



**Policy name:** Home Detention Curfew (HDC) Policy Framework

**Reference:** N/A

**Re-issue Date:** 26<sup>th</sup> June 2021

**Implementation Date:** 26<sup>th</sup> June 2021

**Replaces the following documents which are hereby cancelled:**

PSO 6700 Home Detention Curfew.  
 PSI & PI 01/2018 Home Detention Curfew Assessment Process.  
 PSI 43/2012 Home Detention Curfew,  
 PSI 17/2008 Amendments to PSO 6000; PSO 6300 and PSO 6650, in relation to calculation of release dates for DCR prisoners.  
 PSI 41/2008 Introduction of Cross Border Arrangements between England and Wales and Scotland for Home Detention Curfew purposes.  
 PSI 49/2007 Bail and HDC Support Services.  
 PSI 31/2006 Impact of CJA 2003 & consolidation of guidance (and guidance on presumed unsuitability).  
 PSI 31/2003 Changes to HDC (guidance on presumed unsuitability).  
 PC 82/1998 HDC – Accommodation and outstanding HDC issues.  
 PC 44/1998 HDC: The Role of the Probation Service Policy Statement: Safeguarding and Promoting the Welfare of Children; Probation Service Policy Statement: Safeguarding Adults at Risk.

**Introduces amendments to the following documents:** N/A

**Action required by:**

|                                     |                       |                                     |   |
|-------------------------------------|-----------------------|-------------------------------------|---|
| <input type="checkbox"/>            | HMPPS HQ              | <input checked="" type="checkbox"/> | Probation Service                                   |
| <input checked="" type="checkbox"/> | Public Sector Prisons | <input checked="" type="checkbox"/> | HMPPS Contract Managers                             |
| <input checked="" type="checkbox"/> | Contracted Prisons    | <input checked="" type="checkbox"/> | Other Providers of Probation and Community Services |
| <input checked="" type="checkbox"/> | Governors             | <input checked="" type="checkbox"/> | HMPPS-run Immigration Removal Centres (IRCs)        |
| <input type="checkbox"/>            | Heads of Groups       |                                     |   |
| <input checked="" type="checkbox"/> | Youth Custody Estate  |                                     |   |

### For Information

By the implementation date Governors<sup>1</sup> of Public Sector Prisons and Contracted Prisons must ensure that their local procedures achieve the required Outcomes and comply with the Requirements as set out in this Policy Framework.

<sup>1</sup> In this document the term Governor also applies to Directors of Contracted Prisons.

Governors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

### **Mandatory Actions**

All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions.

### **Audit/monitoring**

HMPPS Deputy Directors of Custody and Controllers, the Executive Director of Probation and Youth Offending Teams (YOT) in England and Director of HMPPS in Wales will monitor compliance with the mandatory requirements set out in this framework. HMPPS contract management will hold providers to account for the delivery of mandated requirements as required in the contract.

### **Resource Impact**

No additional resource demand will be made by this Policy Framework.

### **Contact**

The HDC Policy Helpline can be contacted on 020 3334 5044, 020 3334 4689 or [release.policy@justice.gov.uk](mailto:release.policy@justice.gov.uk)

**Deputy/Group Director sign-off:** Sarah Coccia, Executive Director, Public Sector Prisons South, HMPPS

**Approved by:** Kevin Reilly and Peter Greenhill, Joint Chair, Operational Policy Sub-Board, April 2021

### **Revisions**

| <b>Date</b>      | <b>Changes</b>   |
|------------------|--|
| 29 April 2020    | Addition of Covid-19 related offences to Annex E   |
| 18 December 2020 | Change to sentencing code – para 4.1.4 and 4.11.1.<br>Change to the decision making level in contracted prisons – para 4.2.5 |
| 26 June 2021     | Changes to reflect advent of Unified Probation Service – para 4.5.11 deleted; annex G; HDC Address Checks Form               |

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## **1. PURPOSE**

- 1.1. The Home Detention Curfew (HDC) scheme provides a managed transition from prison to community for supervised individuals serving short sentences. Release on HDC should be a normal part of a sentence for most eligible supervised individuals, and refusal of HDC for those eligible and not presumed unsuitable for release the exception.
- 1.2. Since 1999, a number of prison and probation instructions have been published in relation to the HDC process. The aim of this Policy Framework is to consolidate those instructions into one place and therefore completely replace all of the previous instructions, as listed above. The requirements and approach to HDC therefore remain largely the same but the following changes are highlighted:
  - Decisions on HDC may now be taken by Directors of Contracted Prisons, the Controller will continue to monitor the Director's compliance in this area.
  - Decisions around presumed unsuitable supervised individuals remain with the Governor, but there is no longer any requirement to consult or notify the HDC Policy team.
  - Offenders sentenced to 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK are presumed unsuitable for release on HDC.

## **2. EVIDENCE**

- 2.1. People released early from prison on HDC are subject to an electronically monitored (EM) curfew. Research evidence about the impact on reoffending rates of using EM curfew with early release is inconclusive but promising, and it appears highly cost effective. The research suggests that the overall outcomes under HDC – especially when costs are taken into account – are preferable to keeping eligible supervised individuals in custody at the end of the custodial element of their sentence. EM is a tool to monitor compliance with the curfew, which is part of the sentence, and so enhance supervision in the community.
- 2.2. In addition to electronically monitored curfew, from 1 April 2019 it will be possible to impose location monitoring requirements as part of the HDC licence conditions across England and Wales.
- 2.3. Research into the experience of being on EM suggests it may help some people to break habits and limit opportunities to commit crime, enhancing opportunities for employment and training, and allowing relationships, including those of mutual benefit, to develop. The evidential certainty that electronic monitoring provides may act as a deterrent and incentive to comply, although monitoring alone is unlikely to help people to think and behave differently, and successfully desist from crime, in the longer-term. Compliance while on EM may be enhanced by making the process feel as procedurally just as possible, and this means transparent, consistent decisions and procedure, and ensuring people are treated with respect and courtesy.

## **3. OUTCOMES**

- 3.1. This policy aims to ensure that:
  - Eligible supervised individuals will be identified accurately and early.
  - The process will operate to time without unnecessary delays, particularly to HDC releases.

- Release on HDC will be the norm for eligible supervised individuals, so that most can benefit from the extra stability on release that HDC offers.
- HDC will be refused or postponed for eligible supervised individuals by exception. This includes:
  - when there are outstanding proceedings for offences committed during the current sentence; or
  - where the risk management plan cannot be put in place at the proposed release address.
- Those on HDC will be supported to complete HDC successfully by timely consideration of licence variation requests.

## **4. REQUIREMENTS**

### **4.1. Legal Requirements**

- 4.1.1. The statutory requirements of the scheme are set out primarily in section 246 of the Criminal Justice Act 2003. Although there is no statutory entitlement to release on HDC, the policy is that supervised individuals who are eligible and suitable for the scheme are released on, or shortly after the HDC eligibility date (HDCED), wherever possible. HDC is only available to supervised individuals who are serving a sentence of imprisonment of at least 12 weeks but less than four years who have served the requisite custodial period of the sentence. This is reached once the Supervised Individual has served at least a quarter of the sentence, and a minimum of 28 days. The maximum period of release is 135 days. As with any sentence, the custodial period might include time on remand in custody or on bail with an EM curfew (“tagged bail”), so release can occasionally take place very soon after sentence, although the law requires at least 14 days in custody post sentence before a Supervised Individual can be released on HDC.
- 4.1.2. On release, the Supervised Individual must be subject to an electronically monitored curfew. This must be for at least 9 hours per day by law, and generally for 12 hours per day as a matter of policy, reflecting the fact that the Supervised Individual is still serving the custodial element of the sentence. The curfew requirement must remain in force until what would have been the conditional or automatic release date (CRD or ARD) at the halfway point of the sentence.
- 4.1.3. Certain supervised individuals are excluded in law, and therefore cannot be released on HDC under any circumstances (listed at paragraph 4.3.1.), and others are presumed unsuitable for HDC in policy (listed at paragraph 4.3.7.).
- 4.1.4. The scheme applies to people of any age (i.e. including those under 18) who are serving sentences of detention under section 250 of the Sentencing Code (formerly section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 - for certain specified serious offences). HDC does not apply to those sentenced to detention and training orders (DTOs) under section 233 of the Sentencing Code (formerly section 100 of the Powers of Criminal Courts (Sentencing) Act 2000); separate early release arrangements apply to them.

### **4.2. OTHER REQUIREMENTS**

- 4.2.1. Section 4.2 lists the key actions that must be completed throughout the HDC process, which are expanded on in more detail in sections 4.3 to 4.11. A digital service to support the HDC process is currently in development. Once launched, this will not affect the principles in this framework but will change aspects of the process, in particular, the way in

which prisons and probation providers exchange information about the proposed HDC address. Currently, communication is via a central Clearing House and this will be changed for a shared digital service. Practitioners will be given full information and any necessary training once the digital service is launched.

#### **4.2.2. Governors must ensure there are processes in place to determine eligibility for HDC.**

- i. The OMU must calculate a supervised individual's HDCED when calculating their CRD or ARD within 5 working days of reception. Within a further 5 working days, the case administrator must establish the supervised individual's eligibility for HDC, or whether they are statutorily excluded or presumed unsuitable, and notify the Supervised Individual, the responsible officer (RO) and Through the Gate (TTG) provider in the prison of the outcome using the appropriate form (all forms are provided at Annex K).
- ii. At least 13 weeks before HDCED in any case where an supervised individual's current immigration status is unclear, the prison should send the HDC – FNP form to the Home Office in order to establish the current position.
- iii. The decision maker must consider any representations submitted by supervised individuals who are presumed unsuitable for HDC.
- iv. If there are any changes in circumstances which affect a supervised individual's release dates (e.g. other remand, time spent unlawfully at large, additional days are awarded), then the supervised individual's HDCED must be recalculated as well as all other release dates.
- v. The Supervised Individual must not be released on HDC where there are fewer than ten days remaining to the CRD as this will not allow sufficient time for the benefits of HDC.
- vi. Where there are 28 days or fewer between the date at which the supervised individual's eligibility has been established and the CRD, the HDC process must not start unless the Governor or delegated decision-maker has agreed to this.

#### **4.2.3. Governors must ensure that there are processes in place to facilitate eligible supervised individuals to propose addresses for release; that the Bail, Accommodation and Support Service (BASS) is used where necessary; and that a check of the proposed release address/area is commissioned promptly.**

- i. At least 10 weeks prior to the HDCED, where possible, the Supervised Individual must be provided with the HDC Address form. They must be encouraged to provide more than one address if possible and prioritise them so that they can be assessed in order of preference.
- ii. The prison must encourage the Supervised Individual to complete the Address form and ensure that they can both understand the purpose of the form and complete it.
- iii. If a Supervised Individual wishes to opt out of HDC the reason why must be recorded.
- iv. If a Supervised Individual is unable to propose an address, they must be told about BASS accommodation and asked if they wish to proceed with an application with this accommodation.<sup>2</sup> Where a Supervised Individual is to be released to BASS

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<sup>2</sup> BASS is a national service which seeks to support HDC releases by providing suitable accommodation for offenders whose lack of a suitable address prevents their release on HDC. All BASS properties are deemed to be suitable addresses for HDC in principle.

accommodation, Governors must ensure that six weeks before release, they are referred to the Local Authority, in accordance with the duty to refer process under the Homelessness Reduction Act 2017 in England and the Housing (Wales) Act 2014. For short sentences the referral would need to be completed as soon as possible.

- v. At least nine weeks before the HDCED, the case administrator must send the Address Checks form to probation providers via the HDC Clearing Office (HDC.ClearingOffice@justice.gov.uk).

**4.2.4. Probation providers must have processes in place to ensure that Address Checks forms are completed fully and accurately within 10 working days of receipt, and that all HDC actions are properly recorded on nDelius.**

- i. In respect of the proposed address, the probation provider must confirm:
  - whether the main occupier gives informed consent to HDC (further guidance to probation providers is provided in section 4.5. below, and in Annexes F and G);
  - whether the address has an electricity supply;
  - reporting instructions;
  - any non-standard licence conditions, including any variation on the usual 7pm-7am curfew hours; e.g. to accommodate work pattern;
  - whether there are any risk management planning actions that must take place prior to release to that address/area and why release cannot take place in their absence;
  - if so, whether further information has been sought and when it is expected; and,
  - whether this is a Victim Contact Scheme (VCS) qualifying case and, if so, whether the victims have had an opportunity to comment.
- ii. The probation provider is expected to pursue the further information sought from other agencies and to provide it to the prison as soon as it becomes available.
- iii. The Address Checks form must be submitted within 10 working days of receipt via the Clearing Office even where the RO is still waiting for information they consider is essential to risk management planning. Where the prison has a query about something the RO has input to (or vice versa), they must contact them directly.
- iv. Probation providers must be asked to check one address at a time. If the supervised individual's preferred address is found unsuitable then the second address may be submitted on a further Address Checks form and the RO allowed a further 10 days to complete the form, and so on. Once the proposed addresses are exhausted, BASS options should be explored.

**4.2.5. Governors must ensure that suitability for release on HDC is considered consistently and promptly.**

- i. At least five weeks before the HDCED, where possible, once the Address Checks form has been returned the case administrator must complete sections 1 – 3 of the Assessment & Decision form, and submit to the delegated HDC decision maker.
- ii. The decision whether or not to release a Supervised Individual on HDC must be taken by the Governing Governor, who may delegate the decision to a competent member of staff (of at least band 7). Directors may delegate this decision to a competent member of staff (of at least functional head level) in the contracted estate.
- iii. Before releasing any Supervised Individual subject to additional criminal proceedings, there must be a check whether there is a remand warrant in relation to

any outstanding charges (i.e. whether or not committed during the current sentence).

- iv. The decision-maker must authorise release unless any of the exceptional grounds to refuse HDC, or to postpone the decision, listed at paragraphs 4.6.3. and 4.6.4. apply.

**4.2.6. Governors and probation providers must have in place processes to ensure that decisions are notified to the Supervised Individual and relevant third parties.**

- i. Where HDC has been authorised, the prison must notify the Supervised Individual using the HDC Approved form.
- ii. Where HDC has been authorised, the prison must also notify the RO, the Electronic Monitoring Field & Monitoring Service Provider (EM Provider), the National Identification Service (NIS) at New Scotland Yard and the home police service using the HDC Agency Notification form. Notification should take place as soon as possible, ideally at least 14 days before release and release must be delayed if at least 24 hours' notice is not possible.
- iii. Where the decision maker is satisfied that there are exceptional reasons to refuse HDC, or the decision is being postponed, the Supervised Individual must be notified using one of the HDC Address Unsuitable/HDC Postponed/HDC Not Enough Time/HDC Refused forms at Annex K, making clear that they may submit an appeal against the refusal and/or submit another address for consideration. Appeals are processed via the prison complaints system and should be prioritised. Reasons must be provided where HDC is refused.
- iv. Where HDC has been refused the prison must copy the appropriate form to the RO.
- v. On receipt of the HDC Agency Notification form, the RO must notify the Victim Liaison Officer of the outcome in VCS qualifying cases, so that the victim can be notified of the outcome and any victim focused conditions on the licence.
- vi. If circumstances change after release has been agreed and the Supervised Individual is no longer suitable for HDC, or the details in the HDC Agency Notification form change, notification of the change must be sent using the HDC Cancellation/Variation of Agency Notification form to the other agencies originally notified.

**4.2.7. Governors must have in place processes to ensure that appropriate release arrangements are made.**

- i. All supervised individuals must be released on licence using one of the templates in the Licence Policy Framework.
- ii. The Governor must set the curfew hours to reflect the particular needs of the case.
- iii. Before release, supervised individuals must have the licence conditions explained to them and must sign the licence, to confirm they accept the conditions;
- iv. Offenders cannot be released on HDC until the requisite period has been served. Where a supervised individual's HDCED falls on a Weekend or Bank Holiday the Supervised Individual must not be released on HDC until the next working day.
- v. On the day of release the Supervised Individual must be released in sufficient time to ensure that they can attend any appointment necessary on the day of release and arrive at their home address in advance of the curfew.

**4.2.8. Governors must ensure there are processes in place for inter-prison transfer during the HDC process.**

- i. Inter-prison transfers should be done as quickly as possible to the appropriate prison. If the Supervised Individual reaches the point at which HDC should be



started then the holding prison must still ensure the process is commenced, keeping clear records on NOMIS.

- ii. Governors must ensure that there is a process in place so that all Offender Management Unit (OMU) paperwork, including that for ongoing HDC, is sent with a Supervised Individual moving to a new prison as part of a planned transfer.
- iii. The responsible officer (RO) must be notified of the transfer and where the completed Address Checks form should now be sent.
- iv. If process fails for any reason, the sending OMU must contact the receiving OMU to inform them of the HDC stage that has been reached and make sure that any paperwork not recorded on NOMIS and any reports received after transfer are forwarded as a priority.
- v. HDC paperwork that has not travelled with the Supervised Individual must be scanned and/or sent by email to the appropriate functional mailbox at the receiving prison.

#### **4.2.9. Governors must have in place processes to consider requests to vary conditions attached to HDC licences and requests to authorise absences from curfew<sup>3</sup>.**

- i. The Governor (or Probation Service RO for supervised individuals released to Wales) must consider any request for a variation in licence conditions on its merits. Licence conditions must not normally be changed where it is reasonable to expect the supervised individual to continue to abide by them and they do not conflict with the objective of providing a stable transition back into the community. Documentary evidence (e.g. of changes in working hours) may be required.
- ii. Where the supervised individual applies to vary the licence conditions they must be advised by the governor and the RO (if the request comes via the RO) that they must abide by the current licence conditions until the variation has been authorised.
- iii. The curfew address must not be changed without an assessment of the suitability of the new address by the relevant probation provider.
- iv. The EM provider may authorise one-off absences from curfew in circumstances prescribed in paragraphs 4.9.11. and 4.9.12. below but other one-off absences and any permanent changes to licence conditions must be authorised by the Governor on behalf of the Secretary of State.

#### **4.2.10. Governors must ensure there are processes in place to drive and monitor the timeliness of the HDC process, and that records of all HDC actions are properly recorded on NOMIS.**

- i. Eligible supervised individuals must be identified early and all stages of the process (see Annex B) completed in line with the timetable in Annex A.

### **4.3. ELIGIBILITY AND PRESUMED UNSUITABILITY**

*This section sets out the eligibility criteria, how to deal with representations from supervised individuals presumed unsuitable for HDC and how to calculate the HDCED.*

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<sup>3</sup> Currently, the Governor is responsible for varying HDC licence conditions and dealing with requests from the offender to authorise certain one-off absences from the curfew address, except where the offender is managed by the NPS and has been released to an address in Wales. In those cases, the responsibility lies with the NPS. In due course, the arrangements in Wales will apply to all offenders released on HDC.

## **Statutory eligibility criteria**

4.3.1. The following are statutorily excluded from HDC.

- Anyone sentenced to 4 years or more for any offence.
- Sex offenders required to register.
- Offenders convicted of violent or sexual offences currently serving an extended sentence.
- Offenders serving a sentence for ROTL failure to return.
- Offenders serving a sentence for breach of the curfew requirement of a Community Order.
- Foreign national prisoners (FNPs) who have been recommended for deportation by the court and those who are liable to deportation and a decision to deport has been served (i.e. not just those with a Deportation Order).
- Offenders with less than 14 days to CRD from date of sentence.
- Offenders who have ever been recalled to prison for failing to comply with the HDC curfew conditions.
- Offenders who have ever been returned to custody by the court for committing an imprisonable offence during the at-risk period.
- Offenders currently serving a recall from early release on compassionate grounds.

4.3.2. The table at Annex C provides details of the different types of recall or return to custody and the effect that this has on HDC eligibility.

## **Fine defaulters and contemnors**

4.3.3. Fine defaulters and contemnors, whether civil or criminal, are not eligible for HDC, since they are serving a term of imprisonment, not a sentence of imprisonment. However, where a Supervised Individual is serving a criminal sentence (e.g. for drugs offences or fraud) and consecutive to this criminal sentence the offender is to serve a default term for non-payment, the offender may still be considered for HDC on the criminal sentence providing there is a minimum of ten days to spend on HDC between the end of the custodial period of the default term and the CRD of the original sentence.

## **Presumed unsuitable offenders**

4.3.4. To maintain public confidence in the scheme, certain offenders are presumed unsuitable for release on HDC. These offenders are statutorily eligible to be considered for HDC but are, as a matter of policy, presumed unsuitable for the scheme in the absence of exceptional circumstances.

4.3.5. The following offenders are presumed unsuitable.

- Anyone serving a sentence for any of the following categories of offence:
  - homicide;
  - explosives;
  - possession of an offensive weapon;
  - possession of firearms with intent;
  - cruelty to children;
  - racially aggravated offences;
  - terrorism.
- Anyone with a history of sexual offending but not required to register.
- Anyone who has been recalled for poor behaviour whilst on HDC.

- Foreign national prisoners liable to deportation but not yet served with a decision to deport.
- Offenders sentenced to 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK.
- Category A offenders.

4.3.6. Offenders who are presumed unsuitable for HDC may submit representations to the governing Governor if they consider that their case is exceptional. How to determine whether there are exceptional circumstances will depend on the reason why the supervised individual is presumed unsuitable. Once satisfied that there are exceptional circumstances, then the supervised individual may be considered for HDC as normal.

4.3.7. Where the Governor does not accept that the representations amount to exceptional circumstances, the supervised individual must be given clear, detailed reasons why and the avenue for appeal is via the prison complaints system.

4.3.8. Further guidance on identifying presumed unsuitable offenders and applying the exceptional circumstances test is given in annex D. A list of examples of presumed unsuitable offences is given at annex E.

#### **Presumed unsuitability when there are multiple convictions**

4.3.9. An offender is presumed unsuitable for HDC if any sentence forming part of the overall sentence envelope currently being served is in respect of a presumed unsuitable offence.

4.3.10. If one of the offences is ineligible (e.g. a failure to return from ROTL offence) then the supervised individual cannot be released on HDC whilst that sentence is being served and will be presumed unsuitable throughout the overall sentence envelope.

4.3.11. In relation to offenders serving sentences imposed before 3 December 2012 for offences committed before 4 April 2005 - Schedule 20B of the CJA 2003 sentences (previously known as CJA 1991 sentences) - the sentences form a single term and if any sentence within that single term is a statutorily excluded sentence, the offenders will be statutorily excluded on the single term.

#### **Notorious Offenders**

4.3.12. Where, following completion of the assessment process, the Governor considers that that the release on HDC of an otherwise suitable supervised individual may seriously damage public confidence in the scheme, they must consult their Group Director and the case must be referred to the Director General Prisons for a final decision. It is expected that such cases will be extremely rare and will likely involve offenders who have been involved in a nationally notorious crime or a crime of particular concern to the public, where release would bring the scheme into disrepute.

4.3.13. Offenders whose cases are to be referred for a final decision must be informed that this rests with the Director General Prisons and that they may submit reasons to them why release should be granted.

4.3.14. Cases referred to the Director General Prisons must include all HDC assessment papers and a covering note with any relevant information that may indicate that release could undermine public confidence.

## No separate penalty

4.3.15. Where an offender has been convicted of a presumed unsuitable offence but the court disposal is recorded as “no separate penalty”, this should not be treated as serving a sentence of imprisonment for the purposes of considering HDC. Where the “no separate penalty” relates to a sexual offence, the effect will still be to make the Supervised Individual presumed unsuitable because the presumption applies to those with any history of sexual offending and arises from any conviction for a sexual offence.

## Calculating the HDCED

4.3.16. The eligibility date is determined by length of sentence, as set out below:

| Sentence length                           | Requisite period to be served before the HDCED | Approximate range of minimum and maximum curfew periods        | HDCED calculation  |
|---|--|--|--|
| 12 weeks or more but less than 4 months   | 28 days  | Between 2 weeks and 1 month depending on length of sentence    | 28 days – remand time<br>Apply the figure obtained to actual date of sentence                                  |
| 4 months or more but less than 12 months  | One quarter of the sentence                    | Between 1 month and 3 months depending on length of sentence   | No. of days in sentence ÷ 4 (rounded up) – remand time<br>Apply the figure obtained to actual date of sentence |
| 12 months or more but less than 18 months | One quarter of the sentence                    | Between 3 months and 4½ months depending on length of sentence |  |
| 18 months or more but less than 4 years   | 135 days less than half the sentence           | 135 days   | Effective CRD – 134 days   |

4.3.17. Please note when using a date calculator, the ‘actual date of sentence’ means you use the date the sentence was imposed and not the day before as you may do for other calculations and the ‘effective CRD’ is the CRD after any relevant adjustments e.g. remand/tagged bail have been applied.

4.3.18. Where applying the remand time to the calculation provides an HDCED which would fall before the date of sentence, the date of sentence plus 14 days should be used as the HDCED.

## Multiple sentences

4.3.19. Annex F sets out in detail the instructions and principles for calculating HDC eligibility and HDCED in multiple sentence cases.

## 4.4 ESTABLISHING PROPOSED ADDRESS

*This section sets out key actions around encouraging completion of the Address form, as well as information on BASS accommodation.*

## **Encouraging completion of the Proposed Address form**

4.4.1 When encouraging completion of the form, prisons must:

- make sure the supervised individual can read and/or understand it;
- make sure they know that the address they nominate must be assessed as suitable by the probation provider (i.e. not to submit an address they know will be found unsuitable);
- ask them to nominate an alternative address where possible;
- ensure that they give full contact details, including at least one phone number for the address – even where this is housing association or local authority (it cannot be assumed that the RO will know). The number can be a mobile telephone number or landline and they should also give their own telephone number if known); and
- encourage the supervised individual to consider BASS as an alternative, if they have no address to nominate.

4.4.2 Governors may wish to consider the use of peer supporters/prison signpost workers to help HDC eligible offenders to complete the Address form and to promote HDC and BASS.

## **The Bail, Accommodation and Support Service (BASS)**

4.4.3 BASS referrals should only take place once the probation provider has indicated that the nominated area is acceptable under the address checks process.

4.4.4 Under the BASS referral criteria, supervised individuals will be ineligible for BASS if they:

- have a conviction, caution, a current allegation of or are under police bail for any sexual offences mentioned in Schedule 3 of the Sexual Offences Act 2003;
- have been assessed by OASys to currently pose a High or Very High risk of serious harm;
- are under 18 years of age; or
- are assessed as posing an unacceptable risk to:
  - the EM provider, their property or staff;
  - other residents of the property;
  - the service user themselves;
  - neighbours; or
  - any other person.

The BASS provider may refuse any case where they consider that there is insufficient information on which to make an adequate assessment of risk.

4.4.5 If a Supervised Individual does not meet the BASS referral criteria and they have not proposed any other release address, HDC should be refused on the grounds there is no suitable address.

4.4.6 If referred to BASS and the provider confirms that there is no suitable BASS address in the proposed area, the provider may suggest a BASS address in another area. The Supervised Individual should be asked whether they are content to be considered for release to that area, subject to the views of the RO. If so, the HDC process should continue. If not, or there is no address available, HDC should be refused on the grounds there is no suitable address.

4.4.7 If a Supervised Individual is accepted for a BASS address but the address does not become available before there are 10 days left to CRD, then HDC should be refused on the grounds that there is no suitable address.

- 4.4.8 In cases where a BASS referral is successful and HDC is approved, the RO will be notified of the release and release address ideally at least two weeks before the release as part of the normal notification procedures.
- 4.4.9 Questions about the scheme provider should be directed to the provider, currently NACRO, on 0300 555 0264 or 07423 434032, or email referrals@wmnacro.cjsm.net.
- 4.4.10 Questions about BASS in general can be directed to the BASS Contract Management Team at BASS1@justice.gsi.gov.uk.
- 4.4.11 The latest instructions and guidance on BASS, including further detail on BASS exclusions and how to make a BASS referral, are included in the BASS Policy Framework and associated BASS Stakeholder User Guidance.

#### 4.5 ADDRESS CHECKS PROCESS

*This section deals with informed consent and address suitability checks requirements.*

- 4.5.1 The first step of the process is for the prison to complete part 1 of the Address Checks form which includes the Supervised individual's details, proposed addresses and main occupier contact details, and whether a BASS Referral is to be considered. Once part 1 is completed the form should be sent to the RO via the Clearing Office nine weeks before HDCED where possible.
- 4.5.2 Once they receive the Address Checks form, the RO must complete part 2, by confirming that the main occupier gives informed consent to HDC at the address, and that the address is suitable for release on HDC by confirming the requirements listed at paragraph 4.2.6. above. The RO must ensure that the form is completed and returned within ten working days of receipt.

#### **Informed consent**

- 4.5.3 The RO must contact the main occupier at the address to explain the nature of HDC so that they know what to expect and how that will impact on their lives. In multiple occupancy accommodation, where there are shared facilities, it is not expected that the RO would normally contact other residents at the address unless they will live in the same room(s) as the Supervised Individual.
- 4.5.4 The main occupier must be invited to ask questions about HDC and to raise any concerns they have. They must also be asked to identify all the other occupants of the address and give their ages. Where there are any children under 18 at the house, the main occupier must be asked to confirm whether any of the children is known to Children's Services. They must be advised that if they have concerns during the HDC period they should raise these with the RO. The main occupier should be advised that staff of the EM provider may call at the property without advanced warning from 07:00 until 23:59:59. In addition calls will be made to the monitoring unit if it determines that the subject is not present during the curfew period, this can result in calls throughout the night.
- 4.5.5 All reasonable efforts should be made to establish contact with the main occupier but as soon as this point has been reached (i.e. before the 10-day deadline), the HDC Address Checks form should be suitably completed and returned, so that the prison can try to get better contact details or another address from the Supervised Individual and the process can continue with the minimum of delay.

## **Suitability of the address and consulting the Probation Service victim liaison officer (VLO)**

4.5.6 It is for the RO to determine whether, based on the available information and using their professional judgement, any non-standard licence conditions and/or any other specified risk management planning actions must be taken before release, in order for the address to be considered suitable and for the Supervised Individual to be managed safely at that address after release. This may include GPS location monitoring, but only where this facility is necessary to manage the Supervised Individual safely; i.e. where the address would otherwise be rejected as unsuitable. Location monitoring can be used to:

- enforce an exclusion zone – the Supervised Individual cannot enter a specific location or area;
- keep the Supervised Individual at a given distance from a point or address, including the victim's address or that of a known criminal associate;
- monitor an supervised individual's attendance at a certain activity – for example work or a rehabilitation programme; or
- monitor a supervised individual's movements to support discussions with probation about a supervised individual's lifestyle and behaviours (known as "trail monitoring").

4.5.7 When returning the form, the RO must indicate whether a home visit was conducted and why, and make clear where specific information has been requested from other agencies because they think it is essential to have the information before release. They must indicate when they expect to receive the information, arrange to chase for the information and provide it to the prison offender supervisor as soon as it becomes available.

4.5.8 Victim and families of victims of serious sexual and violent offending who have opted into the VCS operated by NPS must be afforded a reasonable opportunity to make representations about licence conditions. The RO must indicate on the relevant form if the case is VCS qualifying and victims should be given two weeks to make representations, but their views must be considered whenever received and, where necessary, changes to licence conditions made.

4.5.9 Further guidance for probation providers on completing address suitability checks can be found in Annex G.

### **Address Checks by one probation provider on behalf of another**

4.5.10 Where the proposed address is in a different area to the allocated RO, responsibility for returning the completed Address Checks form remains with the allocated RO even where they have asked another probation provider to conduct the check. Probation providers should work together to try to ensure that the form is returned within the ten-day time limit. To facilitate this, the provider responsible for the completion of the report should alert the area checking the address as early as possible within the ten-day time frame.

## **4.6 ASSESSMENT AND DECISION**

*This section sets out where HDC should be postponed or refused.*

4.6.1 Once the Address Checks form has been returned to the prison, the Assessment and Decision Form must be completed by the case admin and the decision-maker.

4.6.2 The decision-maker must authorise release unless the following exceptional grounds to refuse HDC, or to postpone the decision, apply.

4.6.3 HDC must be refused where:

- it is not possible to manage the Supervised Individual safely at the proposed address; or
- there are fewer than 10 days remaining to CRD.

4.6.4 The HDC decision must be postponed where:

- specific public protection measures have been identified and planned to manage risk in the community but they are not yet in place; or
- the Supervised Individual has been referred to the police or other law enforcement agency or to the independent adjudicator (IA) in relation to an alleged offence committed during the current sentence and the matter remains unresolved; or
- the Supervised Individual is the subject of a confiscation order and, having consulted the prosecuting/enforcement authority and regional confiscation unit (details in PSI 16/2010 Confiscation Orders), it is determined by the HDC decision-maker that there is an unacceptable risk of the Supervised Individual frustrating the order of the court by, for example, going to ground, leaving the jurisdiction or hiding assets if released on HDC. Where there is evidence that the Supervised Individual has frustrated proceeds of crime proceedings in order to avoid a confiscation order being imposed, HDC should also be postponed until that is resolved.

4.6.5 If the Supervised Individual is under investigation and/or facing criminal or IA proceedings for an offence committed during the current sentence, the HDC assessment process may be started at the usual time so that if the case is discontinued or dismissed there is no additional delay in processing HDC. Where some time has elapsed since the matter was referred there should be a check to verify the current status before deciding to postpone the HDC decision, with regular checks thereafter. "Current sentence" in this instruction is to be taken to include the whole of the current, unbroken custodial period, including time on remand or serving civil or criminal terms of imprisonment.

4.6.6 Where the Supervised Individual is found guilty by the courts or IA of an offence committed during the current sentence, they must serve the penalty imposed before they can be released on HDC.

4.6.7 Where added days are awarded, the release dates must be adjusted accordingly and the Supervised Individual must be considered for release on or after the adjusted HDCED.

4.6.8 Where a further sentence of imprisonment is imposed concurrently, fresh release dates will be calculated in relation to the new sentence and, if the Supervised Individual remains eligible for HDC, they must be considered for release on or after the latest HDCED. Where a further sentence is imposed consecutively, fresh release dates (including a new HDCED) will be calculated for the aggregate created. If the Supervised Individual remains eligible for HDC, they must be considered for release in line with the new HDCED.

4.6.9 Such considerations of HDC against revised HDC eligibility dates must be made on the same basis as other HDC considerations for eligible supervised individuals; i.e. the disciplinary or criminal offence will have led to additional time in custody being served, but if the Supervised Individual remains eligible for HDC then the assessment of suitability for HDC, and whether to approve or refuse HDC or postpone the decision, must be made in accordance with the standard provisions of this Policy Framework.

4.6.10 Where HDC is refused because the address is unsuitable, a further address may be considered if there is time (i.e. at least four weeks to CRD).



4.6.11 Guidance on recording the HDC decision is included in Annex A.

4.7 **NOTIFYING THE OFFENDER OF THE DECISION** Guidance is set out in annex H.

4.8 **SETTING THE CURFEW CONDITIONS** Guidance is set out in annex I.

4.9 **POST-RELEASE PROCEDURES**

*This section sets out the process for amending HDC licence conditions, as well as circumstances in which one-off absences can be authorised.*

### **General**

4.9.1 Currently, the Governor is responsible for varying HDC licence conditions and dealing with requests from the Supervised Individual to authorise certain one-off absences from the curfew address, except where the Supervised Individual is managed by the Probation Service and has been released to an address in Wales. In those cases, the responsibility lies with the Probation Service. In due course, the arrangements in Wales will apply to all supervised individuals released on HDC but the remainder of section 4.9 has been drafted to reflect the position that applies in the majority of cases currently.

4.9.2 Statutory probation supervision commences on the day of release, whether this is on HDC or at the CRD/ARD. Where a Supervised Individual is released on HDC they are subject to the HDC conditions in addition to the supervision conditions attached to the licence.

4.9.3 Offenders must be made aware of the requirements to:

- comply with the curfew and other EM monitoring conditions set out in their licence until the date given in the licence, unless a temporary absence has been formally authorised, or until they have been formally notified by the EM provider if the Governor has amended the conditions of their licence; and
- contact the EM provider immediately when they are aware that they will have difficulties in complying with their curfew conditions. This is regardless of whether they have already contacted their offender manager/responsible officer or the prison. Depending on the circumstances, the EM provider may refer the Supervised Individual to their RO and/or the prison that released them.

4.9.4 PPCS, acting on behalf of the Secretary of State, is responsible for deciding whether to authorise recall of a Supervised Individual released on HDC, issue a warning letter to them or take no further action. (The EM provider may also issue warning letters for minor infringements of EM conditions). If the Supervised Individual is recalled to custody, the prison will need to assist in administering any appeal process (the appeal itself is determined by the MOJ HDC Recall Appeals Team).

4.9.5 Further requirements and guidance around the HDC recall and the recall appeals process is set out in the Recall, Review and Re-release of Recalled Prisoners Policy Framework.

### **One-off absences**

4.9.6 In certain, clearly prescribed circumstances the EM provider may grant one-off absences during the curfew period. The absence may be authorised only where the Supervised Individual provides the EM provider with sufficient written proof of the reason for the authorised absence, either 24 hours before the absence or within 48 hours of the absence for emergency absences. EM.

4.9.7 The circumstances are:

- attending a wedding or funeral of a close relative - meaning a spouse (including a partner with whom the subject is living as a spouse), parent or child (including in loco parentis relationships), sibling (including half and step) or fiancée);
- irregular or unexpected personal medical appointments/treatment;
- irregular or unexpected medical appointments/treatment for the subject's child or adult dependents;
- attendance at job interviews, jobcentres, or elsewhere in connection with any claims for financial assistance;
- attendance as a witness in court or as required by the court; or
- other appointments involving the Subject's immediate dependents where the Subject's presence is required.

4.9.8 Emergency absence reasons (which may be authorised after the event) include:

- where emergency medical treatment for the subject or his/her immediate dependents is required and other emergencies involving the subject's immediate dependents where the subject's presence is required;
- where the Supervised Individual has been required to work at short notice, the work forms part of a permanent job, is not just a "one-off" piece of work, and the employer has provided written verification that the work was required and took place; or
- where the Supervised Individual has been held in police custody during the curfew period and the police verify this.

4.9.9 The period authorised must be limited to the length of the event, plus a maximum of 1.5 hours travelling each way. The EM provider must approve the minimum required time, which must not normally exceed 8 hours and may never exceed 24 hours.

4.9.10 Where the circumstances do not fall within these prescriptions prison Governors may authorise one-off absences, and may consult the RO for advice or verification. Where the Governor authorises a one-off absence from curfew, a copy of the Licence Variation form will be sent to the probation provider, plus the EM provider and the police. In such cases there is no need for a revised licence to be issued, as this is an authorised absence rather than an amendment to the licence conditions. However, any such one-off variation must still leave at least 9 hours in the day where the Supervised Individual is subject to curfew.

#### **Permanent changes to curfew/address licence conditions**

4.9.11 If the prison receives a request for a change of address which it considers merits assessment, it must send the HDC Licence Variation form to the probation provider to confirm that the new address is suitable for HDC. They may also contact the EM provider if further information is required about the supervised individual's performance on curfew but the EM providers have no say in the decision or assessment.

4.9.12 In some cases, where the Supervised Individual is unable to continue living at the present curfew address, a swift authorisation may be required. Further details can be found at Annex I. If the probation provider considers that an adequate assessment cannot be carried out in the time (for instance if a home visit is required), then the licence must not be changed.

4.9.13 It is essential in such cases that the EM provider is notified immediately so that they are able to inform any breach reports sent to PPCS. It is also essential that the probation provider maintains a clear record of advice given to the Supervised Individual. In considering enforcement action, PPCS will consult the relevant probation provider for a view on how soon a new, suitable address will be available. If it is clear that this will lead to the Supervised Individual being unmonitored for more than 24 hours, PPCS should be contacted immediately. If a suitable address cannot be found swiftly, recall to prison on the

grounds of “inability to monitor” will be considered by PPCS. Such a recall will allow for the re-release of the Supervised Individual if a suitable new address can be confirmed.

4.9.14 If the Supervised Individual approaches the probation provider directly requesting a change to the curfew address or times, the probation provider must contact the releasing prison and advise the Supervised Individual to remain at the current address or continue with the current curfew until the variation request is approved by the prison Governor and notification of the variation is received. In submitting a request for a variation of curfew times, the probation provider should provide start/end dates as relevant and documentary evidence that the variation is necessary i.e. to enable a supervised individual to take up employment during hours that conflict with their curfew.

4.9.15 If a licence variation relating to curfew/address is authorised:

- Where there is a permanent change to the curfew conditions a new licence is issued and a copy must be sent, along with the HDC Licence Variation form, to the EM provider, the probation provider, National Identification Service (NIS) and the home police force. Where there is an address variation the EM provider will visit the address to move the equipment.
- Where visiting the address, the EM provider will outline the licence variation and get the Supervised Individual to sign electronically to confirm that this has happened. Otherwise they will phone the Supervised Individual to explain the changes and when they will come into effect, and have the subject repeat the changes back to ensure that they are understood. In each case, the EM provider will post a hard copy of the licence to the Supervised Individual.

4.9.16 If a licence variation is refused:

- Offenders must be notified of the reasons for any refusal. Where an application to change the curfew conditions is refused, the EM provider must be informed of the outcome of the application.
- The probation provider must also be informed. The Supervised Individual may appeal to the Governing Governor against the decision not to vary the licence conditions.

### **Prolonged absence in hospital or for court proceedings**

4.9.17 If the Supervised Individual or the EM provider informs the prison that the Supervised Individual is due to spend a prolonged period in hospital, the licence must not be amended so that the Supervised Individual is curfewed to the hospital. In such cases Governors have instead the discretion to instruct the EM provider to treat the absence as an allowable absence, provided the Supervised Individual can provide documentary evidence as required for such absences. When notifying the EM provider, the prison should make clear how long the allowable absence is allowed to last, up to a maximum of four days. If the hospital stay lasts longer than four days, it may be necessary to issue further extensions to cover the remainder of the stay. The extension of the allowable absence does not rescind the curfew and as soon as the Supervised Individual is discharged from hospital he or she is once again required to comply with their curfew at the specified address, whether or not any days remain of the allowable absence authorised by the prison.

4.9.18 If a supervised individual is required to attend a court which it is not possible to travel to in one day from the supervised individual's curfew address, the Governor may agree the extension of the allowable absence to cover a period of up to 3 days rather than require that a new curfew address be imposed. Again, the EM provider must be informed. Such an allowable absence must not be allowed to exceed 72 hours. If it is anticipated that the Supervised Individual will be required to attend the court proceedings for more than three days, it will be necessary to amend the licence to provide for a temporary curfew to an

address in the vicinity of the court. As soon as the rationale for the supervised individual's absence ceases, he or she must once more be at their specified address during curfew hours.

#### **4.10. CROSS-BORDER HDC**

4.10.1. Governors must follow the requirements and guidelines set out at Annex J in relation to cross border HDC.

#### **4.11. HDC FOR CHILDREN**

4.11.1. The scheme applies to children who are serving sentences of detention under section 250 of the Sentencing Code (formerly section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 - for certain specified serious offences). All of the statutory provisions on HDC apply equally to eligible children as does the policy set out in this framework, subject to the following variations.

4.11.2. The decisions ascribed to the Governor or delegated decision-maker above must be taken by the Governor or delegated decision-maker in relation to any child held in a Young Offender Institution. Appeals against HDC decisions in YOIs, including where the Governor does not accept that there are grounds to assess a presumed unsuitable Supervised Individual exceptionally for HDC, should be made via the local appeals process or prison complaints system procedures

4.11.3. In relation to a child held in a Secure Training Centre (STC) or in a local authority Secure Children's Home (SCH), these decisions must be taken by HMPPS Youth Custody Service (YCS) Release and Resettlement Team, who will also be responsible for determining HDC eligibility and the eligibility date. The YCS will also be the avenue of appeal against decisions. Where a YCS decision is appealed, the appeal must be considered by a member of YCS staff not involved in the original decision.

4.11.4. Address Checks forms must be sent directly to and completed by the youth offending team, and returned directly to the YOI or STC/SCH.

4.11.5. Records of all HDC actions should be made on NOMIS or on the Youth Justice Assessment Framework (YJAF) as appropriate.

4.11.6. The forms at annex K may be used with children, subject to appropriate adaptation reflecting the different places of detention and decision-maker, and to include details of the responsible adult.

### Timeframe for HDC process and Recording decisions on NOMIS

The following table is a guideline with recommended timings based on, for illustrative purposes, a Supervised Individual serving a sentence of 40 weeks or more. Shorter sentences and remand time will mean that a shorter timetable will be necessary.

| Timing   | Action  |
|--|---|
| Within 5 working days of sentence calculation          | Identify HDC eligibility and presumed unsuitability.<br>Notify Supervised Individual using one of the HDC Eligible/HDC Presumed Unsuitable/HDC Not Eligible/HDC Not Enough Time forms.<br>Provide copy to RO and the TTG provider in the prison.          |
| Thirteen weeks before HDCED                            | In relevant cases, case admin submits HDC-FNP to Home Office Immigration Enforcement (HOIE) - requiring return within 20 business days - to establish current immigration status and HOIE intentions on removal and detention.                            |
| Ten weeks before HDCED                                 | Offender given and supported to complete HDC Address Form, providing details of their proposed release address or opt out notification.   |
| Nine weeks before HDCED                                | Case Admin completes Part 1 of HDC Address Checks form and invites RO to complete part 2 within ten business days.  |
| Seven weeks prior to HDCED                             | RO returns completed HDC Address Checks form, confirming informed occupier consent and electricity supply, reporting instructions, details of contact in VCS cases, and any non-standard licence conditions and outstanding risk management plan actions. |
| Six weeks prior to HDCED                               | Offenders being released BASS accommodation must be referred to Local Authorities, as there is a likelihood of moving-on from BASS accommodation as homeless.   |
| Five weeks prior to HDCED                              | HDC Assessment and Decision form completed. Decision-maker considers whether there are exceptional reasons to refuse or postpone HDC and, if not, authorise release.  |
| Three weeks prior to HDCED                             | If necessary, case admin checks with RO about outstanding risk management plan actions.   |
| Two weeks prior to HDCED                               | Offender, RO, police and the EM provider to be informed of decision on HDC.   |
| Day of Release (on or as soon after HDCED as possible) | Copy of the licence to be sent to RO, police and the EM provider.   |

For sentence/resettlement planning purposes, it is recommended that those involved in HDC work on the assumption that the HDCED will be the release date, in all cases where the Supervised Individual is eligible and not presumed unsuitable, until the point where HDC has been refused. Probation providers should work on the basis that this will be the release date when they are giving reporting instructions on the Address Checks form.

The HDC decision should be recorded on NOMIS as follows:

|                                     |  |
|-------------------------------------|--|
| <b>Approved</b>                     | where there are no exceptional reasons to refuse/postpone.   |
| <b>Rejected</b>                     | where it is not possible to manage the Supervised Individual safely at the proposed address or there are fewer than ten days to CRD.   |
| <b>Postponed (outstanding risk)</b> | where the address has not yet been ruled out as unsuitable but it is not possible to approve release because there is a risk management planning action required before release. Once this is resolved, the Assessment and Decision Form must be updated accordingly and a decision must be taken. Once notified that the HDC decision has been postponed for these reasons, the Supervised Individual may choose to withdraw this address and submit another. |
| <b>Postponed (investigation)</b>    | where the Supervised Individual is under investigation and/or facing criminal or IA proceedings for an offence committed during the current sentence. Or there is an outstanding confiscation order and it has been determined that release on HDC would frustrate the order of the court.   |

**HDC Assessment Process Flow Chart**

The full process chart can be found at:

<https://www.gov.uk/government/publications/home-detention-curfew>

### Effect of Recall on HDC Eligibility

The following table provides details of the different types of recall or return to custody and the effect that this has on HDC eligibility.

Offenders who are currently serving a standard or fixed term recall who were also sentenced for another offence on which they are eligible for HDC cannot be released on the new sentence until the recall has been served.

|   |  |
|---|--|
| <p><b>Previous recall or return to custody making the Supervised Individual ineligible</b></p>                | <ul style="list-style-type: none"> <li>• Section 38A(1)(a) of the Criminal Justice Act 1991 (CJA 91) – breach of HDC curfew</li> <li>• Section 255(1)(a) of the Criminal Justice Act 2003 (CJA 03) – breach of HDC curfew</li> <li>• Section 40 of the CJA 91 - return to custody by the court for committing an imprisonable offence during the at-risk period.</li> <li>• Section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 - return to custody by the court for committing an imprisonable offence during the at-risk period.</li> </ul> <p><i>(The “at risk” period was that part of a CJA 91 sentence after the licence expired but before the sentence ended when the Supervised Individual was “at risk” of being returned to custody by the court but not liable to administrative recall.)</i></p> |
| <p><b>Current recall making the Supervised Individual ineligible</b></p>                                      | <ul style="list-style-type: none"> <li>• Section 254 of the CJA 03 – standard recall where the Supervised Individual had been released early on compassionate grounds</li> </ul>   |
| <p><b>Previous recall making the Supervised Individual presumed unsuitable</b></p>                            | <ul style="list-style-type: none"> <li>• Section 39 of the CJA 91 – standard recall during the HDC period</li> <li>• Section 254 of the CJA 03 – standard or fixed term recall during the HDC period</li> </ul>  |
| <p><b>Previous recall which does not make the Supervised Individual ineligible or presumed unsuitable</b></p> | <ul style="list-style-type: none"> <li>• Section 39 of the CJA 91 – standard recall <u>not</u> during the HDC period</li> <li>• Section 254 of the CJA 03 – standard or fixed term recall <u>not</u> during the HDC period</li> <li>• Section 38A(1)(b) – inability to monitor on HDC</li> <li>• Section 255(1)(b) - inability to monitor on HDC</li> </ul>  |

Evidence of previous recall or return to custody can be found by checking pre-cons, back records and Historical Prisoner Application (HPA).



## **Identifying presumed unsuitable supervised individuals and applying the exceptional circumstances test**

### Offenders serving a sentence for specified offence categories:

- Examples of current offences that fall under the specified offence categories can be found at Annex E. Please note that this list of examples is not exhaustive and that if there is any doubt staff should consult the HDC Policy Helpline for advice.

### Offenders with a history of sexual offending:

- Offenders who are required, on release, to register with the police under Part 2 of the Sexual Offences Act 2003 are statutorily excluded from HDC. All other supervised individuals who have a history of sexual offending, but are not required to register, are presumed unsuitable.
- Offenders with previous convictions for any one of the presumed unsuitable sexual offences, listed at Annex E will be considered to have a 'history' of sexual offending. Cautions will not trigger the presumption unless the caution led to the Supervised Individual being subject to the sex offender registration requirements at that time.
- The following are not considered to be sexual offences for the purpose of this policy.
  - Prostitution or soliciting.
  - Offences which involved consensual, adult, homosexual activity not in a public place (this may include for example gross indecency or buggery, but it must be clear, from available case papers, that these were clearly consensual homosexual offences).
  - Disclosing private sexual photographs and films with intent to cause distress, commonly referred to as a "revenge porn" offence.

### Offenders who have been recalled for poor behaviour whilst on HDC:

- Offenders who have ever been given a standard or fixed term recall during the HDC period.

### Offenders liable to deportation not yet served with a decision to deport:

- Where the Criminal Casework Directorate of Home Office Immigration Enforcement (HOIE) has confirmed that the Supervised Individual is liable to deportation but no deportation decision has been made, the Supervised Individual is presumed unsuitable. Offenders referred to the Home Office and whose immigration status remains unclear should be notified that they are presumed unsuitable for HDC until their immigration status has been confirmed.

### Offenders sentenced to 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK:

- This policy reflects the statutory exclusion from HDC for Supervised Individuals whose offending is serious enough to attract a sentence of 4 years or more imposed in this jurisdiction.

### Category A offenders:

- Such offenders have already been assessed as "those whose escape would be highly dangerous to the public or national security".

- Prisons must therefore not follow the normal procedure of automatically embarking upon a HDC assessment for such offenders, and instead preparations must be made for their release on the assumption that this will take place at the CRD or ARD.
- If a Category A Supervised Individual requests consideration for HDC, the Governor must consider whether there are exceptional circumstances to merit initiating the HDC assessment.

### **Applying the Exceptional Circumstances test**

#### For those with a history of sexual offending:

- In deciding whether exceptional reasons exist to grant release, the Governor should consider the nature of the offences and the disposal to deal with it (e.g. the length of sentence for the sex offence); how long ago the offence was committed; whether there are other sex offences recorded against this Supervised Individual; and the age of the Supervised Individual and victim at the time the offence was committed.

#### For offenders liable to deportation but not yet served with a decision to deport:

- Such offenders are presumed unsuitable because they are being considered for removal from the UK rather than resettlement here. Governors must therefore take into account the information received from the Home Office about the supervised individual's current immigration status; for example, whether deportation is unlikely to be affected for the foreseeable future, and there is no current intention to detain the Supervised Individual on release from prison, plus any information to suggest that the Supervised Individual might be unlikely to remain at the HDC address in order to evade immigration proceedings.

#### For all other presumed unsuitable categories:

- In considering whether there are exceptional circumstances in these cases, the test is whether the circumstances of the Supervised Individual are so compelling as to justify their early release, despite the presumption against it. In order to demonstrate this, the case must stand out.

It is likely that only a very few 'presumed unsuitable' supervised individuals, will be released on HDC. It is impossible to give definitive guidance on what will constitute an exceptional reason to release because the circumstances will vary from case to case. As a rule of thumb, such cases will stand out. The fact that the Supervised Individual has no previous convictions and is currently assessed as low risk of harm, for example, will not by itself be sufficient to meet this test. There must be some additional factors, for example compelling or compassionate reasons for the release, or exceptional progress by the Supervised Individual, though each case must be considered on its merits.

## Examples of presumed unsuitable offences

Please note these lists of examples are not exhaustive. If in doubt please consult the HDC Helpline.

Examples of current offences for which offenders will be presumed unsuitable for release on HDC:

| Offence Category  | Examples:   |
|-------------------|---|
| <b>Homicide</b>   | Manslaughter<br>Attempted Murder<br>Making Threats to kill<br>Conspiring or soliciting etc to commit murder<br>Causing Death by Reckless/Dangerous Driving<br>Causing Death by careless driving when under the influence of drink or drugs<br>Aggravated vehicle taking resulting in death  |
| <b>Explosives</b> | Causing GBH by explosion<br>Attempting/Causing an explosion with intent<br>Placing explosives with intent<br>Making explosives<br>Possession of explosives with intent to endanger life   |
| <b>Terrorism</b>  | <p><b>Anti-Terrorism, Crime and Security Act 2001:</b><br/>           Use of nuclear weapons<br/>           Assisting or inducing certain weapons<br/>           Use of noxious substances or things to cause harm and intimidate</p> <p><b>Terrorism Act 2000:</b><br/>           Membership of proscribed organisation<br/>           Money laundering, fund raising etc<br/>           Weapons training<br/>           Directing a terrorist organisation<br/>           Possession of articles for terrorist purposes<br/>           Collection of information for terrorist purposes<br/>           Inciting another person to commit an act of terrorism outside the UK<br/>           Committing terrorist related offences outside the UK by a UK national/resident</p> <p><b>Prevention of Terrorism Act 2005:</b><br/>           Breaches of control orders under section 9(1) and (2) (But <b>not</b> breaches under s9(3))</p> <p><b>Terrorism Act 2006:</b><br/>           Encouragement of terrorism<br/>           Dissemination of terrorist publications<br/>           Preparation of terrorist acts<br/>           Training for terrorism<br/>           Attendance at a place used for terrorist training<br/>           Making and possession of devices or materials<br/>           Misuse of devices or material and misuse and damage of facilities<br/>           Terrorist threats relating to devices, materials or facilities</p> |

| Offence Category  | Examples:   |
|---|---|
| <b>Possession of offensive weapons</b>  | Possession of an offensive weapon<br>Possessing a sharp bladed instrument   |
| <b>Possession of firearms with intent</b>   | Possession of firearms (including imitation firearms) with intent to: <ul style="list-style-type: none"> <li>• endanger life or commit an offence</li> <li>• resist arrest</li> <li>• cause fear of violence</li> </ul> Possession of a firearm whilst committing an offence  |
| <b>Cruelty to Children</b>  | Ill treatment or neglect<br>Child abduction<br>Abandoning children under 2 years<br><br><i>Other offences, not elsewhere specified, where a person aged 16 years or more who has the custody, charge or care of any child or young person under 16 years wilfully assaults or causes unnecessary suffering (i.e. this <u>may</u> include those convicted of, for example, ABH or GBH instead of child cruelty)</i>  |
| <b>Offences aggravated on the grounds of race, religion or sexual orientation</b> | Racially or religiously aggravated offences under the Crime and Disorder Act 1998 - sections 29 to 32: <ul style="list-style-type: none"> <li>• malicious wounding or GBH</li> <li>• ABH</li> <li>• common assault</li> <li>• criminal damage</li> <li>• intentional harassment, alarm or distress</li> <li>• harassment</li> <li>• causing fear of violence</li> </ul> Incitement to racial hatred offences under sections 18-23 of The Public Order Act 1986; and Incitement to hatred on the grounds of religion or sexual orientation offences under section 29B to 29G of the Public Order Act 1986: <ul style="list-style-type: none"> <li>• use of words or behaviour or display of written material</li> <li>• publishing or distributing written material</li> <li>• public performance of play</li> <li>• distributing, showing or playing a recording</li> <li>• broadcasting material</li> <li>• possessing material</li> </ul> |
| <b>Covid-19 related offences</b>  | Offences under the Coronavirus Act 2020<br><br>Theft of medical supplies intended to tackle Covid-19<br><br>Offences where the Supervised Individual has threatened to infect the victim with Covid-19.   |

Examples of Sexual Offences for which offenders will be presumed unsuitable for release on HDC:

| Offence Category       | Examples:  |
|------------------------|--|
| <b>Sexual Offences</b> | <p>Offences listed in the Sex Offenders Act 1997 Schedule 1 S1(1(a) to (f)). (Please note that buggery and indecency between men may, depending on the circumstances of the case, fall outside the definition of sexual offences set out in paragraph 4.3.9. of this Policy Framework)</p> <p>Abduction under sections 17, 19, 20 and 21 of the Sexual Offences act 1956 (e.g. 'abduction of woman by force' and 'abduction of unmarried girl under 18 from parent or guardian')</p> <p>(Please note that offences committed under the Child Abduction Act 1984, sections 1 and 2 are not included in the presumption against suitability.)</p> <p>Burglary with intent to commit rape</p> <p>Incest</p> <p>Indecent exposure</p> <p>Abuse of Position of Trust (S3 of the Sex Offences Act 2000)</p> <p>Breaches of Sex Offender Orders</p> <p>Offences relating to obscene publications e.g. taking, making, distributing or publishing indecent photographs. Possession of indecent photographs of children. Internet pornography offences.</p> <p>Offences relating to exploitation of prostitutes or causing prostitution (e.g. brothel keeping and living off immoral earnings). (Prostitution itself is not included in the presumption against suitability.)</p> |

### **Guidance on calculating the HDCED where there are multiple standard determinate sentences**

The majority of standard determinate sentences (SDSs) have automatic release at the half way point of the sentence with a licence running to the end of the sentence. Concurrent sentences run parallel to one another, each having their own set of release dates and release cannot take place until the latest of the dates. Consecutive sentences are aggregated with automatic release at the half way point of the aggregate on a licence running to the end of the aggregate. The exceptions are:

- sentences of less than 12 months imposed on or after 3 December 2012 for an offence committed before 1 February 2015. Release is at the half way point, but is unconditional. If they are concurrent they run parallel and if they are consecutive they are aggregated.
- Schedule 20B sentences are sentences imposed before 03/12/12 for offences committed before 04/04/05. The majority of these types of sentences in the system will be sentences of 4 years or more making them statutorily excluded from HDC. However, if a Schedule 20B sentence of less than 4 years is received into custody (following a period of UAL for example) please seek advice from the HDC policy helpline

Further detailed guidance on calculating release dates for different combinations of sentence can be found in PSI 03/2015 – Sentence Calculation

### **Basic Principles**

- Consecutive Standard Determinate Sentences (SDSs) are aggregated and HDC eligibility and release dates are calculated by reference to the length of the aggregate period.
- Concurrent SDSs are calculated separately from one another and run parallel to each other. Each will have its own HDCED.
- For consecutive sentences, the order in which the sentences were imposed by the court remains immaterial for the purposes of calculating HDC eligibility.
- Wherever there is a “presumed unsuitable” offence in the overall sentence envelope (consecutive or concurrent sentences), the Supervised Individual must be presumed unsuitable for release on HDC at any point within the envelope.
- Where the Supervised Individual is statutorily excluded from HDC on any one of the sentences within the overall sentence envelope (that is, excluded by virtue of s.246(4) of the CJA03 – and not simply because they are serving a sentence under 12 weeks), they must not be released before the CRD or automatic release date(ARD) (or notional CRD/ARD) in relation to that particular sentence.
- With consecutive SDSs, any statutorily excluded sentences must be deemed to be served first which means that a notional CRD/ARD must be calculated on the statutorily excluded sentence and the Supervised Individual will be presumed unsuitable for HDC during the remainder of the sentence envelope.

- Where a court has given “no separate penalty” for an offence listed in Annex E to this Policy Framework, this will not affect the sentence envelope to make the Supervised Individual presumed unsuitable.

For detailed application of the above principles please see the instructions and examples immediately below.

## **Calculation instructions**

### Concurrent SDSs:

Where the Supervised Individual is serving concurrent SDSs (example 1 refers), all sentences will run in parallel. Each sentence will have its own HDC eligibility date (HDCED) and conditional release date (CRD), and eligibility for HDC will be established upon the sentence with the effective (i.e. latest) HDCED.

The Supervised Individual may be released at the effective HDCED, but release must not take place until after the CRD of any sentence for a statutorily excluded offence. The Supervised Individual may be released on HDC after this point only if there are exceptional circumstances because the presence of a statutorily excluded offence means that the Supervised Individual is presumed unsuitable for HDC in relation to the remainder of the sentence envelope.

Where at least one of the sentences is for a presumed unsuitable offence, release must not take place unless there are exceptional circumstances.

### Consecutive SDSs

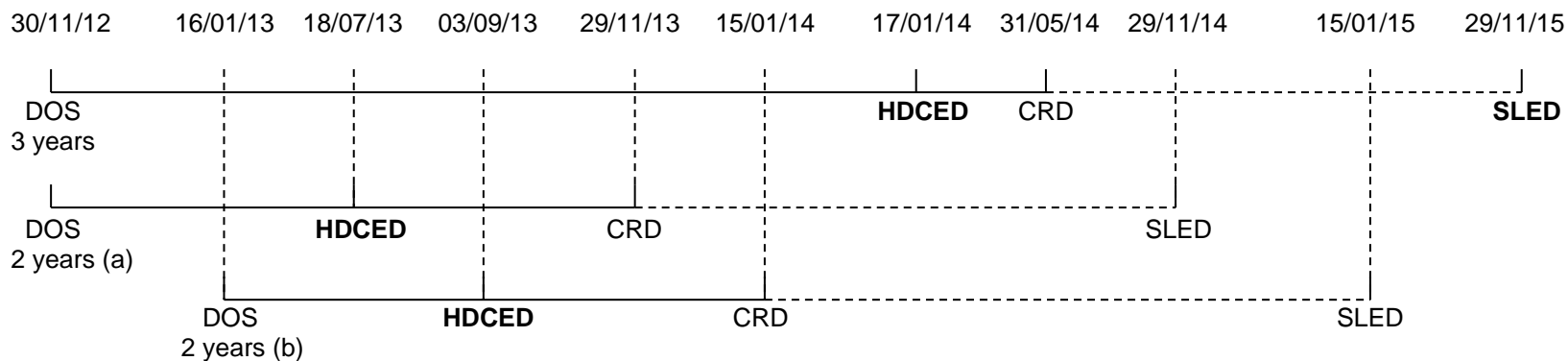
SDSs that are ordered to be served consecutively are aggregated (example 2). The HDCED is calculated on the length of the aggregate (i.e. the total length of all the sentences).

The order that the sentences were handed down by the court is immaterial when determining HDC eligibility.

Where any of the sentences is one that would statutorily preclude HDC on that sentence then the length of that sentence must be deducted from the length of the aggregate and the HDCED calculated on the balance of the aggregate remaining. The presence of a statutorily excluded sentence within the aggregate means that the Supervised Individual may be released on HDC after this HDCED only if there are exceptional circumstances

Where at least one of the sentences is for a presumed unsuitable offence, the HDCED is calculated on the length of the aggregate (i.e. the total length of all the sentences), but release must not take place unless there are exceptional circumstances.

**EXAMPLE 1: Concurrent SDSs** (all sentences imposed on or after 3/12/12 and sentences of 12 months or more imposed before that date for offences committed on or after 04/04/05)



**EX 1.1 – all offences suitable**

Sentences are calculated in parallel and so each sentence has its own HDCED. Eligibility for HDC would be 17/01/2014 based on the first sentence (135 days before the half way point – CRD) as this provides the latest eligibility date.

**EX 1.2 – 2-year offence (a) presumed unsuitable**

Will not change the effective HDCED of 17/01/2014 but the Supervised Individual will be presumed unsuitable for HDC.

**EX 1.3 – 2-year offence (a) statutorily excluded**

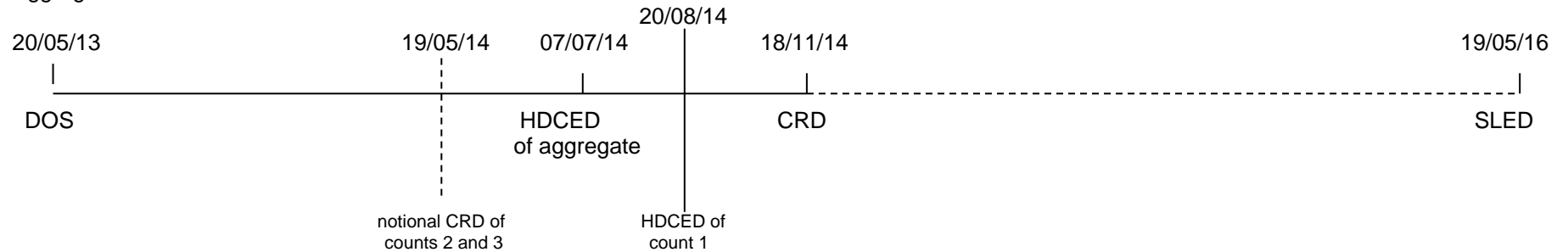
Will not change the effective HDCED of 17/01/2014 but the Supervised Individual will be presumed unsuitable by virtue of having a statutorily excluded sentence within the overall sentence envelope.



**EXAMPLE 2: Consecutive SDSs** (all sentences imposed on or after 3/12/12 and sentences of 12 months or more imposed before that date for offences committed on or after 04/04/05)

20/05/13 sentenced to: Count 1 - 12 months)  
Count 2 - 12 months consecutive) = aggregate of 3 years  
Count 3 - 12 months consecutive)

Aggregate looks like:



**EX 2.1 – all offences suitable for HDC**

The length of the aggregate determines the HDC eligibility date. The aggregate of the sentences is 3 years which attracts an HDCED of 135 days before the CRD. 18/11/14 less 135 days gives an HDCED of 07/07/14. The offences of all sentences are suitable and so the Supervised Individual is eligible for HDC at that point.

**EX 2.2 – Count 2 offence presumed unsuitable**

If Count 2 had been imposed for an offence of child cruelty, this does not affect HDCED of the aggregate- 07/07/14, but the Supervised Individual would be presumed unsuitable for HDC

**EX 2.3 – Count 2 and 3 sentences statutorily excluded**

If counts 2 and 3 were statutorily excluded for HDC purposes, those two sentences would be discounted for the purposes of calculating the HDCED. The HDCED could only be calculated on the length of the remaining 12-month sentence of count 1. Counts 2 and 3 would be deemed as being served first and the notional CRD of these sentences would have to be calculated – 19/05/14. On the 12 months of Count 1 the Supervised Individual would be eligible for HDC after serving one quarter of that sentence. One quarter of 12 months (rounded up) is 92 days. 92 days reckoned from the day after the notional CRD of counts 2 and 3 gives an HDCED of 20/08/14. The Supervised Individual is presumed unsuitable for HDC by virtue of having a statutorily excluded sentence within the overall sentence envelope.

## HDC Guidance for probation providers on completing address suitability checks

### Purpose of Guidance

This guidance sets out good practice principles based on research and industry good practice associated with HDC for probation practitioners to consider when completing address suitability checks and providing advice to prison Governors in cases where specific risk management actions are required prior to release.

For all eligible cases, responsible officers (RO) are responsible for completing address suitability checks; returning information to the prison within the required ten business day timescale and using the forms provided at Annex K of this Policy Framework. The focus of the Report completed by probation providers is on whether the Supervised Individual can be safely managed at the proposed address and should not include general concerns about the likelihood of the Supervised Individual complying with the curfew or about current conduct in custody, unless that has a direct bearing on the assessment. For example, where the Supervised Individual has been harassing the victim from custody.

### Conducting address checks

#### Informed consent

The main occupier of the proposed address must give their informed consent to the Supervised Individual being released to the address on HDC. They need to know what to expect of HDC and the RO need to assure themselves that consent is willing. If they have concerns during the HDC period the main occupier should raise these with the RO, whose details will be on the licence, or with the EM provider, who are available 24 hours per day, seven days per week via the monitoring unit they will install.

The main occupier must be advised broadly how the scheme operates and the following is suggested as a summary:

*HDC is early release from a prison sentence. It is only available to people serving between 12 weeks and four years who meet the eligibility and suitability criteria. If a person is released on HDC they must remain at the release address every night (7 days per week) for at least nine hours every day until they reach the half-way point of the sentence, i.e. the date they would have been released if it were not for HDC. Usually the curfew starts at 7pm and goes on to 7am but might be varied to accommodate approved work patterns, for example. They can't leave the house during this time – even to go into the garden - without permission or a verified emergency and if they do they can be recalled to prison.*

*If released on HDC [NAME] will be required to arrive at the release address before the start of the curfew time on their licence and be there when the EM providers arrive to install the home monitoring unit (a small box plugged into the mains) and attach a tag, usually to their ankle.*

*The EM provider's staff may from time to time be required to visit the address during the curfew times and they must be allowed to enter or [NAME] could be recalled.*

Contact with the main occupier is also key to informing the risk assessment, establishing the nature of the relationship, details about children at the address and whether there are any others at the address who also need to give informed consent.

### Assessing the suitability of the address

Most cases will be managed via standard licence and curfew conditions but there will be some supervised individuals who will require specific public protection measures to be in place before they can safely be released.

#### *MAPPA, Police and Children's Services comments*

When considering suitability of the address, risk management planning actions would include where a Multi-Agency Public Protection Arrangements (MAPPA) meeting has been convened pre-release and any case where HMPPS is committed to allowing the victim the opportunity to make representations about licence conditions. They will also include cases where the RO is recommending licence conditions that exclude the Supervised Individual from that location because of the risk to identified victims or potential victims at or in close proximity to the address.

The RO is required to inform the prison about the assigned MAPPA level at least six months before a MAPPA eligible Supervised Individual is due for release. This release date includes HDCED as that is the earliest possible release date for qualifying supervised individuals. In exceptional cases, where HDC is being considered but a MAPPA level has not been received by the prison, staff should use the MAPPA escalation process to ensure the level is assigned as a priority. Due to sentence length and conviction exclusions, the number of eligible HDC cases that require MAPPA level 2 or 3 management will be minimal. However, in these cases the MAPPA risk management plan would need to be considered in the HDC decision making process and any necessary actions taken before any release on HDC.

Obtaining comments from the Police, Local Authority Children's Services and, where appropriate, Local Authority Adult Safeguarding Services is recommended in those cases where it is likely that specific actions will need to be taken pre-release, to protect the public. In making this decision, the RO is expected to consider whether there are concerns about release to the proposed address (primarily because of who lives there or in close proximity) that mean it is essential to obtain the information they are seeking before release on HDC.

Things to consider are whether:

- the Supervised Individual has been assessed as a continuing risk to children whilst in custody (see chapter 5 of the Public Protection Manual);
- the Supervised Individual has a history of domestic abuse and/or risk to vulnerable adults;
- there is domestic abuse, substance misuse and/or mental health concerns that may put a child at risk of harm.

Particular care needs to be taken in relation to the release on HDC of a supervised individual with a history of inter-personal violence, to the home of a previous victim or potential victim. Similarly, releasing supervised individuals to an address they will share with someone with a history of domestic violence towards them should also be very carefully considered because the Supervised Individual (and potential victim) will feel constrained by the curfew requirements which could inhibit self-protection.

Each case must be considered on its merits but it is expected that, in most instances where a high risk of interpersonal harm is identified, the address will be unsuitable for HDC, particularly if there is an identified need to undertake further, specific work to reduce any risk of serious harm to the partner/children at the address prior to release.

#### *Offenders from the Gypsy, Romany and Travellers' communities*

Such supervised individuals may have issues relating to the address checks process as HDC requires the Supervised Individual to be released to an address which has an electricity supply. Although static caravans would be acceptable, those supervised individuals who frequently move their caravan may be deemed address unsuitable and alternative accommodation would need to be sought. The offer of applying for BASS accommodation would be made in these instances if a second accommodation address is not available to the Supervised Individual.

#### *Questions for the RO to ask themselves when undertaking address suitability checks:*

- Is a home visit required? It is for the RO, using their professional judgement and based on what is known about the address, to determine whether a home visit is required to inform a risk management plan. Probation Service good practice guidance is that a home visit is undertaken in all cases where child safeguarding issues are identified. Other relevant factors are whether a home visit has previously been undertaken, and when, and whether there is anything in the information provided by the Supervised Individual and occupier of the proposed address that raises concerns or questions that would best be dealt with face to face
- Have you considered any conscious or unconscious bias you may hold towards the Supervised Individual or their situation? Whilst certain offences like domestic abuse, can increase the risk of harm posed to others, it does not mean that all domestic abuse perpetrators are unsuitable for HDC release. The RO should be able to evidence that they have taken all relevant factors where available into account when assessing the suitability of a proposed release address.
- Does the main occupier have any concerns about the release of the Supervised Individual on HDC to their address? Is there any information available to you relating to these concerns e.g. previous OASys assessment, previous convictions, intelligence from other agencies, Children's Services or Police? When considering this, it is important that the RO considers whether there may be issues of coercive control, or vulnerability; are there any signs that the main occupier or others at the address may be fearful to decline the HDC request? This may be particularly relevant where there has been previous evidence of domestic abuse – between partners, parents or siblings.
- Are there adults at risk or children under the age of 18 residing or visiting the proposed HDC address? Would contact with these people be a concern or a protective factor?
- Have you obtained all necessary information to help you assess the suitability of the address? Can you make an informed and defensible decision?
- How reliable is the information? Is it verified? Does it assist you in managing risk and demonstrating a robust approach to assessing the HDC address? Whilst making checks with police and other agencies is not a requirement for suitability checks, only sentence planning,

there will be some instances where requesting information will assist risk management planning.

- If requested information is not made available within the required timescale, can a defensible decision be made based on existing, available knowledge to inform your professional judgement about the address suitability? For example, have you sought information purely as a part of routine sentence planning or did you have specific concerns in this case? If for example Police colleagues have not responded to a request for information, is there enough information available from OASys assessments, previous convictions or information from other partner agencies to enable you to proceed and make a defensible decision regarding the suitability of the address?
- Would you support release to this address if it was proposed at the Actual Release Date? And, if not, could measures be put in place to change that?
- Have you clearly stated what factors prevent you from supporting release to the proposed HDC address based on information already available? Have you been clear about what needs to happen to be able you to support the application, is it achievable and by when?
- Do any factors preventing you from supporting release need to be withheld from the Supervised Individual to protect victims or the main occupier? The RO should remain mindful that all the information taken into account in deciding HDC may be disclosed to the Supervised Individual if they request it – unless it is agreed with the HDC decision-maker at the prison that there are legitimate grounds to withhold it. Where any other party has been involved in supporting victims, such as the Probation Service Victim Liaison Service, MARAC, or Independent Domestic Violence Advocate (IDVA), they should be contacted to contribute to the HDC assessment and potential restrictions that may require inclusion in the licence conditions.

#### *Completing the Address Checks forms where there is information outstanding*

When returning the form, the RO must make clear where specific information has been requested from other agencies and whether they think it is essential to have the information before release. They must indicate when they expect to receive the information, arrange to chase for the information and provide it to the prison offender supervisor as soon as it becomes available. It may be possible on the basis of the information currently to hand to give an assessment of the suitability of the address as example A below indicates.

**Example A** - Mr A has a history of domestic abuse convictions and is currently serving a sentence for an offence against his partner. He has put forward her address for consideration on HDC release. Contact with the partner by the RO indicates that she is willing but the RO has concerns about whether she is being pressurised by the Supervised Individual.

The police have not provided information relating to previous call-outs to the address within the timescale required to include in the HDC report.

#### **OM Assessment at 4G Managing Risk in the Community:**

Are there any risk management planning actions that must take place prior to release before the address can be considered suitable? Yes / No - **YES**

Are you still waiting for information? Yes/No - **YES**

*If yes to either, please outline what the actions are and why they make the address unsuitable. Where information is awaited, please indicate when it is expected.*

The proposed address is assessed as unsuitable based on the ongoing risk of serious harm posed to the victim of the index offence. Although information has not been made available relating to previous police call-outs to the property, provision of this information would not alter the assessment of suitability of the proposed release address

**Example B** - Mr B is convicted of burglary. Proposed address is parents who are willing to have him live there along with younger brother aged 7. All pre-cons are acquisitive crime. Request made to children's services and police, as this is the operational policy of the probation provider. These checks are still outstanding and not available within the timescale for the preparation of the report.

**OM Assessment at 4G Managing Risk in the Community:**

Are there any risk management planning actions that must take place prior to release before the address can be considered suitable?

Yes / No **NO**

Are you still waiting for information? Yes/No **YES**

*If yes to either, please outline what the actions are and why they make the address unsuitable. Where information is awaited, please indicate when it is expected.*

From the information available within the 10 days there are no indicators to why the proposed address is not suitable and as such the address is assessed as suitable. Mr B's parents have indicated that they are aware of his previous offences and are willing to have him live at their home, the proposed release address. They believe that this will help reduce the risk of him committing further offences. Information was requested from police but has not been returned within the timeframe. This was requested to assist in clarifying whether there are any concerns about offending by others at the address. I have been unable to obtain a clear timescale from police as to when a response will be provided. When this is received, it will be sent to the prison to update my assessment. From the information currently available to me, there are no known risk factors associated with the proposed address.

**Example C** - Mr C is currently serving a sentence for drug related offences. He has put forward his new partner's address for consideration on HDC release. Contact with the partner by the RO indicates that she is supportive and she is aware of Mr C's conviction. The partner confirms that there are 3 children at the address under the age of 16 and that there has been previous Children's Services involvement with the family.

Children's Services have not provided information relating to the partner and children within the timescale required to include in the HDC report.

**OM Assessment at 4G Managing Risk in the Community:**

Are there any risk management planning actions that must take place prior to release before the address can be considered suitable?

Yes / No **YES**

Are you still waiting for information? Yes/No **YES**

*If yes to either, please outline what the actions are and why they make the address unsuitable. Where information is awaited, please indicate when it is expected.*

The occupier of the proposed address is supportive of Mr C's release on HDC to her property. Information has not been made available relating to Children Service's involvement with Mr C's partner and her children in the past. Provision of this information is essential in assessing the suitability of the proposed release, as such my assessment is that the address is unsuitable for HDC due to risks relating to safeguarding. An update to this report will be submitted as soon as the relevant information is provided. Children's Services have indicated that this information will be available within 5 working days of this report. If the information is not returned, the matter will be escalated and the prison informed.

### **Proposing licence conditions**

The RO is required to consider:

- Is there a need for any additional non-standard licence conditions?  
PI 09/2015 'Licence conditions and temporary travel abroad' provides full guidance on imposing additional licence conditions. Any additional licence conditions must be taken from Annex A of this policy, (except for bespoke conditions which must be approved by HMPPS Public Protection Casework Section). Additional conditions should only be used where they can be demonstrated to be necessary and proportionate. The wording of any additional licence condition from Annex A or B must not be modified except where allowed by the use of capital letters inside square brackets. If there is a further alteration proposed to the condition, then it must be requested as a bespoke condition. Any additional condition for a determinate sentence Supervised Individual is necessary and proportionate to manage and/or reduce the risk of further offending of any nature.
- Is this a case with Victim Contact Service (VCS) involvement? Section 4H of the Address Check Form (Victim Liaison) should be completed on every Address Check Form, and requires a Yes/No response rather than being left blank so that it is clear if it is a Victim Contact qualifying case. All qualifying cases should have liaison with the VCS. If the representations of the victim cannot be made available within the timescale this must be explained clearly within the report and an indication provided of the likely timescale for the information following liaison with the Victim Liaison Officer. There follow two examples of information to be included in the Address Checks form in VCS qualifying cases:

**Example D** - Ms D is currently serving a sentence for ABH and the victim has opted into the Victim Contact Service.

The Victim Liaison Officer has confirmed that a letter was sent to the victim on 01/11/2017 providing two weeks to provide representations.

Additional licence conditions may be required to provide adequate safeguarding for the victim and as such a further report will be provided to the prison by 15/11/2017.

**Example E: Mr E is currently serving a sentence for GBH and the victim has opted into the Victim Contact Service.**

**The Victim Liaison Officer has confirmed the victim has concerns about seeing the Supervised Individual and additional licence conditions are required to safeguard the victim.**

**RO assessment at 4F - Licence conditions:**

Please provide details of any **non-standard** licence conditions that are required, including any designed to protect identified victims (See Para 2.23 PI 09/2015 and Para 2.18 PSI 12/2015)

- Not to seek to approach or communicate with [INSERT NAME OF VICTIM AND / OR FAMILY MEMBERS] without the prior approval of your supervising officer and / or [INSERT NAME OF APPROPRIATE SOCIAL SERVICES DEPARTMENT].
- Not to enter the area of [CLEARLY SPECIFIED AREA], as defined by the attached map without the prior approval of your supervising officer.

*(The exclusion area must be defined precisely. A ban on entering a large town, for example, can be acceptable if there is a justification and the evidence shows that it is proportionate for the well-being of the victim. 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 Supervised Individual must be in no doubt where the exclusion zone begins and ends.)*

**Licence conditions should be proportionate and necessary. In this example the victim was fearful of seeing Mr E in the street she lived in and an exclusion of a small area recommended to provide assurances he would not attempt to contact her at her address. This was further reinforced by the non-contact condition should he attempt contact outside of the exclusion zone.**

**OM Assessment at 4G Managing Risk in the Community:**

Are there any risk management planning actions that must take place prior to release before the address can be considered suitable?

Yes / No **YES**

Are you still waiting for information? Yes/No **NO**

*If yes to either, please outline what the actions are and why they make the address unsuitable. Where information is awaited, please indicate when it is expected.*

*From the information available there are no indicators to why the proposed address is not suitable and as such the address is assessed as suitable. The VLS have indicated that extra licence conditions, outlined above should be imposed to restrict Mr X from having contact with the victim. These conditions will help reduce the risk of him committing further offences against the victim, as well as provide an extra level of assurance to the victim, as a clear boundary in a place. This will therefore not impact on his HDC address suitability.*



## **HDC release to BASS accommodation**

BASS accommodation is available via 550 bed spaces located nationally in England and Wales to provide for those without suitable accommodation upon release. The HDC cohort is a priority group, with eligibility described in paragraph 4.4.5. of this Policy Framework, as well as the BASS Policy Framework and associated BASS Stakeholder User Guidance. This provision provides some options in addressing accommodation barriers.

In cases where the proposed release address is BASS accommodation, there is a presumption that the address is suitable for HDC in principle. However, there may be instances whereby the RO has information to indicate that there are concerns about release to the BASS accommodation identified that has previously not been available to the prison. These may include, but not be limited to the following:

- Where the BASS accommodation is within an exclusion zone required to offer protection to victims or safeguard others identified as at risk of serious harm.
- Where the RO has information that indicates there would be a potential risk of harm to other residents in the property.
- Where the RO has information that indicates there would be a potential risk of harm to BASS employees.

The RO may also consider including information in the report that promotes release to BASS accommodation within a specific locality; for example, release to an area where there is support available to the Supervised Individual that will assist in their re-integration. An example may be where a particular BASS property is known to be in close proximity to a Women's Centre that a female Supervised Individual is required to attend on licence. The BASS provider will do all it can to meet requests, but it should also be noted that BASS is a finite resource and it may be helpful to be as broad as possible to alternative areas for accommodation.

Individuals released on HDC to BASS accommodation must be referred to Local Authorities, in accordance with the duty to refer process under the Homelessness Reduction Act 2017 in England and the Housing (Wales) Act 2014, as there is a likelihood of moving-on from BASS accommodation as homeless. Guidance on the duty to refer is given at:

[https://intranet.noms.gsi.gov.uk/\\_\\_data/assets/pdf\\_file/0004/899041/Duty-to-Refer-GUIDANCE-210918-Final.pdf](https://intranet.noms.gsi.gov.uk/__data/assets/pdf_file/0004/899041/Duty-to-Refer-GUIDANCE-210918-Final.pdf)

## **Proposed HDC release involving transfer**

In cases where the proposed HDC address is out of the current owning area, the RO needs to refer to PI 07/2014; para. 2.5:

Pre-release transfer requests should be made at the earliest opportunity and good practice suggests a minimum of six months prior to release to initiate the transfer process. ROs should use professional judgement when considering the merits and timing of case transfers. However, certain processes such as HDC, ROTL and Parole may trigger a request or decision to transfer. In such circumstances, the transferring Probation Service Division should not seek to transfer before these processes are completed but should seek to involve the receiving area in the process decisions. The prison should continue to communicate with the transferring Probation Service Division with responsibility for completing these assessments until a transfer decision is made.

Where the transfer of the case is triggered by the proposed release address being a BASS property outside of the owning area, the RO needs to await confirmation of the BASS place being offered before commencing the transfer of the case.

## Notifying the Supervised Individual of the decision

The Supervised Individual must be notified of the decision to release using the HDC Approved form.

Where the decision is to refuse HDC to the address proposed, or to postpone the decision, the Supervised Individual must be notified using the appropriate form and given clear reasons and an indication of what they can do next, in line with the principles of procedural justice insofar as is possible. There is robust evidence that this helps people to respect authority and decisions more, and willingly comply or cooperate as a result.

The general rule is that all information that has been taken into account in reaching the HDC decision must be disclosed to the Supervised Individual on request, except where the HDC decision maker determines that non-disclosure is necessary either:

- in the interests of national security;
- for the prevention of crime or disorder, including information relevant to prison security; or
- in the interests of the health and welfare of the Supervised Individual or anyone else.

The need to consider disclosure issues may arise where the main occupier, victim or a third party has offered information or expressed concerns about the release but does not wish the Supervised Individual to be notified of those concerns. The first decision may be for the RO to determine whether they can incorporate the necessary information unattributably within the comments about risk management planning in the Address Checks form which may be disclosed to the Supervised Individual. For example, where the main occupier has been coerced into giving consent despite their concerns but there is sufficient other, existing evidence of risk and the RO can effectively “overrule” the main occupier’s consent to HDC.

If this is not possible, for example where it is implausible that the information came from any other source and/or there is no other sufficiently strong evidence about risk, then the information from the main occupier will have to be included in a separate document clearly marked “not for disclosure to the Supervised Individual” and submitted alongside the Address Checks form. The main occupier must be advised that the Governor will determine whether the information can be withheld from the Supervised Individual under the grounds above and that if it is withheld, and the decision is to refuse HDC to that address, the Supervised Individual must be advised that information has been taken into account but is being withheld. The main occupier must also be advised that they will have the option of withdrawing the information if the decision is that it must be disclosed to the Supervised Individual.

The decision on disclosure may be made on the Governor’s behalf by a member of staff of at least band 7 deemed competent to do so. Directors may delegate this decision to Deputy Directors in the contracted estate. Where the decision is that the information cannot be withheld under the grounds above, the individual making the disclosure decision must contact the responsible officer (RO) to explain the decision.

The RO must contact the main occupier to give them an opportunity to withdraw the information – the main occupier should be allowed a few days to decide. The individual who makes the disclosure decision must not be the individual who makes the HDC release decision in any case where the information has been withdrawn by the main occupier.

If relevant information which has been considered in the risk assessment falls into one of these categories, consideration must be given to:

- presenting the information in an edited or summarised form; or
- making a decision to withhold the information.

If the Governor decides the information from the probation provider can be treated as confidential, that service must provide a disclosable and a non-disclosable report. The non-disclosable report must be clearly marked, and must be held separately to the disclosable reports by the prison. The Supervised Individual must be informed in writing if a decision is taken not to disclose some information.

If the Governor decides that the information cannot be treated as confidential, then the probation provider must be contacted to confirm whether the supplier of the information is content for the information to be disclosed. Third parties have a right to withhold consent to their concerns being disclosed to the Supervised Individual. If the individual is not content, the probation provider is responsible for providing a report based on information which can be disclosed. It will be the responsibility of the probation provider to ensure that third parties see that part of any written report submitted by the Service which represents their views, if they so wish.

### **Setting curfew/address conditions on the licence**

The Governor responsible for authorising the release on licence must set the licence conditions, including the times and place(s) of curfew. General guidance on setting licence conditions is set out in the Licence Policy Framework. The guidance here focuses on setting curfew conditions. The conditions and curfew, and reasons for deciding on these, need to be explained clearly to the prisoner.

The curfew should normally be to one address, but there may be good reasons to make an exception.

Legislation requires that the curfew period(s) must not total less than nine hours during any one calendar day, apart from the initial day of release. The curfew should generally be set for 12 hours a day and should only exceed this exceptionally, where there is clear evidence that this will significantly enhance the prospects of successful rehabilitation. Curfews cannot exceed 16 hours a day,

Governors must take into account any recommendation from the probation provider about the curfew hours. They must also take into account legitimate reasons why the curfewee will need to be out of their home at certain times. These include (but are not restricted to):

- working hours (including reasonable travelling times, and including night work);
- childcare arrangements;
- religious observance;
- regular hospital appointments;
- appointments with or arranged through the probation provider.

Different curfew periods may be set for different days, in accordance with the factors above and the curfew period can be broken, e.g. into two or more segments during one 24-hour period. This flexibility enables the HDC to be better tailored to the needs of the person, and hopefully to enable opportunities that will contribute towards their longer-term success

Governors must take account of travelling time when calculating when the curfew period should start on this day. The curfew should normally start no later than 3pm on this day, unless there are reasons why this is not appropriate (for instance travelling time or a late appointment with the community offender manager). The EM provider will visit the Supervised Individual during this curfew period to fit the tag and install the monitoring equipment.

The curfew on the last day will normally be for the same hours as on the preceding days. This means typically that the last curfew period will end at midnight on the day immediately before CRD. The EM providers will de-install the equipment and remove the tag during the last curfew period.

### **Contact points and urgent request for changes of address**

Prisons must consider what details of contact points should be provided on the licence and whom the Supervised Individual should be instructed to ask for when contacting the prison. The contact should be someone who is normally readily contactable by the switchboard and who has sufficient authority to deal with such issues. This may be the Duty Governor during the day and the Orderly Officer at

other times, who will take details and then contact the Duty Governor for a decision. Staff operating as contact points should be provided with clear local instructions on the extent of their role and authority to deal with telephone requests.

If a Supervised Individual rings up with an urgent request for a change of conditions (e.g. due to fear for their safety if they return to their curfew address or because they are no longer allowed to stay at the address) prisons must make clear their assessment of how quickly any change can be approved and must keep a record of the conversation

Prisons will need to contact the probation provider to assess how swiftly any change of address can be assessed and agreed. In some cases where the request is made out of office hours the prison may need to contact either the duty officer for the area, or the supervised individual's community offender manager.

If the Supervised Individual indicates that he or she is not in a position to comply with their licence conditions, they must be advised that breaking the curfew condition could result in recall. Staff must not advise supervised individuals to break their curfew. If the Supervised Individual does break the curfew condition before the licence is changed the usual enforcement process will be applied. If there is evidence the Supervised Individual has attempted to comply with his or her licence conditions but was unable to due to circumstances outside their control, the recall may be authorised on the grounds of inability to monitor which would permit the Supervised Individual to be re-curfewed on HDC following recall if a suitable address can be found.

## Cross border HDC

### General

Eligible offenders serving sentences in England or Wales may be released on HDC to an address in Scotland; similarly, offenders serving sentences in Scottish prisons may be released to an address in England or Wales on the Scottish equivalent HDC scheme. Offenders benefitting from these arrangements are released under restricted transfer terms, known as HDC Restricted Transfer.

### Offenders transferred during the custodial period of their sentence on restricted transfer basis

Offenders in custody in Scotland who are on restricted transfer from England/Wales:

- Offenders serving a sentence in a prison in Scotland, who are on a restricted transfer from England or Wales, must be considered for HDC under the English/Welsh HDC eligibility criteria. The parent prison (the English/Welsh prison in which the Supervised Individual was last held, excluding prisons used only as staging posts to affect the transfer) is responsible for ensuring that the HDC assessment process is completed and that a decision is made, by the Governor, whether to refuse, postpone or authorise release.
- The Scottish holding prison is required to provide much of the information necessary to inform the assessment process. However, the holding prison will not be familiar with the HDC eligibility criteria that apply under the English/Welsh system so the parent prison must ensure that, through close liaison with the holding prison, the supervised individual's eligibility for HDC is correctly established before further risk assessment work is carried out.
- The parent prison must provide the holding prison with a Proposed Address form to give to the Supervised Individual. If the Supervised Individual wishes to apply for HDC and provides a proposed release address, the completed form should be returned to the Parent Establishment then the HDC assessment process must commence as normal.
- The parent prison will be responsible for ensuring that the Address Checks form is commissioned. If the Supervised Individual wishes to be released to a Scottish address (which is likely to be the case) the same procedures must be adopted as below.
- The parent prison must liaise closely with the holding prison to commission the necessary risk assessment information. It will be acceptable for the holding prison either to be asked to provide a written report commenting on the supervised individual's suitability for HDC or to complete the Assessment and Decision form, where applicable. The parent prison must clearly explain the information required in a covering note to the Governor of the holding prison and must ensure that the assessment process is fully documented.
- Once released on HDC, the electronic monitoring will be carried out as it would be for any other HDC release, but by the current provider in Scotland (G4S – [insert contact details])
- In cases of difficulty please contact the HDC Policy Helpline for further advice.

Offenders in custody in England/Wales who are on restricted transfer from Scotland:

- Offenders serving a sentence in a prison in England or Wales on a restricted transfer from Scotland, who wish to be released to an address here, will be eligible to be considered for HDC under the Scottish HDC eligibility criteria.
- It will be the responsibility of the Scottish Prison Service (SPS) to instigate all procedures relating to the assessment of suitability for release on HDC. The English or Welsh holding prison will be asked to comment on the suitability of the Supervised Individual for HDC and must share risk assessment information to enable the SPS to assess suitability for release.

### **HDC Restricted Transfers**

Offenders in English prisons, serving sentences imposed by an English or Welsh court, who wish to be considered for a HDC Restricted Transfer to an address in Scotland will be considered under the eligibility arrangements contained in this Policy Framework.

In cases where it is known the Supervised Individual wishes to be released on HDC to an address in Scotland the HDC assessment should begin, where possible, up to 16 weeks earlier to ensure it is completed before the HDCED (as opposed to the ten weeks stipulated under normal HDC policy).

### **Assessment and decision**

The Address Checks form must be completed by Scottish Social Services but all other parts of the assessment, including the decision to refuse, postpone or authorise HDC, will be carried out in the usual way by the parent prison.

Offenders who wish to benefit from a HDC restricted transfer to Scotland must have the transfer of supervision agreed by the relevant Scottish Social Services in advance of transfer. Scottish Social Services will supervise the Supervised Individual on behalf of the England/Wales probation provider.

The process for the transfer of post-release supervision must begin as early as possible to allow the probation provider to liaise with Scottish Social Services to seek agreement. If the transfer of post-release licence is not agreed, release on HDC to an address in Scotland cannot take place.

The Address Checks form must be sent to the relevant (i.e. responsible) probation provider in England or Wales. The responsible provider will normally be that which produced the Pre-Sentence Report (PSR) or covered the last known address in England or Wales. If there was no PSR or known address in England or Wales, the responsible probation provider will be the one covering the location of the sentencing court. The responsible probation provider must then contact the relevant Scottish Social Services office. The probation provider will refer the Address Checks form to the relevant Scottish Social Services office for completion of the address suitability checks. 15 days should be allowed for the form to be returned.

The Address Checks form will be returned to the prison via the responsible officer (RO). The RO is required to comment on the HDC application if there is any relevant information held on file that



Scottish Social Services will not be aware of. This may include information concerning risk management and/or victim issues. The RO must also inform Scottish Social Services of the involvement of Victim Liaison workers and/or MAPPA. Any requests for additional licence conditions must be provided as normal by the RO in consultation with Scottish Social Services. The returned form should clearly state which Scottish Social Services office will oversee the Supervised Individual.

### **Pre-release processes – notification arrangements**

All pre-release arrangements as stipulated in this Policy Framework must be carried out as usual. Prisons must send the HDC Agency Notification of Offender to be Released and the HDC licence to the Scottish EM provider, the PNC Bureau (SCD26Mailbox-.HDCLicences@met.pnn.police.uk), the Police Service of Scotland (cjoperationsedinburgh@scotland.pnn.police.uk), the English/Welsh RO and the relevant Scottish Social Work Office.

The HDC Agency Notification form and the licence itself must be clearly annotated to state that the Supervised Individual is being released on a restricted transfer basis from England and Wales.

The restricted transfer of supervision order must be completed and must also be sent to the Scottish Social Work office and English/Welsh RO along with the release licence.

### **Licence variations**

Variations of licence conditions will continue to be at the discretion of the Secretary of State in England and Wales and the Governor of the releasing parent prison will continue to be responsible for authorising licence variations and signing the amended licence. The licence will then be sent to the Scottish EM provider to issue to the Supervised Individual. The probation provider will be responsible for making post-release supervision arrangements with Scottish Social Services, where appropriate.

One-off variations of licence conditions and authorised absences will be dealt with as per the normal policy set out in section 4.9 above.

### **Enforcement**

Enforcement arrangements and licence recalls continue to be the responsibility of the Secretary of State in England and Wales and therefore will be determined by PPCS as is the case for all other HDC releases.

Further guidance on the HDC recall process is set out in the Recall, Review and Re-release of Recalled Prisoners Policy Framework.

### **Persons under 16 years of age**

Requests for an HDC transfer to Scotland for a child under the age of 16 will be extremely rare. However, if a case arises advice must be sought from the HDC policy helpline.

## HDC forms

| Form name:   | Action required:  |
|--|---|
| 1. HDC Eligible  | <p><i>Forms completed by:</i><br/>Case admin</p> <p><i>To be issued to:</i><br/>The Supervised Individual<br/>(for information and/or completion)</p>             |
| 2. HDC Presumed Unsuitable                               |   |
| 3. HDC Not Eligible                                      |   |
| 4. HDC Opt-out   |   |
| 5. HDC Address Form                                      |   |
| 6. HDC Address Checks                                    | <p><i>Form completed by:</i><br/>Case admin<br/>Responsible Officer</p>   |
| 7. HDC Assessment and Decision                           | <p><i>Form completed by:</i><br/>Case admin<br/>Decision maker (grade 7 or above)</p>   |
| 8. HDC Refused   | <p><i>Forms completed by:</i><br/>Case admin</p> <p><i>To be issued to:</i><br/>The Supervised Individual<br/>(for information and/or completion)</p>             |
| 9. HDC Postponed   |   |
| 10. HDC Approved   |   |
| 11. HDC Agency Notification                              | <p><i>Forms completed by:</i><br/>Case admin</p>  |
| 12. HDC Cancellation or Variation                        | <p><i>To be issued to:</i><br/>Responsible Officer,<br/>EM provider,<br/>PNC Bureau<br/>(SCD26Mailbox-.HDCLicences@met.pnn.police.uk)<br/>Home police service</p> |
| 13. HDC Licence Variation                                |   |
| 14. HDC FNP (Confirmation of immigration status for HDC) | <p><i>Form completed by:</i><br/>Case admin, HOIE</p>   |

# 1. Home Detention Curfew (tagging): Eligible

Name:

Location:

Prison no:

Date:

[Name]

You are eligible for early release from prison on home detention curfew (tagging).

## What this means for you

This means you could be released from prison on [HDC eligibility date] if you:

- behave well in prison; and
- have somewhere to live after you leave prison.

If you are released early you would have to:

- stay at home during certain hours (your curfew); and
- wear an electronic tag - to make sure you follow your curfew.
- allow EMS provider staff access to your home to check the equipment

You would have a curfew and electronic tag until [conditional release date].

## What happens next

Think about where you could live if you were released on [date]. We will give you a form to fill in with the address details closer to the date you can be released on home detention curfew.

If you can, think of a second address in case your first choice is not suitable.

If you don't have a place to stay, Bail and Accommodation Support Services (BASS) could help you find somewhere. We will pass your details on to BASS if you need it.

## 2. Home Detention Curfew (tagging): Presumed Unsuitable

Name:

Location:

Prison no:

Date:

[Name]

We checked to see if you can be released from prison on home detention curfew (tagging).

Although you are eligible in law, you are presumed unsuitable for the scheme because [insert reason from list below\*].

This means you would only be considered for home detention curfew in exceptional circumstances.

Think your case is exceptional?

You may make representations to the Governor as to why you should be released on HDC. You will need to show that your case stands out and that HDC could be justified despite the presumption against it in your case.

Ask prison staff about how to do this.

\* Reasons for being 'presumed unsuitable' [**Delete before issuing to Supervised Individual**]

| Reason  | Content for letter   |
|---|--|
| History of sexual offending but not registered  | 'of your sexual offending history.'  |
| Foreign national liable to deportation  | 'you are being considered for deportation.'  |
| Immigration status not clear  | 'your immigration status is not clear.'  |
| Recalled for poor behaviour during previous home detention curfew   | 'you were recalled to prison for poor behaviour during your previous HDC release.' |
| Sentence is for one of the following: <ul style="list-style-type: none"> <li>○ Homicide.</li> <li>○ Explosives.</li> <li>○ Possession of an offensive weapon.</li> <li>○ Possession of firearms with intent.</li> <li>○ Cruelty to children.</li> <li>○ Offences aggravated on the grounds of race, religion &amp; sexual orientation.</li> <li>○ Terrorism.</li> </ul> | 'of the type of offence you were convicted of.'                                    |
| Sentenced to 4 years or more by an overseas court and repatriated to the UK with less than 4 years to serve   | 'your original sentence was over 4 years.'   |
| Category A  | You are a category A prisoner  |

### 3. Home Detention Curfew (tagging): Not Eligible

Name:

Location:

Prison no:

Date:

[Name]

We checked to see if you're eligible for release from prison on home detention curfew (tagging).

By law, you are not eligible because [insert reason from list below\*].

You cannot challenge this because it is based on the law, not on a decision by prison staff.

Signed:

Name:

Grade:

Date:

\*reasons for not being eligible

| Reason  | Content for letter   |
|---|--|
| registered sex offender                                   | 'you will be subject to sex offender registration on release.'                           |
| serving extended sentence for violent or sexual offences  | 'you are serving an extended sentence.'  |
| breached community order curfew                           | 'you are serving a sentence for breach of your community order curfew.'                  |
| returned to custody during at risk period                 | 'you were previously returned to custody by the court during the at risk period.'        |
| recalled for breaking home detention curfew conditions    | 'you previously broke home detention curfew conditions and were recalled to prison.'     |
| recalled from early release on compassionate grounds      | 'you have been recalled from early release on compassionate grounds.'                    |
| decision to deport served                                 | 'you are being deported from the UK.'  |
| foreign national recommended for deportation by the court | 'the court recommended you should be deported from the UK.'                              |
| failed to return from release on temporary licence (ROTL) | 'you are serving a sentence failing to return from release on temporary licence (ROTL).' |

## 4. Home Detention Curfew (tagging): Opt-out

Name:

Location:

Prison no:

Date:

I do not want to be considered for home detention curfew (tagging) because:

I have nowhere to stay

Other reason:

If you don't have an address, Bail and Accommodation Support Services (BASS) will try to help you find somewhere to stay. Ask prison staff for more information.

I understand that I will not be released until [conditional release date].

Signed:

Date:



## 5. Home Detention Curfew (tagging): Address Checks

Name:

Location:

Prison no:

Date:

[Name]

### What you need to know

We previously told you that you're eligible for home detention curfew (tagging).

Under home detention curfew you would have to:

- stay at home during certain hours (your curfew); and
- wear an electronic tag - to make sure you follow your curfew.
- allow EMS provider staff access to your home to check the equipment

It would mean you could be released on [HDC release date].

### What you need to do now

You now need to fill in the 'Address Form' below and return it by [date]. If you need help filling out the form, please ask prison staff for help.

Try to provide details of at least one address where you could live. If you can, think of a second address in case your first choice is not suitable.

If you don't have a place to stay, Bail and Accommodation Support Services (BASS) will try to help you find somewhere to stay.

### What we will do

We will:

1. Ask probation to check that the address you provided is suitable - this includes talking to anyone else who lives there.
2. Assess any risks of releasing you on home detention curfew to the proposed address.
3. Let you know our final decision (in writing).

## Not interested?

Not interested in being released early with home detention curfew (tagging)? Just fill in the 'Opt-out' form.

I do not have an address

Where would you like to live?

Town:

County:

Signed:

Date:

I can provide an address

What address would you prefer to live at?

Address line 1:

Address line 2:

Town or city:

County:

Postcode:

Telephone:

Who is the main person living at this address?

*We will contact them to make sure the address is suitable for you to live there.*

*You should provide the landlord's details if no one else lives there.*

Name:

Telephone:

What is their relationship to you?

Does anyone else live at this address?

Yes     No

If you answered yes, provide details:

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Have you ever been in trouble with the people living here or with the neighbours?

Yes     No

If you answered yes, provide details:

Is there another address you could live at?

*Provide a second address if you can, in case your first address is not suitable.*

Address line 1:

Address line 2:

Town or city:

County:

Postcode:

Telephone:

Who is the main person living at this address?

*We will contact them to make sure the address is suitable for you to live there.*

*You should provide the landlord's details if no one else lives there.*

Name:

Telephone:

What is their relationship to you?

Does anyone else live at this address?

Yes     No

If you answered yes, provide details:

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Have you ever been in trouble with the people living here or with the neighbours?

Yes     No

If you answered yes, provide details:

As far as I know the information I provided is correct.

I am happy for the main person living at the address or the landlord to be contacted.

Signed:

Date:

## 6. HOME DETENTION CURFEW (HDC): HDC ADDRESS CHECKS

(This form may be disclosed to the Supervised Individual on request)

ADDRESS CHECK, REPORTING INSTRUCTIONS, LICENCE CONDITIONS  
AND RISK MANAGEMENT

### PART 1 - PRISON TO COMPLETE

#### 1. OFFENDER DETAILS

Surname: Forename(s):

DoB: NOMIS No:

PNC No: Prison:

Date of Sentence: Court:

Sentence Length: Offences:

HDCED: CRD/ARD:

TUSED: SLED/SED:

#### 2. RELEASE ADDRESS INFORMATION PROVIDED BY THE OFFENDER:

Is this a BASS Case? Yes/No

If Yes - see s.3 below, which indicates the proposed area for release.

Proposed address: Tel No:

Postcode:

Does this address: Have an electricity supply? Yes/No

A telephone? Yes/No

#### Main occupier/landlord details:

Name: Tel. No:

Address:

Alternative Tel No:

**Residents at the address and the relationship to the Supervised Individual.**

Name:                      Relationship:                      Age (if under 18 years):

**If the Supervised Individual has self-reported previous convictions or cautions against any of the above, or any neighbours at the address please give details.**

**3. BASS Case    Yes/No**

If a Supervised Individual is considered suitable for release on HDC, but cannot provide an address, accommodation may be found by BASS. In such cases, your views are sought in relation to the proposed area for release and you are not required to answer questions 4A-D below.

**The proposed area for release for the Supervised Individual is:**

Town:                                      County:

**Completed by: [Name of prison and relevant functional email address]**

-----

**PART 2 - PROBATION TO COMPLETE**

**Must be returned to the prison within 10 business days – the date the form is required to be returned is at the top of the form.**

**4. INFORMATION REQUIRED FROM RESPONSIBLE OFFICER  
INFORMED CONSENT AND ELECTRICITY SUPPLY**

|   |               |
|---|---------------|
| <b>4A Does the main occupier give informed consent to HDC at the address?</b> | <b>Yes/No</b> |
| <i>If No, there is no need to complete 4E-H.</i>                              |               |
| <b>4B Was a home visit conducted in this case?</b>                            | <b>Yes/No</b> |
| <b>4C Were you able to contact the main occupier?</b>                         | <b>Yes/No</b> |
| <i>If No, there is no need to complete 4E-H.</i>                              |               |
| <b>4D Does the address have an electricity supply?</b>                        | <b>Yes/No</b> |
| <i>If No, there is no need to complete 4E-H.</i>                              |               |





**4H - Victim Liaison**

Is this a Victim Contact Service qualifying case where the victim has opted in? Yes/No

If yes, when were the victims invited to provide comments?

Please give details of any comments received.

**HDC Assessment Form completed by:**

Name: .....

Grade: ..... Tel: .....

Email: .....

Signed: .....

Date: .....

## 7. HOME DETENTION CURFEW (HDC): HDC Assessment & Decision Form

(This form maybe disclosed to the Supervised Individual on request)

### HDC Assessment & Decision Form

#### 1. Eligibility

Case admin records details of eligibility and suitability for HDC.

##### OFFENDER'S DETAILS

|                    |              |
|--------------------|--------------|
| Surname:           | Forename(s): |
| DoB:               | NOMIS No:    |
| Dates of Sentence: | Court:       |
| Sentence:          | Offences:    |
| CRD                | SLED/SED     |
| TUSED              | HDCED        |

##### ELIGIBILITY/SUITABILITY

**1 A**  
Is the prisoner ineligible for HDC? Yes / No  
If yes, please give details:

**1 B**  
Is the prisoner presumed unsuitable? Yes / No  
If yes, please give details, including confirmation that the prisoner has been given the opportunity to make representations as to exceptional circumstances:

**1 C**  
Has the Supervised Individual been referred to the police or to the independent adjudicator in relation to an offence committed during the current sentence and the matter remains unresolved?  
Yes / No  
If yes, please give details:

#### 2. Address confirmation

PROPOSED HDC ADDRESS – MAIN OCCUPIER CONSENT AND ELECTRICITY SUPPLY:

**2 A**

Has informed consent been provided by the main occupier?

Yes / No

Details:

**2 B**

Does proposed address have an electricity supply?

Yes / No

Details:

***Attach the returned Address Checks form*****3. Reporting instructions, licence conditions and risk management**

Date sent to probation provider:

Date returned from probation provider:

***Attach the returned Address Checks form*****4. Prison manager decision**

Prison manager, Band 7 or above, authorises release on HDC.

**4 A****Has the Supervised Individual has been referred to the police or to the independent adjudicator in relation to an offence committed during the current sentence and the matter remains unresolved.**

Yes / No

If yes, please give details (if different from above):

**4 B****Are there any risk management planning actions to take place prior to release? Yes/No**

If yes, please outline the issues and identify the date when this work will be completed.

**4 C****Will there be fewer than 10 days to serve on HDC before CRD by the time release on HDC could be arranged?**

Yes / No

**4D****Is there no suitable release address?**

Yes / No

**If Yes to either 4 A, B, C or D you must refuse or postpone the HDC decision.****If No to all 4, you must authorise release.****Are the Licence Conditions approved?**

Yes / No

**Reasons for refusal/postponement of HDC**

[Empty rectangular box for content]

| <b>HDC Approved</b> | Yes / No |
|---------------------|----------|
| Signed: .....       |          |
| Name: .....         |          |
| Grade: .....        |          |
| Date: .....         |          |

## 8. Home detention curfew (tagging): refused

Name:

Location:

Prison no:

Date:

[Name]

We have assessed your case and decided that you will not be released on home detention curfew (tagging). This is because [insert reason\*]

You will be released from prison on [conditional release date].

Signed:

Name:

Grade:

Date:

\*Insert one of the following reasons for refusing HDC, expanding where necessary, eg to explain why the address has been found unsuitable.

- there is no suitable address for you to live at
- you committed an offence while you've been in prison and the criminal/Independent Adjudication proceedings are still outstanding.
- there is not enough time before you're due to be released

## 9. Home Detention Curfew (tagging): Postponed

Name:

Location:

Prison no:

Date:

[Name]

We are still reviewing your case for release on home detention curfew (tagging).

We will let you know our decision when we have all the information we need. We will be in contact as soon as possible.

Signed:

Name:

Grade:

Date:



## 10. Home Detention Curfew (tagging): Approved

Name:

Location:

Prison no:

Date:

[Name]

We have checked your case and agreed that you can leave prison early with a tag.

### Your release date

You will be released on [HDC eligibility date] (or as soon as possible after this date).

### Your approved address

You must live at: [insert approved address]

### When you leave prison

You must wear an electronic tag and stay at home during certain hours until [conditional release date].

We will explain:

- the times you must stay at home (your curfew);
- the rules you must follow (conditions); and
- who your probation officer is and when you first need to report to them.

### Your electronic tag

The person fitting the electronic tag will meet you at your address on the day you're released. They will:

- fit you with the tag; and
- set up the monitoring equipment.

You will have to go back to prison if you:

- damage the tagging and monitoring equipment
- do not to allow EMS provider staff access to check the equipment
- are not at home during your curfew; or
- break any of the conditions on your licence.
- assault the EMS provider's staff
- are abusive or violent towards EMS provider staff

Signed:  
Name:

Date:  
Grade:



Additional electronic monitoring requirements (full details of any exclusion zone (including map) or other EM monitored licence conditions must be set out here or attached to this form):

Is there an exclusion zone requirement:  Yes  No

Describe exclusion zone fully (please include zone collection reference if the Portal has been used to draw the zone(s))

| Exclusion zone | Time From | Time To | Days of the Week |
|----------------|-----------|---------|------------------|
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |
|                |           |         |                  |

Is trail monitoring a requirement:  Yes  No

This involves monitoring a supervised individual's movements to support discussions with their offender manager about lifestyle and behaviours

Describe trail monitoring requirement:

Are there any other electronic monitoring requirements e.g. attendance, inclusion zones:

Yes  No

Describe requirement to be monitored:

| Other Monitoring Requirement | Time From | Time To | Days of the Week |
|------------------------------|-----------|---------|------------------|
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |
|                              |           |         |                  |

**Please ensure you complete the following sections:**

Is there any additional information about the Supervised Individual that the electronic monitoring provider should consider? For example, whether an interpreter is required (if so please state which language), is the Supervised Individual blind, partially sighted, deaf, hard of hearing, has learning difficulties or any condition that may affect the fitting of the tag such as a prosthetic leg.

Please provide further details or indicate that no additional information is relevant:

Is there any additional information to suggest that the Supervised Individual presents a risk of harm or verbal abuse to the electronic monitoring provider's staff?

Please provide further details or indicate that no additional information is relevant

Community Offender Manager Name:  
 Contact Number:  
 Breach Notification Email or Functional Mailbox:  
 Probation Provider:

**A Copy of Prisoner's licence to be sent as soon as possible on the day of release  
 All accompanying documentation should be sent to the Probation.**

**THIS FORM MUST BE SENT TO THE EMS PROVIDER, PROBATION PROVIDER AND THE HOME POLICE FORCE.**



## 12. Home Detention Curfew: Cancellation or Variation of Agency Notification

Prison:                                  Address:

Contact name:

Email:

Tel:

Name:

DoB:

NOMIS Number:

Location:

HDC Release Date:

Curfew Address:

It has been decided that the above Supervised Individual should **not** be released on HDC; or the following details of the Agency Notification issued on [DATE] are amended as below  
Please give details:

**A copy of this form must be forwarded to the EMS Provider, the Probation Provider, and the Police.**

## Home Detention Curfew: Licence Variation

Name: DoB:

NOMIS: PNCID:

Location:

HDC Release Date: dd/mm/yyyy

Curfew Address:

Second Curfew Address (if required):

The following changes have been made to the above's licence conditions  
(copy of revised licence attached where changes are permanent)

Has anything changed with regards to additional information that suggests that the Supervised Individual presents a risk of harm or verbal abuse to the electronic monitoring provider's staff?

Please provide further details or indicate that no additional information is relevant:

The above changes are: PERMANENT/TEMPORARY

The changes come into effect from dd/mm/yyyy and end dd/mm/yyyy

Signed:

Date:



**A copy of this form must be forwarded to the EMS Provider, the Probation Provider, and the Police.**

**HDC – FNP : CONFIRMATION OF IMMIGRATION STATUS FOR HDC**  
**by Home Office – Immigration Enforcement Criminal Casework**

To be completed by the Prison and emailed:

- directly to the Criminal Casework case owner if known; or
- to [CCD.CAT-D@HOMEOFFICE.GSI.GOV.UK](mailto:CCD.CAT-D@HOMEOFFICE.GSI.GOV.UK); and
- relevant Local Immigration Team

|                  |                    |
|------------------|--------------------|
| Prisoner's Name: | Prisoner's Number: |
| HDCED:           | Prison:            |
| Email:           |                    |

This prisoner is eligible to be released from prison on Home Detention Curfew (HDC) and, if found suitable, may be released at any point from the HDC Eligibility Date (HDCED) given above. This form will be used to help determine the prisoner's eligibility and suitability for release on HDC.

To be completed by the Immigration Enforcement caseworker, countersigned by an Assistant Director and emailed to Prison contact as above

Foreign national prisoners who are liable to deportation/removal from the UK as defined by section 259 of the Criminal Justice Act 2003 are not eligible to be released on HDC.

**1. By indicating yes or no, please confirm whether there has been:**

|  | Yes | No |
|--|-----|----|
| (i) A decision to deport the prisoner  |     |    |
| (ii) A decision to pursue deportation in cases where there is a court recommendation for deportation   |     |    |
| (iii) A current notification to the prisoner of a decision to refuse leave to enter the UK or that they are an illegal entrant/immigration Supervised Individual subject to removal under section 10 of the Immigration and Asylum Act 1999. |     |    |

If the answer to any part of question 1 is **Yes** then the prisoner will be ineligible for HDC.

If the answer to any part of question 1 is **No**, but deportation or removal action is still being considered, the prisoner will be presumed to be unsuitable for HDC unless there are exceptional circumstances justifying release. For example, where Immigration Enforcement has confirmed that deportation is unlikely to be effected for the foreseeable future, and they do not intend to detain the prisoner on release from prison. Each case will be considered on its merits.

**2. By indicating yes or no, please confirm whether:**

|   | Yes | No |
|---|-----|----|
| a. Immigration Enforcement is still considering deportation/removal action against this prisoner                              |     |    |
| b. Immigration Enforcement has issued authority to detain (IS91)  |     |    |
| c. Immigration Enforcement intends to issue authority to detain (IS91) in the event that the prisoner is released from prison |     |    |

**3. Please provide immediately below any other comments on the prisoner’s suitability for release on HDC.**

*Relevant factors may include whether:*

- *Removal from the UK is imminent or is unlikely in the foreseeable future*
- *The prisoner has a history of failing to comply with immigration conditions or has previously absconded*
- *The prisoner has a history of verbal/documentary deception to gain leave to enter/remain or evade removal from the UK*
- *The prisoner has failed to produce evidence of their nationality or identity or is otherwise failing to comply with the directions of Immigration Enforcement*

Immigration Enforcement Comments:

|                                 |  |              |
|---------------------------------|--|--------------|
| <b>Caseworker Name:</b>         |  |              |
| <b>Signed:</b>                  |  | <b>Date:</b> |
| <b>Assistant Director name:</b> |  |              |

|                                    |  |              |
|------------------------------------|--|--------------|
| <b>Signed:</b>                     |  | <b>Date:</b> |
| <b>Date HDC-FNP to<br/>prison:</b> |  |              |