



National Offender
Management Service

Commissioning Group

Drug Testing and Drug Appointment Licence and Post-Release Supervision Conditions

Guidance on Supporting Integrated Delivery

July 2015 (Version 2)

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Executive Summary

This document provides non-statutory guidance for providers of probation services in both the National Probation Service and Community Rehabilitation Companies as well as prison Governors and Directors in applying the changes to the Drug Testing requirement and new Drug Appointment requirement as part of a licence condition or a post-sentence supervision period introduced by the Offender Rehabilitation Act (ORA) 2014. It does not apply to testing linked to licence conditions to reside in Approved Premises.

It provides practical advice on application of the licence and post-sentence supervision conditions, as well as sign-posting to useful resources and how to contact NOMS subject matter leads for further advice.



Introduction

Offenders released from custody may be subject to a period of licence following release. 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*.¹ Licence conditions should be preventative as opposed to punitive and must be proportionate, reasonable and necessary. There are seven standard conditions that apply in all instances, and three standard conditions that must be imposed in certain circumstances, such as a requirement to be subject to drug testing on release from prison. Licence conditions may be recommended by a court, by the Parole Board or by offender managers, but where a prisoner is subject to statutory release by the Secretary of State, licence conditions will be signed by the Governor of a public sector prison or Director of a contracted prison. Time spent 'on licence' is supervised by probation services.

The ORA 2014, which came into force on 1 February 2015, introduces a number of key changes to the operation of supervision on release from custody and licence conditions, including:

- replacing the former Probation Trusts with a National Probation Service (NPS) responsible for court work and high risk offenders, and 21 Community Rehabilitation Companies (CRCs) responsible for the supervision of low and medium risk offenders and for 'through the gate' rehabilitation services in prisons
- introduction of new supervision arrangements (post-sentence supervision) for offenders released from fixed-term custodial sentences of less than 2 years, so that all offenders are supervised in the community for at least 12 months
- All offenders leaving custody are now subject to a licence condition with three exceptions;
 - Those who receive a sentence of one day
 - Those who receive a sentence of less than 12 months but would be under 18 years old on release
 - Those who committed their offence prior to 1 February 2015
- replacing the Specified Activity Requirement (SAR) as well as the supervision requirement of a Community Order with a new Rehabilitation Activity Requirement (RAR)
- changing the eligibility criteria and scope of the existing Drug Testing licence requirement
- introduction of a new Drug Appointment licence and post-sentence supervision requirement .

PSI 2014/32 - PI 30/2014 '**Drug Appointment and Drug Testing for Licence Conditions and Post-Sentence Supervision Requirements**'² (published May 2014) sets out the detailed requirements and actions for both the NPS and CRCs to support drug testing under licence and during post-sentence supervision.

¹ See PSI 40/2012 www.justice.gov.uk/downloads/offenders/psipso/psi-2012/psi-40-2012-licences-and-licence-conditions.doc

² www.justice.gov.uk/downloads/offenders/psipso/psi-2014/psi-32-2014-drug-appointment-testing.pdf

This non-statutory guidance is intended to supplement the PSI by providing non-mandatory proposals about administration of the revised drug testing and new drug appointment conditions. In doing so it also sets out the wider principles of drug testing and identifies how drug testing on licence differs from other purposes of drug testing in the community. References to other useful guides and sources of information are provided, as well as information on who to contact in NOMS for further information.

Drug Testing of Offenders

Types of drug testing

The links between crime and substance misuse are well understood. Drug users are estimated to be responsible for between a third and a half of acquisitive crime³ and treatment can cut the level of crime they commit by about half.⁴ The misuse of drugs creates both direct and indirect problems, including serious harm to health and problems associated with the dealing and buying of drugs including debt, violence and serious organised crime.

Offenders may be subject to drug testing arrangements for a variety of reasons during the course of a sentence in custody, in the community, or both. The purpose, rationale, type and responsibility for drug testing will vary depending on where and why testing is undertaken, as will the implications of failing a test.

Drug testing is mainly undertaken to test for substances that are controlled under the Misuse of Drugs Act 1971 and are thereby illicit substances or illegal.⁵ This list is continually being updated to include new classified substances, as well as substances made subject to Temporary Class Drug Orders pending full classification. The list includes over 500 New Psychoactive Substances (NPS), often misleadingly referred to as 'legal highs'. The Home Office maintains a list of controlled drugs and their classification.⁶ When a drug is controlled in legislation this does not automatically mean that it can easily or reliably be tested for. This is particularly the case with New Psychoactive Substances. In addition, a number of drugs that are non-illicit and legal may be misused to produce similar effects to illicit substances, for example the misuse of prescription drugs including sedatives. In practice, substance misusers may mix substances, and testing must be able to understand such poly-use.

As a general principle, **drug testing cannot be undertaken without the consent of the individual** as it generally involves an invasive procedure to collect a sample for testing. The two currently most reliable and widely used forms of drug testing are either urine testing or oral fluid (saliva) testing. A number of other types of testing have been or are being trialled, such as hair follicle and fingerprint sweat testing. However, none of these types of testing currently meets Home Office standards for approval by use of law enforcement agencies for the purpose of

³ MacDonald, Z., Tinsley, L., Collingwood, J., Jamieson, P., and Pudney, S. (2005): *Measuring the harm from illegal drugs using the Drug Harm Index*. Home Office Online Report 24/05
<http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs05/rdsolr2405.pdf>

⁴ National Treatment Agency (2012): *Estimating the crime reduction benefits of drug treatment and recovery*
www.nta.nhs.uk/uploads/vfm2012.pdf

⁵ The Criminal Justice and Courts Bill 2014 amends Prison Rules to allow the Secretary of State for Justice to prescribe the testing of any named substance within prisons, whether controlled or not.

⁶ www.gov.uk/government/publications/controlled-drugs-list

testing substances suspected to be controlled drugs (known as Type Approval). The Home Office regularly publishes a list of currently type-approved tests.⁷

Of the two widely used testing types, urine testing is able to test for substances in a person's system for significantly longer than oral testing. Collecting such samples is, however, more invasive, as it requires the use of a sample pot for a dip and read test, with appropriate privacy and hygiene arrangements. Where intended for use as part of a process with punitive implications, individuals giving samples should be supervised to ensure that they are not tampering with samples (for example by providing another person's sample). Oral fluid testing is less invasive and simply requires running a swab around the lining of the mouth; but it can test for substances in a person's system for a far shorter period. As a general rule, testing in custody uses urine testing, while testing of offenders in the community uses oral fluid testing.

In addition to using type-approved tests, it is also important to ensure that they are administered correctly by properly trained staff and in line with clear guidelines about cut-off levels for tests. This includes the need to understand waiting periods for different substances, to ensure that repeat testing is not picking up the same drug-taking episode, particularly where drug testing powers are linked to specific locations such as testing under prison rules or Approved Premises rules. It is therefore important to have in place appropriate independent quality assurance arrangements.

NOMS standards for effective drug testing

In order to meet the highest possible standards for all drug testing NOMS expects, and where testing is used as part of an order or sentence of the court (where results could mean punitive actions are taken) requires, that drug testing arrangements are able to meet a **legal burden of proof**. To meet this standard testing arrangements should:

1. Use only drug testing kits which are **type-approved** by the Home Office and appropriate to the environment in which they are undertaken (i.e. urine testing for custody and oral testing in the community)
2. Be administered only by staff who have been specifically **trained** in the use of the type-approved kit being used
3. Be subject to an independent **quality assurance** process to ensure that test kits meet required standards and are being used correctly, including calibration, interpretation of test results and adherence to waiting times for repeat testing

⁷ www.gov.uk/government/publications/circular-0132014-the-testing-of-substances-suspected-to-be-drugs

4. Where testing positive can have potentially punitive implications and test results may be challenged **confirmatory testing** arrangements should be in place. This will normally mean that the same sample will be tested independently in a laboratory to prove beyond reasonable doubt the validity of a positive test. This includes ruling out false positive results, including those from cross-contamination from taking commonly prescribed medications. Confirmatory testing is not normally required as part of Voluntary Drug Testing regimes.

In order to ensure that all providers to NOMS are able to satisfy this standard in relation to the ORA 2014 requirements for drug testing on licence or post-sentence supervision NOMS has put in place a national drug testing contract that meets these criteria which both the National Probation Service and CRCs are expected to use. In addition to giving providers to NOMS confidence in their drug testing arrangements, by consolidating demand for test kits, NOMS is able to use volumes to negotiate a more competitive price per test than individual providers seeking to negotiate smaller contracts. This aims to ensure maximum value to the taxpayer.

In exceptional circumstances providers may apply to use arrangements outside of the national contract, but only where they can demonstrate that it meets the same standards and offers better value for the taxpayer.

Details of how both the NPS and CRCs can draw on the national contract, or seek to apply to use different arrangements have been sent directly to each NPS division and CRC.

Drug Testing on Licence and Post-Sentence Supervision

Background

The purpose of drug testing offenders released from prison as a licence condition is to support those with substance misuse issues to achieve sustainable recovery and ensure continuity of treatment and or support on re-entering the community. It recognises that many offenders may have begun or even completed a journey towards abstinence from addiction, but need additional support and encouragement on release. It specifically recognises the risks from exposure to the environments and peer groups that may have condoned or facilitated their drug-taking behaviour, in terms of both risk of harm and risk of re-offending. It also specifically recognises the heightened risk of premature deaths from overdoses for those recently released from prison. For example, the World Health Organisation has highlighted that during the first two weeks after release from prison the risk of dying from an accidental drug overdose can be up to 50 times higher compared to the population as a whole and 10 times higher than that of released prisoners one year after release.⁸ The purpose of this licence condition is therefore both to reduce re-offending and reduce harm.

Drug testing was introduced as a licence condition under s.64 of the Criminal Justice and Court Services Act 2000. It was available as a requirement for offenders released from prison having served a sentence of more than 12 months and was specifically targeted at:

- Offenders convicted of specific drug-related trigger offences
- Offenders who have misused Class A drugs
- Prolific and Priority Offenders (PPO).

Section 11 of the ORA 2014 amends s. 64 of the Criminal Justice and Court Services Act 2000 by:

- removing the trigger offences for applying drug testing as a licence condition, instead allowing it to be applied to those with a dependency on or propensity to misuse specified class A or specified class B drugs where that misuse is likely to be related to past or future offending
- extending the ability to apply a licence condition to test for substances to most commonly misused specified class B drugs alongside specified Class A drugs

⁸ WHO (2010): *Prevention of Acute Drug-Related Mortality in Prison Populations During the Immediate Post-Release Period*

These changes mean that the condition can be applied to those for whom a wider range of drug misuse is problematic, regardless of their original offence.

This condition differs from other drug testing requirements such as the Drug Rehabilitation Requirement in two key ways:

- Testing on licence is not voluntary and does not require consent, although the individual can refuse to provide a sample for testing
- The responsible probation provider, whether NPS or CRC, is responsible for funding drug testing, not the local drug treatment provider as in the case of Drug Rehabilitation Requirements. The probation provider is required to utilise NOMS national contract for drug testing.

PSI 2014/32 - PI 30/2014 '**Drug Appointment and Drug Testing for Licence Conditions and Post-Sentence Supervision Requirements**'⁹ sets out the mandatory actions and responsibilities of offender managers in the NPS and CRCs in recommending the requirement as a condition of licence to Governors/Directors and supervising the licence condition on release.

The purpose of this section of guidance is to support probation provider staff in:

- determining the suitability of the requirement
- deciding on the frequency of testing of the offender
- agreeing the substances for which testing is undertaken
- understanding responsibility for purchasing, funding and administering the drug tests.

The guidance remains non-mandatory and is designed to support staff in their own judgement when proposing and managing the requirement, not to be directive.

Drug testing may be used as a stand-alone licence or post-sentence supervision condition, or in combination with a drug appointment condition, and it may extend to the full supervision period of 12 months. Guidance on the use of the drug appointment condition is set out in the next section.

Suitability for drug testing on licence condition

As specified in PSI 2014/32 - PI 30/2014, in order for an offender to qualify for the inclusion of a drug testing requirement, probation staff must be assured that

1. misuse of a single or multiple specified Class A or B drugs (as defined in regulations) has caused or contributed to the offence or is likely to cause or contribute to the commission of further offences and/or,
2. the offender is dependent or has a propensity to misuse that Class A or B drug.

⁹ www.justice.gov.uk/downloads/offenders/psipso/psi-2014/psi-32-2014-drug-appointment-testing.pdf

Should these criteria apply, the offender manager has discretion on testing the offender for drugs, the frequency of testing and the substance for which testing is done. Testing falls into three categories: random, suspicion and risk-based testing.

As with the imposition of all licence conditions, probation providers need to evidence proportionality and appropriate use of any drug testing licence conditions by relating them to relevant risk factors. This will require NPS and CRC staff to demonstrate that they have made defensible decisions, based on professional judgement, within a framework that encourages consistency of approach. It will therefore be a matter for NPS and CRC managers to decide how they implement these provisions. **Annex A** includes a matrix that can be used to support decision making and consistency of approach when applying the condition. The licence condition allows probation providers to act in a manner which is flexible, adaptable and enables the resources required for drug testing to be rationalised. . NPS and CRC managers may wish to amend any suggested scoring scheme to reflect their priorities either in relation to cost, risk of re-offending or to reflect local community safety priorities.

In determining priorities, NPS and CRC managers may wish to consider how drug testing on licence links to multi-agency Integrated Offender Management schemes, as the new licence testing provision will bring all offenders managed under these schemes into the scope of testing for the first time.

NPS and CRC managers may also wish to consider how the licence testing framework relates to clinical testing that will be carried out by treatment provider partners on prisoners released with a treatment plan that will transfer to community drug treatment providers. Improved information sharing between drug treatment providers in the prison and community will enable NPS and CRC staff to avoid duplication of testing, so long as this information is made available to offender managers in time for release planning and they are content with the level of testing provided by the treatment provider.

Probation providers may wish to consider using information from a parallel, custody-based screening process before using the matrix at Annex A, in order to better identify those offenders who are assessed as most appropriate for drug testing on licence. The sources of potential screening for drug use include:

- The Basic Custody Screening Tool and Resettlement Plan
- OASys Section 8 if completed (scores over 4 indicate a propensity to misuse drugs)
- Where available, completion reports, risk assessments and re-categorisation reports - these take place during sentence and may inform as to trends in the offender's behaviour and propensity to misuse drugs.

In determining suitability for a drug testing on licence condition [or as part of post sentence supervision](#), offender managers will also need access to some or all of the following records:

- Court records including Post-Sentence Supervision Requirements and assessments by substance misuse practitioners used in sentencing
- Prison records including prison OASys if completed, Healthcare and Substance misuse provider information, and results of drug tests in custody
- Probation records including OASys if completed, and NDelius records of previous supervision
- Community Drug Treatment provider information (if known previously).

Once information has been obtained, Offender Managers can utilise the matrix in Annex A to support decision making about suitability. The matrix is not designed to replace the normal use of professional judgement in each case - taking account of both static and dynamic risk factors, and reflecting wider issues linked to offending behaviour as set out in the resettlement plan.

Frequency of testing

As specified in PSI 2014/32 - PI 30/2014, the offender manager's aim is to support the offender to become or remain drug-free. Offender managers have discretion over the level and frequency of testing. This decision should be made on a case-by-case basis. The offender manager is guided to take account of the offender's history and broader lifestyle when deciding on frequency of testing or reviewing the frequency of testing. Testing on licence differs from a Drug Rehabilitation Requirement in that a positive result can have a punitive effect and recall. Offender managers are guided to inform the offender of this potential consequence of positive test results. The instruction includes a table in Annex B that makes suggestions about frequency of testing, but this is offered only to support the offender manager's judgement. The following principles can support decisions about frequency of testing:

- 1) Test frequency should reflect the evidence gathered from the data sources referred to above, to provide the best framework for deciding testing frequency and ongoing reviews of frequency.
- 2) Testing needs to take place at a time when it will have the most benefit for the offender and offender management. This may take account of the offender's regular habits if known, which may indicate the periods when they are most susceptible to drug misuse.
- 3) Testing should take into consideration the window of detection of the drugs being tested for, and planned so as to have a reasonable chance of detecting them and act as a meaningful deterrent to the offender.
- 4) Positive test results should trigger increased frequency of testing at regular intervals to ascertain the nature of the drug misuse and support further decision making around breach or recall.

Agreeing the substances for which testing is undertaken

The drugs in scope for testing on licence are outlined in PSI2014/32 – PI 30/2014 and includes cocaine, heroin, cannabis and amphetamines. The instruction includes a table (included at **Annex B** of this guidance) which gives further information to support decision making in testing. The instruction also outlines the criteria for testing (see page 22 of this document). In assessing

which substances are tested for, the offender manager should consider the offender's previous offences and the drugs associated with them. In addition, the offender's engagement with treatment services whilst in prison may inform the benefits of testing for a particular drug.

Offender managers are guided that they may test for any of the drugs listed using the criteria on page 11. They may also alter the focus of testing during the licence or supervision period in response to the dynamic nature of offender management and changing circumstances in the offender's life. Annex B advises on testing frequencies and optimum testing periods. It also suggests actions following positive test results. This remains a guide only and offender managers should, as always, use their professional judgement on a case-by-case basis when considering whether to proceed to breach of the licence.

Responsibility for purchasing, funding and administering drug tests

The instruction (PSI 2014/32 - PI 30/2014) makes clear that probation providers are liable to meet the cost of providing drug testing of offenders under licence/ post-sentence supervision requirement from 1 February 2015. The new testing under licence condition / post-sentence supervision requirement is solely a justice provision. Drug testing under licence / post-sentence supervision requirement in the community is specified as oral fluid (saliva) testing. In order to administer the test, probation staff may need to be trained in the use of oral fluid drug testing kits by the drug test service provider contracted by NOMS.

In order to administer any drug testing of offenders on licence or Post-Sentence Supervision, probation staff must have been trained in the use of approved oral fluid drug testing kits by NOMS contracted drug test service provider.

Information about the NOMS National Drug Testing contracts, including how to access training, has been provided to Governors/Directors and providers of probation services. NOMS providers who want further copies of this information should contact the NOMS Health, Wellbeing and Substance Misuse Co-commissioning team, whose details are in the 'Further Information' section on page 19.

Drug Appointments

Background

Section 12 of the ORA 2014 inserts new section 64A into the Criminal Justice and Court Services Act 2000 which introduces a new licence and post-sentence supervision requirement of a Drug Appointment. As with a Drug Testing requirement, the purpose is to support those with substance misuse issues to achieve recovery, and to ensure continuity of treatment and or support on entering the community.

The Drug Appointment requirement makes attendance at a treatment service mandatory - if the condition is imposed the offender must attend, although engagement with treatment remains voluntary. The purpose of the condition is to encourage those in need of treatment to engage (or in the case of those already in treatment in prison to continue to engage) in order to stabilise their transition to the community.

A drug appointment may be used as a stand-alone condition or in combination with a drug testing requirement.

This non-statutory guidance is intended to support offender managers in the NPS and CRCs in recommending drug appointment conditions to Governors or Directors, and in the management of the condition on release in the community. It is designed to support staff in their own judgement when proposing and managing the requirement, not to be directive.

Suitability for a Drug Appointment

A Drug Appointment condition can be applied where there is **reason to believe that misuse of controlled drugs is linked to previous or potential future offending**. Unlike the Drug Testing condition it is *not* restricted to controlled drugs in class A and B, but it should be used only where drug misuse is associated with dependence, because treatment is not appropriate for occasional or recreational use. It may therefore be used to address addiction to a wide range of controlled drugs, including misuse of controlled New Psychoactive Substances.

This condition is aimed at offenders who have been or continue to be in treatment in prison, and are in need of continuity of treatment or support upon release. It is different from DRR appointments that form part of a community sentence. The Drug Appointment condition makes attendance mandatory (i.e. if the condition is imposed the offender must attend), but take-up of treatment itself is not mandatory and is up to the offender. Not undertaking treatment does not

constitute a breach so long as the offender attends the appointment for the duration specified by the appointment provider. The purpose of the condition is to encourage those in need of treatment to engage (or in the case of those already in treatment in prison to continue to engage) in order to stabilise their transition to the community. The inclusion of the requirement as part of a licence or post-sentence supervision period is therefore intended to be supportive *not* punitive.

In view of the need to ensure that a Drug Appointment requirement is recommended only where appropriate to addressing a current dependency on substance misuse, the **offender manager should seek and be guided by advice from the relevant treatment provider or other drug workers in prison, as to the offender's suitability for this requirement**. Prison treatment providers in the establishment from which the offender will be released are best placed to assess the offender's current and future clinical and psychosocial support needs.

Treatment providers commissioned by NHS England or Local Health Boards have a duty of care to plan for continuity of care for their service users from custody into mainstream services in the community. Inclusion of a Drug Appointment requirement as a licence condition or post-sentence supervision requirement can clearly support a planned substance misuse recovery pathway in a number of ways, including:

- motivating those with dependent drug misuse who are in denial or refuse treatment to seek support
- supporting those on shorter sentences, who may have started a drug treatment intervention in custody but who will not be able to complete it within their sentence, to continue treatment on release
- supporting those who are in recovery, including those who may have achieved abstinence within the prison, to sustain their recovery on release (particularly where non-clinical treatment might be most appropriate – see types of treatment below)
- supporting those who may have prior history of binge drug-taking behaviours on release from custody, including those at risk of overdose.

Offender managers should therefore seek to work collaboratively with drug treatment service providers in the prison as early as possible in the creation and ongoing delivery of the resettlement plan, to identify those offenders who might benefit from inclusion of a Drug Appointment on release.

Where an offender's previous offending is particularly associated with misuse of drugs, offender managers may wish to combine use of a Drug Appointment with a Drug Testing condition. However, it is not expected that a combination of the two requirements would be appropriate or proportionate for use in all cases, so providers of probation services are encouraged to use their discretion.

Types of Drug Appointment

The ORA 2014 deliberately does not specify the type of treatment intervention provider for which an offender can be required to attend an appointment. This is in order to allow flexibility to recognise that offenders leaving prison may be at different stages of their recovery journeys and therefore require different types of treatment.

Treatment might be a combination of clinical and non-clinical (psychosocial) intervention, including residential rehabilitation. For many offenders, attending a non-clinical intervention such as a 12-step recovery programme or a recovery community may be most helpful in sustaining their recovery. Providers of probation services should therefore work together with prison drug treatment service providers to consider conditions that will most appropriately support an offender's recovery.

Proposing and monitoring a Drug Appointment

PSI 2014/32 - PI 30/2014 '**Drug Appointment and Drug Testing for Licence Conditions and Post-Sentence Supervision Requirements**'¹⁰ sets out the mandatory actions and responsibilities of offender managers in the NPS and CRCs in recommending the Drug Appointment requirement as a condition of licence to Governors/Directors, and in supervising the licence condition on release.

The licence/post-sentence supervision requirement must specify:

- (a) the person with whom the offender is to meet or under whose direction the appointments are to take place (must be a person who has the necessary qualifications or experience), and
- (b) where the appointments are to take place

The provider of probation services may also specify:

- (a) the duration of each appointment, and
- (b) when each appointment is to take place.

In deciding to recommend a Drug Appointment, officers of the provider of probation services should ensure that:

- i. The misuse by the offender of a controlled drug caused or contributed to an offence of which the offender has been convicted, or is likely to cause or contribute to the commission of further offences by the offender and

¹⁰ www.justice.gov.uk/downloads/offenders/psipso/psi-2014/psi-32-2014-drug-appointment-testing.pdf

- ii. the offender is dependent on, or has a propensity to misuse, a controlled drug.
- iii. The dependency or propensity requires, and may be susceptible to, treatment and
- iv. the prison-based treatment provider or health worker should liaise with their counterparts in the community to ensure that appropriate appointments are in place upon release. The offender manager will then need to confirm this before making a recommendation to the Governor / Director that the condition is applied. The Governor / Director will need to be satisfied that an appointment, with a known time and place, is identified before the condition can be applied.

The type of appointment(s) offenders are required to undertake will be determined following a recommendation or referral by a health professional, with input from the offender manager (see 'Types of Drug Appointment' above)

An offender can be breached or recalled only for non-attendance, and must not be breached or recalled for failing to co-operate with treatment plans. In line with other licence conditions, any offender who poses an unacceptable risk to the public must be recalled, or the post-sentence supervision period enforced through the court.

The offender managers must monitor compliance with attendance at appointments. The offender manager should ensure that the offender has all the information they need in order to comply, for example the date, time and place of any appointment(s). In addition, the offender manager should liaise with the treatment provider in an endeavour to gain information where possible, for example on attendance and engagement / progress with any treatment plan (it should be noted that although there is no national or standard requirement upon treatment providers to share information with probation services, the probation provider should seek to build relationships so that exchange of information can be achieved). As engagement with treatment is voluntary, information about engagement will be for information purposes and cannot be used as evidence of non-compliance. Non-attendance should, however, lead to consideration of breach action.

Where an offender has successfully completed treatment, or that treatment is no longer appropriate for any other reason, this should be clearly recorded by the offender manager.

If Governors/Directors, NPS or CRC staff have any queries regarding the Drug Appointment condition, they should contact the NOMS Health, Wellbeing and Substance Misuse Co-commissioning team, whose details are in the Further Information section of this guidance.

Further Information

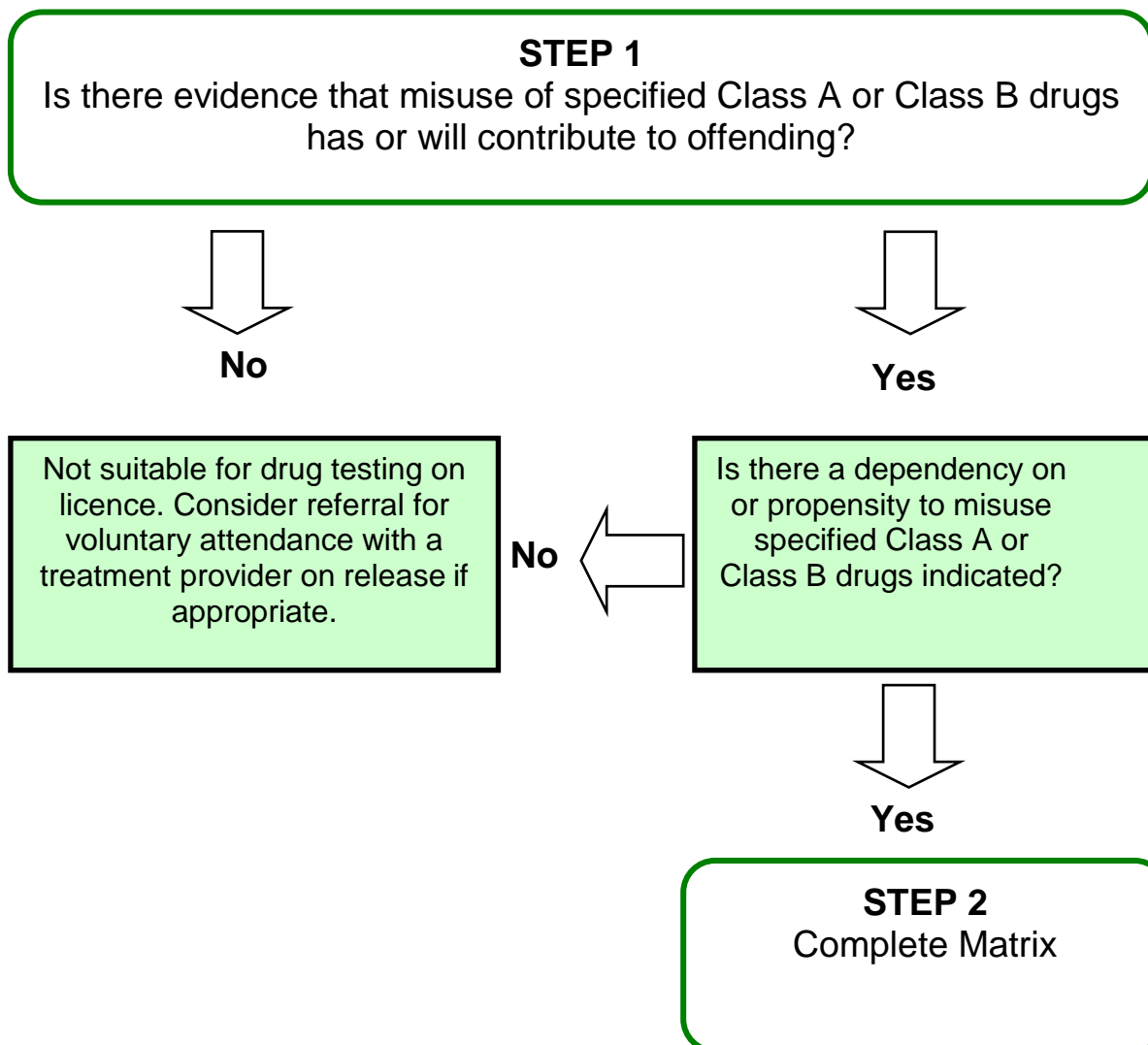
For more information about this guidance or the integrated delivery of Drug Testing or Drug Appointment licence/post-sentence supervision requirements, please contact:

Ken Elliot
Senior Co-commissioning Manager - Community
Health, Wellbeing and Substance Misuse Co-commissioning
Directorate of Commissioning and Contract Management
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Email: substance-misuse.co-commissioning@noms.gsi.gov.uk

Annexes

Annex A: Suitability Matrix for Drug Testing Condition



Example Assessment Checklist

| | Yes (Tick all that apply) | Indicative scoring |
|---|------------------------------|--------------------|
| Nature of Drug Use (Indicated by records or disclosed) | | |
| Class A use (heroin, cocaine, crack) | | 3 |
| Class B use (amphetamine, cannabis or cannabinoids) | | 2 |
| Frequency | | |
| Daily use | | 3 |
| Weekly use | | 2 |
| Occasional use | | 1 |
| Method | | |
| Injecting use | | 3 |
| Smoking use | | 2 |
| Other | | 1 |
| Prior positive drug tests | | |
| On licence | | 3 |
| In prison | | 2 |
| On arrest | | 1 |
| None - self-disclosed drug use | | 1 |
| History of previous Drug treatment | | |
| Refused prison treatment programme | | 3 |
| Participation in prison treatment programme | | 2 |
| Subject to a DRR previously | | 2 |
| Assessed as suitable for a DRR previously | | 2 |
| Voluntary treatment whilst on licence | | 1 |
| Voluntary treatment outside of criminal justice system | | 0 |
| Treatment plan on release | | |
| Prescribed but continuing to use illicit drugs | | 3 |
| Prescribed and stable on medication | | 2 |
| Managed in IOM cohort or by MAPPA arrangements | | 2 |
| Abstinent, not in recovery programme | | 1 |
| Abstinent and in recovery programme | | 0 |
| Total * | | |
| Testing on licence recommended | Yes / No | |

* Suitability for basis of testing based on indicative scores:

| | |
|------------------------|---|
| Scores 25+ | RISK -based testing indicated as highest risk of offending/harm indicated. Review frequency and basis of testing every four weeks or on production of a positive test. |
| Scores 20-25 | Medium risk of propensity to misuse. RISK -based testing may be indicated for those in the IOM cohort. Otherwise SUSPICION or RANDOM testing. Review every four weeks or on production of a positive test. |
| Scores 15-20 | Lower level of propensity to misuse. RANDOM testing indicated. Review every four weeks or on production of a positive test |
| Scores below 15 | Consider whether testing required in view of low risk indicated. Consider use of a drug appointment condition if relevant, or voluntary referral to support on release. |

Annex B: Recommended Testing Frequencies and Suggested Trigger for Breach

| Drug | Recommended frequency of Testing | Cut-off levels and detection window | Suggested Trigger for Breach |
|-------------------------------|---|--|---|
| Cocaine | Minimum twice a week | 30 ng/ml with detection window of 12 hours | 2 consecutive positive tests (i.e. a positive test on the next occasion following the first initial positive test); or 3 non-consecutive positive tests during a 6-week period following the initial test |
| Crack Cocaine | Minimum twice a week | 30 ng/ml with a detection window of 12 hours | 2 consecutive positive tests (i.e. a positive test on the next occasion following the first initial positive test); or 3 non-consecutive positive tests during a 6-week period following the initial test |
| Heroin | Twice a week | 40 ng/ml with a detection window of 24 hours | 2 consecutive positive tests (i.e. a positive test on the next occasion following the first initial positive test); or 3 non-consecutive positive tests during a 6-week period following the initial test |
| Cannabis / cannabinoids (THC) | Twice a week via oral swabs Once a month using urine testing | 25 ng/ml with a detection window of 24hrs for oral swabs 25 ng/ml with a detection window of 24 to 96 hours for urine testing | 2 consecutive positive tests (i.e. a positive test on the next occasion following the first initial positive test); or 3 non-consecutive positive tests during a 2-month period following the initial test |
| Amphetamines | Twice a week | 50 ng/ml with a detection window of 1-2 days | 2 consecutive positive tests (i.e. a positive test on the next occasion following the first initial positive test); or 3 non-consecutive positive tests during a 6-week period following the initial test |

Annex C: Organisational Roles in Drug Testing

| NOMS Co-commissioning | National Probation Service (NPS) England & Wales | Community Rehabilitation Company (CRC) England & Wales | Drug Treatment Provider |
|--|---|--|--|
| <ul style="list-style-type: none"> • Setting the instructions for the offender management of testing and treatment on licence • Specifying and managing the NOMS national framework testing contract • Producing multi-agency guidance in the use of requirements • Commissioning the offender management element of testing and treatment on licence from NPS and CRCs • Seeking assurance around quality and delivery | <ul style="list-style-type: none"> • Understanding current treatment provision in the local area • Using NOMS National Framework Contract, to purchase drug testing for high risk offenders with a testing on licence condition • Ongoing assessment of frequency of testing • Assessing risk level of offenders for case allocation • Funding and delivering offender management of treatment and testing for high risk cases on licence • Exchanging information with treatment providers • Considering breach for failure to comply with testing and treatment on licence • Contributing information about the treatment needs of offenders to local authority commissioners | <ul style="list-style-type: none"> • Funding and delivering offender management of testing and treatment on licence for medium and low risk cases • Using NOMS National Framework Contract, to purchase drug testing for medium and low risk offenders with a testing on licence condition • Ongoing assessment of frequency of testing • Providing information to NPS for court reviews • Referring non-compliance to NPS for breach proceedings • Providing information about current provision and barriers to effective delivery to NPS to inform future service commissioning | <ul style="list-style-type: none"> • Promoting local treatment services available with partners including NPS and CRCs • Agreeing treatment placements for offenders with NPS/CRC • Delivering the treatment elements to offenders referred under a testing on licence condition • Exchanging case information with the CRC or NPS |

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