermine the purposes of supervision. This needs to be clearly articulated. Again they should only be used where it is necessary and proportionate to manage the risk. You will need to take into account the nature of the offending to check that the condition is justified. Prohibited activity should always be subject to the clause “.....without the prior approval of your supervising officer”. [The Offender Manager will determine if it is appropriate to grant such approval in all the circumstances of the case.]
3, Restricted activity	(a) To only attend places of worship that have been previously agreed with your supervising officer. (b) Not to give or engage in the delivery of any lecture, talk, or sermon whether part of an act of worship or not, without the prior approval of your supervising officer. (c) Not to have in your possession any printed or electronically recorded material or handwritten notes which contain encoded information or that promote the destruction of or hatred for any religious or ethnic group or that celebrates, justifies or promotes acts of violence, or that contain information about military or paramilitary technology, weapons, techniques or tactics without the prior approval of your supervising officer. (d) Not to engage in any discussion or act to promote grooming or influencing of an	It is the nature of the offending and evidence from the circumstances of the index offence that justifies the need for this condition. This may be used where there are grounds for thinking an offender may try to recruit or

	individual or a group for the purpose of extremism or radicalisation.	engage others in behaviour which supports extremist offending (e.g. within an Approved Premises setting). This may be based on observed behaviour in custody or on the index offence.
4. Supervision requirement	To notify your supervising officer of the details of any passport that you possess (including passport number), and of any intention to apply for a new passport.	

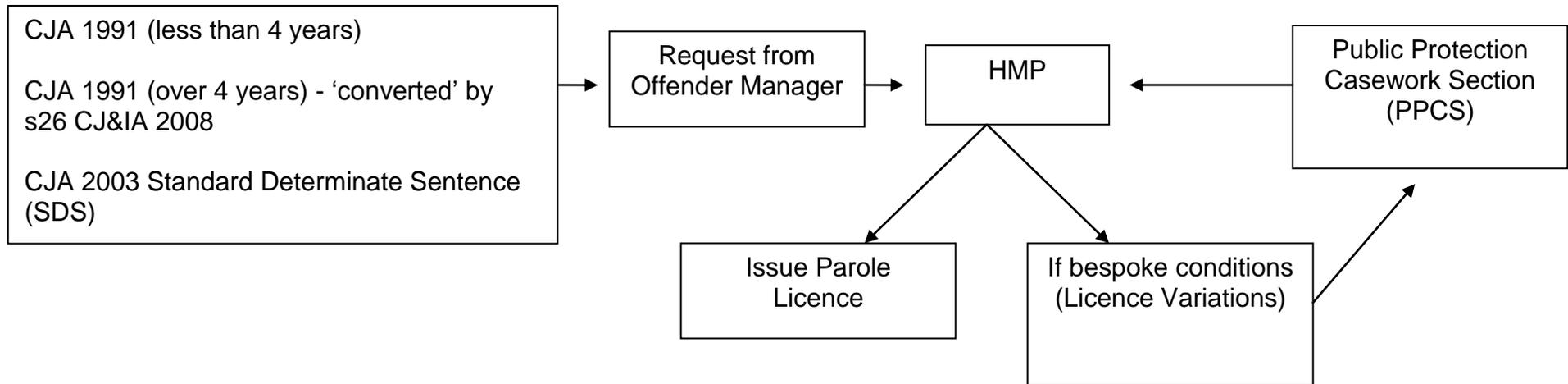
Breakdown of Responsibility for Approving Additional Licence Conditions

- Where the prisoner is serving a standard determinate sentence under the provisions of the 2003 Act, the condition must fall within one of the requirements specified in the Statutory Instrument. The condition must be approved by the Governor on behalf of the Secretary of State.
- Where the prisoner is serving a sentence under the provisions of the 1991 Act of 12 months and over and less than 4 years, or 4 years and over but where the sentence has been 'converted' by the provisions introduced by s26 Criminal Justice and Immigration Act 2008 (s50A) – i.e. where release is now automatic for non-Schedule 15 sexual or violent offence – the condition must be approved by the Governor on behalf of the Secretary of State. In other words, the Governor approves the conditions in all 1991 Act cases where release is automatic at the half-way point of sentence rather than subject to the parole process.
- Where the prisoner is serving an indeterminate sentence or a determinate sentence of 4 years and over under the 1991 Act (DCR prisoners whose sentences are not subject to the 'conversion' provisions), the condition must be approved by the Parole Board. In other words, the Parole Board must approve all additional conditions in cases where release is at the discretion of the Board. A condition which has not been approved by the Board has no legal force. If it is not apparent a condition has been referred to the Parole Board for approval, the Offender Manager must contact the prison to check.
- Where the prisoner is serving a determinate 'non-converted' sentence of 4 years or more under the 1991 Act and the Parole Board has declined to release between the Parole Eligibility Date (PED – half-way point) and the Non-Parole Date (NPD – two-thirds point), and release therefore becomes automatic at the NPD, additional conditions would then fall to be approved by the Governor on behalf of the Secretary of State (unless the Parole Board has already made recommendations on the conditions that should apply at NPD release, in which case the Board will continue to be responsible for those conditions).
- Where the prisoner is serving a mixture of 1991 Act and 2003 Act sentences, responsibility for approving additional licence conditions will depend on whether the effect of the combined sentences is to produce an automatic release date or a discretionary release date. If release from those combined sentences is automatic, the Governor will approve the condition on behalf of the Secretary of State; but where the release as a result of the parole process then the Parole Board will approve the condition.

Flowcharts for Determinate Sentenced Prisoners

Annex D

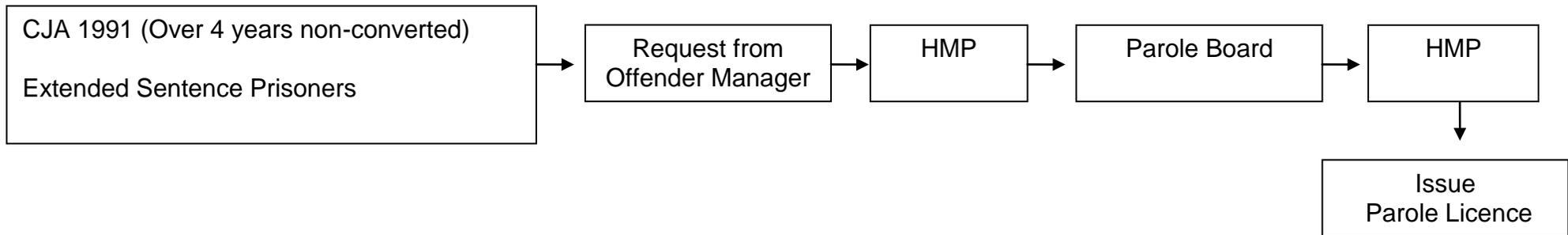
Pre & Post Release



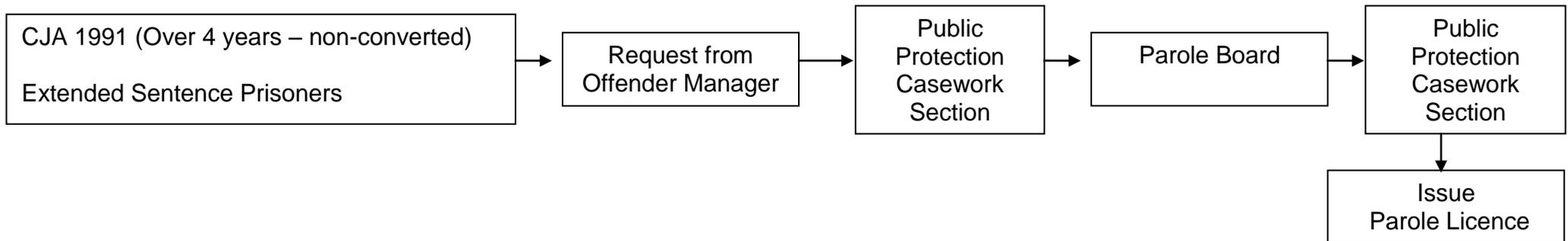
Flowchart for Indeterminate/Life Sentenced Prisoners

Annex D

Pre - Release



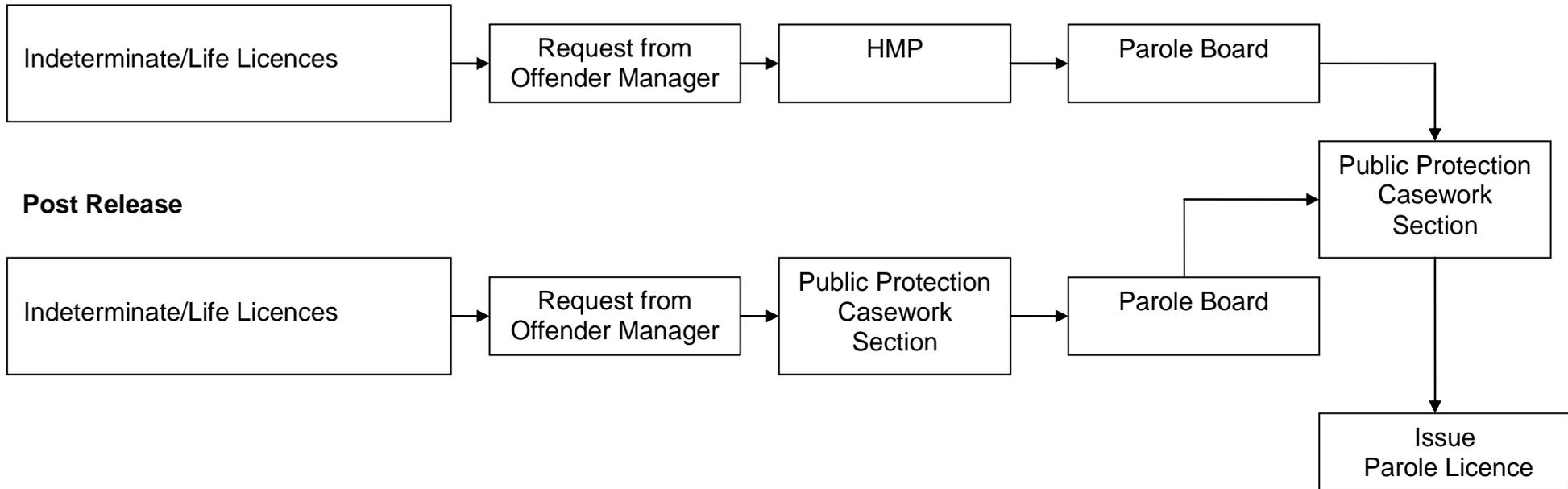
Post Release



Indeterminate/Life Sentenced Prisoners

Annex D

Pre Release



PROTOCOL FOR THE ELECTRONIC MONITORING OF (NAME)..... IN THE Probation Trust

Introduction

This protocol has been prepared on the basis that (NAME)..... will be tagged as a condition of his **release licence** at **Approved Premises**. The Probation Trust must explain the terms and conditions of being electronically monitored to (NAME)..... .

1. (NAME)..... will be electronically monitored between the times of each day and for seven days a week, commencing on**(or until further notice)**.
2. The Probation Trust will explain to (NAME) that he will be monitored by electronic means during the above-mentioned hours. **Serco/G4S Monitoring Services** will arrange for staff to attend the curfew address to install the equipment and explain to (NAME)..... how the equipment operates.
3. **Serco/G4S Monitoring Services** will monitor (NAME).....presence electronically while he is at the curfew address, including the usual drive by arrangements if required. **Serco/G4S Monitoring Services** will install sufficient home monitoring units at the curfew address to ensure full coverage with an element of redundancy. The Site Monitoring Unit “stay alive call” frequency will be set at 60 minutes.
4. For every unauthorised absence recorded during normal office hours and for absences recorded outside normal office hours, **Serco/G4S Monitoring Services** will contact **Duty Officer at....., immediately** by telephone on who will in turn notify**Probation Officer** on In the event of breach action being taken the **AP Manager** will contact **Duty ACPO** onor (out of office hours). Who will in turn notify Police on The Public Protection Casework Section must be informed **on 020 7035 3712 between 9am – 5pm or 0870 000 1585 if out of office hours** breach action is to be undertaken.
5. **Authorised absence during curfew period** If (NAME)..... needs to leave the curfew address during the hours in which he is being electronically monitored, prior notification must be given by the supervising probation officer, AP manager (or their appointed deputy) to the contractor. **Serco/G4S Monitoring Services** should be notified on **08080 152 369 on immediately** to inform them of his authorised absence before he leaves the curfew address. For all authorised absences during the curfew hours, **Serco/G4S Monitoring Services** is to be advised of:
 - The time (NAME)..... is permitted to leave
 - The time (NAME)must return by
 - The time at which (NAME) returns

A code word will be agreed between **Serco/G4S Monitoring Services**, the AP manager and the supervising probation officer, which will be used on such occasions.

6. **Unauthorised absences** If an absence is recorded, **Serco/G4S Monitoring Services** will notify the Senior Probation officer **immediately**, as outlined in paragraph 4. It will be for the supervising probation officer to take any follow-up action in line with usual procedures. **Serco/G4S Monitoring Services** staff will not be required to visit the curfew address to

confirm the absence. **Serco Monitoring Services** will confirm any absence in writing within 24 hours of the absence being registered.

As per paragraph 5, a code word will be agreed between **Serco/G4S Monitoring Services**, AP manager and the supervising probation officer, which will be used on such occasions.

- 7. **Tamper** In the event of a tamper, **Serco Monitoring Services** will liaise with the AP duty officer to inspect the equipment and replace any damaged equipment as soon as practicable. It may be necessary for the contractor to have access to the curfew address outside curfew hours in order to replace any damaged equipment.
- 8. **Inability to monitor** If at any time **Serco/G4S Monitoring Services** are unable to monitor (NAME)..... they must inform the supervising officer, as outlined in paragraph 4, the Public Protection Casework Section, must also be informed by 10am the following day.
- 9. **Equipment checks** **Serco/G4S Monitoring Services** will undertake routine checks on the monitoring equipment, in line with the usual contractual arrangements.
- 10. **Serco/G4S Monitoring Services** will ensure that only staff who need to know about (NAME)..... are told about him and that staff do not speak to or otherwise provide information to the media or other parties. Absolute confidentiality must be adhered to.
- 11. In the event of **Serco/G4S Monitoring Services** staff receiving an enquiry from the media, **the duty director** must be notified immediately and will deal with the enquiry. Enquiries will be handled in line with lines to take provided by NOMS who will be notified of the query immediately. If the enquiry occurs outside usual business hours, **Serco/G4S Monitoring Services** will notify the **Electronic Monitoring Team's** on call duty officer on 0767 330428 or 07967 659702. **The Electronic Monitoring Team's** on-call officer will notify the NOMS Communications Directorate on 020 7273 4600, if appropriate.
- 12. **Serco/G4S Monitoring Services** staff will maintain records in line with existing practice and additionally keep a written record of all contact regarding the monitoring of (NAME)..... Records are to be completed and signed by the staff involved in the contact before the end of the shift during which the contact took place.

SignedApproved Premises
 Signed.....ACPOProbation Trust
 Signed.....POProbation Trust
 SignedPolice