

CHAPTER 4

THE DECISION

1. Decisions

There are four potential options for the panel dependant on the type of referral:

- a. direct the offender's immediate release on licence
- b. fix a date for the offender's future release on licence, within a year of the Board's decision (determinate/extended sentence recall prisoners only)
- c. give advice on the prisoner's progression to or continued suitability for open conditions (indeterminate sentence prisoners only)
- d. make no direction as to the offender's release and advise only on what outstanding risk factors exist

1.1 The panel's remit

Prisoners will, from time to time, ask the Board to advise the SofS on matters that he has not invited the Board to give advice on. Such applications must be resisted. Typically these matters include:

- a. the necessity of specific offending behaviour courses
- b. the necessity or value of specific forms of treatment (for example, one-to-one psychology, therapeutic treatment in the form of TC or DSPD etc)
- c. suitability for transfer under the Mental Health Act
- d. re-categorisation within closed conditions

The Board does not have power to give advice on any matters outside the remit of the SofS referral. Such applications must be turned down and the chair must refuse to entertain evidence relating to them.

1.2 Helping the prisoner to progress

This is also not the Board's role. In the case of a life sentence prisoner, the sentence imposed implicitly acknowledges that the prisoner may remain in detention for the rest of his/her natural life where release would not be commensurate with public protection.

Panels may be in the position of assessing a prisoner whose progress has ground to a halt or who is becoming so institutionalised that release may never be an option if action is not taken to help him/her move towards release. Panels must remind themselves of the overriding statutory requirement to protect the public. While a prisoner's interests may be a factor, a panel must never put the public at risk by directing release or recommending open conditions where the risk is too high to do so. When assessing whether to direct release, the prisoner's interests are secondary to public protection.

2. Release Tests

The following is a brief summary of the release tests in force.

2.1 Indeterminate sentenced prisoners

The statutory wording under section 28(6)(b) of the Crime (Sentences) Act 1997 is clear: the Board must not direct release unless it is satisfied that it is no longer necessary for the protection of the public that the prisoner be detained.

It has been argued by some prisoners' representatives that this creates an unfair burden on the prisoner to show that he/she is safe to release, whereas it should be for the state to show he/she is still dangerous. The Board's position, however, is that both parties are free to submit whatever evidence they want within the constraints of the panel's remit; the Board assesses that evidence and applies the statutory test.

There is no presumption in favour of release where recalled lifers/IPP's are concerned. The Board is still required to be satisfied about risk before directing release. However, whilst this is correct under current case law it is nevertheless controversial in view of the test for extended sentences (see below). If possible, panels should make a positive finding of risk in lifer/IPP recall cases. Where this is done, there can be no argument about whether the test in law is fair or not.

There is no requirement in recalled lifer/IPP cases that the Board make any finding about the appropriateness of the recall.

2.2 Determinate sentenced prisoners

LASPO harmonises the statutory test for the first release of all determinate sentenced prisoners, including the new Extended Determinate Sentence (EDS). The applicable test is set out at section 125 (which amends section 246 of the CJA 2003): the Board must be satisfied that it is no longer necessary for the protection of the public that the offender should be confined.

This is a 'risk-only' test, and the Board's view is that it is the same test as that applied to indeterminate sentenced prisoners. Panels must therefore make public protection the over-riding consideration, focusing on identifying and managing risk, and should no longer balance the risk of any type of offending against the benefits of early release.

While this is a statutory test, it is for the Board to interpret it in light of any existing case law. In respect of lifers/IPP's, the Board is required to protect the public from the risk of serious harm (risk to life and limb) and it is strongly advised that panels take the same approach in respect of determinate sentenced prisoners. This approach has been considered and accepted by the High Court in the case of *King*. However, each Parole Board panel is a judicial body in its own right; guidance has been published by the Board in order to assist panels but it cannot legally fetter a panel's duty to interpret the statutory test as it sees fit.

2.2.1 *Determinate sentence cases after recall*

Before assessing risk, the panel has a duty to consider whether the recall decision is appropriate (in line with the decision in *Calder*¹) and make a finding its appropriateness in light of the facts available to it.

The panel must then make an assessment of risk to the public on the basis of all of the evidence.

When the Board directs the release of recalled determinate prisoners, that direction is binding on the Secretary of State and he must give effect to it.

¹ R(*Calder*) v Secretary of State for Justice [2015] EWCA Civ 1050
August 2014
(Updated August 2018)

For standard determinate recall cases the standard public protection test must be applied². Panels should not solely refuse to release based on a breakdown in the supervision of a licence. However, where such a breakdown means that continued detention is necessary in order to protect the public, then refusal to release is justified. There is no presumption toward release in these cases.

However, in the case of an extended sentence prisoner who is recalled in the "extension period" part of their sentence, panels are required to reverse the test, applying a presumption in favour of release. In such cases, the Board should direct release unless positively satisfied that continued detention is necessary for the protection of the public³. But this presumption does not apply in any other case.

3. Secretary of State's directions

The Secretary of State may make directions to the Board under his statutory powers. In July 2013, the Secretary of State withdrew all Directions, other than those relating to consideration of suitability for open conditions (issued August 2004). The Parole Board issued its own guidance to replace the Directions on release, setting out factors which panels should consider. Both the Parole Board Guidance on release and the SofS Directions on open can be found at Annex J.

Panels should note that the SofS Directions on consideration of suitability for transfer to open conditions are binding on the Parole Board.

4. The Resettlement Plan

When considering release, the Board is assessing the level of risk that the prisoner will present in the community. It is central to that assessment, therefore, that the Board satisfies itself that the plan in place for supervision, monitoring and management of any residual risk is acceptable – it is not a separate issue.

4.1 Release "subject to"

Panels are sometimes invited to direct release subject to an appropriate release plan being prepared by the probation officer where that is the only issue outstanding. There are occasions where this could be a valid approach but it is fraught with danger and should not be used lightly.

Once such a direction is given, the arrangements put in place for managing the prisoner in the community are effectively removed from the Board's decision-making power. Since in most cases this issue is central to assessing the level of risk it is rarely appropriate for such a course to be adopted.

In the vast majority of such cases the right thing to do, once all the evidence has been heard, is to adjourn and issue a direction. An example of suitable wording might be;

"The panel adjourns the hearing and directs that a suitable resettlement plan be put in place, and a report submitted to the Board and the prisoner's

² R (King) v Parole Board [2016] EWCA Civ 51 [2016] 1 WLR 1947

³ R (Sim) v Parole Board [2003] EWCA Civ 1845 [2004] QB 1288

representative by [date] at the latest. On receipt of the report, the panel will decide whether a further oral hearing is required."

If the plan satisfies the panel that release is now appropriate a further oral hearing may not be necessary, and a decision with reasons can be sent to the Case Manager.

Panels should note the following:

- a. A decision not to release once the report is received may require a further oral hearing to give the prisoner a chance to make a further case. This is a matter for the panel to decide.
- b. In any case, adjourning for a resettlement plan should not be contemplated unless the panel is satisfied that it meets the general policy on deferrals; i.e. the release plan must be imminent. Where there is no prospect of a release plan in the near future, refusal may be appropriate.
- c. When adjourning, the panel should not make a risk assessment. This should never be done without all the material required, including the resettlement plan. The adjournment letter will simply say that the case is adjourned, and make directions.

5. Licence Conditions

The Board sets conditions for release. The standard licence conditions for a life licence are set out at Annex C. The panel must direct these. The Parole Board has the power to direct licence conditions in determinate sentenced cases and recommend in indeterminates (however, the SofS must accept these recommendations and cannot amend without consultation with the Board, so in effect they are directions).

Frequently, a panel will want to add additional conditions. In every case the panel must first consider whether the proposed conditions are necessary and proportionate. Article 8 of the European Convention on Human Rights gives a qualified right to private and family life. Any condition on a licence has the potential to breach that right unless it is both necessary to manage the risk AND proportionate to the risk it is intended to manage.

Offender Managers should review offenders' licence conditions on a regular basis and may apply to the Board to remove or alter conditions if an offender is making progress and their risk of harm has sufficiently decreased. As any such application will necessarily be made some time after the hearing has concluded, it will be dealt with by a Duty MCA member.

5.1 Additional licence conditions

The table below contains a list of additional conditions that may be added by the Board to an offender's licence. This list covers almost all eventualities. There is no ban on panels imposing conditions not contained on the list, but caution is advised. Where exceptionally a panel wishes to impose an ad hoc condition, they are reminded that any condition must be both necessary and proportionate.

5.2 Extremist Offenders

Extremist offenders may pose specific risks which cannot be sufficiently managed by the application of conditions designed for other offending groups.

A case must be made for the application of further additional conditions on each individual offender. Any additional condition must be necessary and proportionate, and where the sentence is an indeterminate sentence or an extended sentence must have a causal link to the index offence.

5.3 Licence conditions requested by victims

If the panel decides not to impose on an offender a particular condition requested by a victim they must explain why in their decision letter so that the VLO may inform the victim accordingly (see the Victim Practice Guidance at Annex H).

6. Reasons

Panels are required to give written reasons for all decisions and recommendations, whether positive or negative. It is important that reasons adequately and accurately reflect the consideration that the panel has given to the case and the basis of its decision or recommendation. Even a sound decision may be quashed on judicial review if the reasons given do not clearly show that the panel has considered the case properly.

Every set of reasons should:

- a. focus on risk
- b. address the test for release
- c. address the Secretary of State's directions where relevant
- b. take full account of the important issues in the case
- c. identify in broad terms the matters pointing for and against release

The courts have criticised the terseness of some reasons which leaves them open to misconstruction and misunderstanding. Reasons should be focused and concise but cover all the issues and leave the prisoner in no doubt as to how the panel arrived at its decision.

It is open to a panel to make a decision or recommendation which differs from the conclusion of report writers. However, the panel's decision must be substantiated by evidence within the dossier and heard at the hearing, and both the prisoner and the report writers must be able to understand why a different conclusion was reached. Where the panel's decision/recommendation differs from those in the reports it will be necessary to go into more detail in explaining why the panel has taken the opposite view.

Where there is a dispute as to material facts, the panel should make a positive finding wherever possible and record submissions made and relevant evidence heard.

6.1 Framework for reasons writing

Full guidance notes are at Annex G. The following headings must be used:

- a. Introduction
- b. Evidence considered by the panel
- c. Analysis of offending
- d. Risk factors
- e. Evidence of change since last review and/or circumstances leading to recall (where applicable) and progress in custody
- f. Panel's assessment of current risk
- g. Evaluation of effectiveness of plans to manage risk
- h. Conclusion and Decision of the panel
- i. Indication of possible next steps to assist future panels

6.2 Preparing reasons

It may be useful to save time and help the Board meet its targets for the panel chair to draft undisputed parts of the decision letter ahead of the hearing; for example the offence details, prisoner's background and factual items such as recorded adjudications, previous convictions etc. Provided this part of the reasons remains open to amendment following any information received at the hearing there is no legal problem in taking such an approach.

6.3 Closed reasons

Where material was withheld from the prisoner under Rule 8, and it is a relevant factor in the panel's decision, the panel should issue a separate set of reasons dealing solely with that issue. These will be referred to as "closed reasons." The opening wording may say:

"This letter forms part of the Board's decision letter addressed to Mr/Ms [the prisoner] and should be read in accordance with that letter. It must not under any circumstances be disclosed to the prisoner either directly or indirectly."

The closed reasons will be copied to the Secretary of State and, where appropriate, the prisoner's representative.

6.4 Timescale for promulgation to parties

Rule 24 requires that the Board's decision and reasons be provided to the parties within 14 days.

In most cases it is not practicable to draft the final decision on the day of the hearing. The decision will be drafted subsequently by the chair, and e-mailed to the co-panellists. All drafts must have the approval of the other panel members. The reasons must be received in the Secretariat no later than 10 days from the hearing. The chair must e-mail the decision to the Case Manager.

7. Foreign National Prisoners subject to deportation

Panels frequently encounter prisoners who have been served by Home Office Immigration Enforcement (HOIE) with a notice of deportation. However, excepting the Secretary of State's powers under the Tariff Expired Removal Scheme (TERS), a foreign national prisoner who is serving an indeterminate sentence can only be released from custody (and subsequently removed from the UK by the relevant agencies) if the Parole Board has directed his release. The existence of a deportation order does not override the statutory requirement contained in s28 Crime (Sentences) Act 1997. The prisoner will remain in custody until the Parole Board directs his/her release.

Panels should therefore be mindful of any existing deportation notice. However, deportation has no impact on the appropriate test for release. An indeterminate sentence prisoner may only be released if the Board is satisfied that the risk posed by the offender to the public is such that he/she no longer needs to be confined. The panel must consider risk to the public, and this includes the public in the country to which it is proposed the offender be deported. There is case law determining that public safety is not by definition limited to the British public but applies to any other country outside the jurisdiction.

In August 2014, the Secretary of State published a Prison Service Instruction stating:

- Prisoners in closed conditions who have a Deportation Order against them and who have either exhausted appeal rights in the UK or whose appeal rights must be exercised from abroad: must not be classified as suitable for open conditions; and, must not be granted temporary release (ROTL).
- Prisoners in closed conditions who do not meet the criteria above but who are liable for deportation or removal proceedings, must be subject to a more rigorous risk assessment prior to consideration for open conditions or ROTL. Open conditions or ROTL will only be appropriate where it is clear that the risk is very low.

The SofS's PSI does not take precedence over his binding Directions on the Board. The Parole Board should continue to exercise its judicial discretion and apply the binding SofS Directions, and, if appropriate, continue to advise that it considers such offenders suitable for open conditions where the terms of referral ask it to provide such advice.

Panels will need to consider carefully the risk of absconding, but this is true of any case. Panels should take account of all available information, including the prisoner's attitude towards his deportation and the possible benefits that someone who is not to be released in the UK may accrue from open conditions. Notably, such a prisoner is unable to access public funds, undertake paid or unpaid employment or most forms of study, and there is no release plan to test. However, there may still be opportunities for offenders to demonstrate their ability to apply their learning from offending behaviour courses in conditions of lower security.

There may be cases where the final decision on deportation has not been made; this is particularly likely in pre-tariff cases as HOIE does not usually make a decision on deportation until 18 months before tariff expiry. Panels should seek clarification from

HOIE via PPCS, and where the deportation process remains incomplete OMs should both assess suitability for release in the context of no supervision being in place in offenders' home country and explain how they would manage the person if the prisoner is released into this country at the last moment. In the unlikely event that release is directed and the immigration status changes, the Secretary of State is at liberty to refer the case back to the Board.

Licence conditions set by a panel cannot be legally enforced outside England & Wales. There may be very rare occasions where a panel directs release, and, whilst the offender is awaiting deportation he/she is released under immigration bail. Panels may therefore wish to consider setting licence conditions if they direct release with the understanding that these would only be enforceable whilst the offender remains in England & Wales pending deportation, or if he/she later returns to England & Wales.

REQUIREMENT	LICENCE CONDITION	ADVICE
Contact	<p>(a) Attend all appointments arranged for you with [NAME], a psychiatrist/psychologist/medical practitioner and co-operate fully with any care or treatment they recommend</p> <p>(b) Receive home visits from [NAME], a Mental Health Worker</p>	<p>Where an offender manager requires an offender to attend a session with a psychiatrist/psychologist/medical practitioner, he or she must be named and must be willing to treat the offender concerned.</p> <p>This condition should only be used if the offender consents to the treatment. Declining to co-operate with this condition means the offender is not addressing his/her offending behavior and the possible consequence of this needs to be explained to the offender.</p> <p>Where consent is not forthcoming the expectation that the offender access psychiatrist/psychologist/medical intervention and treatment should be written in the RMP and SP. If the objective is not complied with then inference can be drawn that the ROH is not being addressed and the purpose of supervision/rehabilitation undermined. It will then be possible to recall under the relevant standard condition. This should be explained to the offender and recorded as the discussion having taken place.</p> <p>The requirement that an offender attend a duly qualified medical practitioner also includes any reasonable request to undergo drug counselling.</p>
Prohibited Activity	<p>(a) Not to undertake work or other organised activity which will involve a person under the age of [XX], either on a paid or unpaid basis, without the prior approval of your supervising officer.</p> <p>(b) Not to use directly or indirectly any computer, data storage device or other electronic device (including an internet enable</p>	<p>These conditions should only be used where it is necessary and proportionate to manage the risk (such as members of a child sex offender ring who are known to use the Internet to distribute indecent material). Consideration will have to be given to practical exceptions, such as the use of a computer in a work environment. Prohibited activity conditions should always be subject to the clause "... <i>without the prior approval of your supervising officer</i>".</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
	<p>mobile telephone) for the purpose of having access to the Internet or having access to email, instant messaging services or any other on line message board/forum or community without the prior approval of your supervising officer. You must allow a responsible officer reasonable access, including technical checks to establish usage.</p> <p>(c) Not to own or possess or permit in your address any computer without the prior approval of your supervising officer.</p> <p>(d) Not to own or possess more than one mobile phone or SIM card without the prior approval of your supervising officer and to provide your supervising officer with details of that mobile telephone, including the IMEI number and the SIM card that you possess.</p> <p>(e) Not to own or possess a mobile phone with a photographic function without the approval of your supervising officer.</p> <p>(f) Not to own or use a camera without the approval of your supervising officer.</p>	<p>It is possible to include conditions which require offenders not to access the internet or own a computer although these are difficult conditions to monitor and can normally only be achieved by setting a blanket restriction on the offender's access to computers. Similarly an additional condition may prohibit offenders from owning or using a camera or mobile phone with camera functions.</p> <p>Conditions prohibiting the consumption of alcohol, either on or off the site of an Approved Premises are difficult to enforce and there may be difficulties in arguing that limited consumption should always lead to recall. The standard condition to be of good behaviour contains sufficient power to request recall in those cases where risk is unacceptable after alcohol consumption or where an offender is ejected from an approved premises for consuming alcohol.</p> <p>There is no statutory provision to allow offenders who are released on licence to be required to comply with an alcohol test. Therefore, alcohol testing can only be conducted with the consent of the offender, though complying with alcohol testing can be made a condition of the Approved Premises rules which an offender is asked to sign on entry.</p>
Residency	To permanently reside at [ADDRESS] and must not leave to reside elsewhere, even for one night, without obtaining the prior approval of your supervising officer; thereafter to reside as directed by your supervising officer.	This condition is stronger than the standard condition to reside as directed, which only requires the offender to notify the Probation Service of his address. This condition can be used where it is deemed necessary and proportionate to direct that the offender live at a particular address. Court judgments have confirmed that licence conditions formulated in terms of 'you must reside at' have the clear effect of

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

REQUIREMENT	LICENCE CONDITION	ADVICE
		<p>These conditions are usually considered in cases where other conditions are insufficient to protect children. When considering the upper age limit of the children to be protected, Offender Managers will have to consider the nature of the risk and there are no firm rules. For example, if the only available approved premises accommodation allows residents aged 17 and over, and if the supervising officer is satisfied the offender presents an acceptable risk, this might be the decisive factor.</p>
Programmes	<p>(a) To comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your (eg) alcohol/drug/sexual/gambling/solvent abuse/anger/debt/prolific/offending behaviour problems at the [COURSE/CENTRE].</p> <p>(b) Participate in a prolific or other priority offender project (PPO) [SPECIFY WHICH] and, in accordance with instructions given by or under the authority of your supervising officer attend all specified appointments with your supervising officer and any other agencies for the purpose of ensuring that you address your offending behaviour for the duration of the programme.</p>	<p>These conditions are routinely used to ensure offenders participate in offending behaviour programmes.</p>
Curfew	<p>(a) Confine yourself to an address approved by your supervising officer between the hours of [TIME] and [TIME] daily unless otherwise authorised by your supervising officer. This condition will be reviewed by your supervising officer on a [WEEKLY/MONTHLY/ETC] basis and may be amended or removed if it is felt</p>	<p>To be lawful the total number of hours allowed as a curfew is a maximum of 16 hours per day. However, any curfew over 12 hours needs to be cleared with PPCS and any reporting requirements within the non curfew hours could be unlawful, so these should be cleared as well. These curfew hours should also include any standard curfew added as part of residence at an Approved Premises (AP). For instance, where</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
	<p>that the level of risk that you present has reduced appropriately.</p> <p>(b) Confine yourself to remain at [CURFEW ADDRESS] initially from [START OF CURFEW HOURS] until [END OF CURFEW HOURS] each day, and, thereafter, for such a period as may be reasonably notified to you by your supervising officer; and comply with such arrangements as may be reasonably put in place and notified to you by your supervising officer so as to allow for your whereabouts and your compliance with your curfew requirement be monitored [WHETHER BY ELECTRONIC MEANS INVOLVING YOUR WEARING AN ELECTRONIC TAG OR OTHERWISE].</p>	<p>an AP has the standard curfew of 11pm to 8pm would count as nine hours towards the maximum of 12 and 16 hours. Blanket extended curfews across resident groups beyond those in the AP Rules are not allowed, and any extension to curfews must be considered on a case by case basis.</p> <p>EM is available for offenders who are MAPPA level 3 or for those offenders who are considered Critical Public Protection cases.</p> <p>Any requests in relation to Intensive Supervision and Surveillance Programme (ISS) being used as a condition of licence for Young Offenders, should be referred to the Youth Justice Board.</p>
Exclusion	<p>(a) Not to enter the area of [CLEARLY SPECIFIED AREA], as defined by the attached map without the prior approval of your supervising officer.</p> <p>(b) Not to enter [NAME OF PREMISES/ADDRESS/ROAD] without the prior approval of your supervising officer.</p> <p>(c) Not to enter or remain in sight of any [eg: CHILDREN'S PLAY AREA, SWIMMING BATHS, SCHOOL etc] without the prior approval of your supervising officer.</p>	<p>Requests for exclusion zones must be carefully applied in order to be lawful. Once the exclusion is shown to be necessary, it is critical to establish that it is proportionate, taking into account factors such as whether the offender has close family who live in the exclusion area, or where the exclusion would restrict his ability to work or to visit the doctor or dentist. Although the fact that an exclusion condition may have this effect might be relevant, it is not determinative in deciding whether the proposed condition is reasonable. The condition could be imposed, but the offender manager could grant occasional access.</p> <p>The exclusion area must be defined precisely. A blanket ban on entering a large town, for example, will not always be acceptable. The zone should be no bigger than is reasonably necessary to achieve the objective sought. In order to define</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
		<p>the exclusion area as clearly and precisely as possible, it is necessary to draw the boundaries on a map or diagram. The offender must be in no doubt where the exclusion zone begins and ends.</p> <p>More limited exclusion zones may be used in order to prevent re-offending, for example, preventing an offender from entering an area where there are nightclubs and where previous offending has occurred.</p>
Supervision	<p>(a) On release to be escorted by police/prison staff to [RELEASE ADDRESS]</p> <p>(b) Report to staff at [NAME OF APPROVED PREMISES/POLICE STATION] at [TIME/DAILY], unless otherwise authorised by your supervising officer. This condition will be reviewed by your supervising officer on a [WEEKLY/MONTHLY/ETC] basis and may be amended or removed if it is felt that the level of risk you present has reduced appropriately.</p> <p>(c) Provide your supervising officer with details [SUCH AS MAKE, MODEL, COLOUR, REGISTRATION] of any vehicle you own, hire for more than a short journey or have regular use of, prior to any journey taking place.</p> <p>(d) Notify your supervising officer of any developing intimate relationships with women/men.</p>	<p>Conditions requiring compliance with Approved Premises or other accommodation rules must be avoided if possible. Such rules are many and varied and it is difficult to argue that recall is always a proportionate response to any breach. If an offender's consistent refusal to comply with rules presents a real risk to staff or other residents it would be reasonable to seek to recall him under the condition to be of good behaviour.</p> <p>The condition requiring notification of vehicle details should normally only be applied for when the offending relates specifically to the use of a car and/or there is a direct causal link between the offender's identified risk factors and the use of a vehicle.</p> <p>Conditions relating to the notification of intimate relationships can be used if there is a specific risk of groups of people. Where specific risks are involved, a blanket ban may be difficult to justify and it would be preferable to say whether the condition relates to males or females and provide reasons.</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
Non- Association	<p>(a) Not to contact or associate with [NAMED INDIVIDUAL(S)] without the prior approval of your supervising officer.</p> <p>(b) Not to contact or associate with a known sex offender other than when compelled by attendance at a Treatment Programme or when residing at approved premises without the prior approval of your supervising officer.</p> <p>(c) Not to contact directly or indirectly any person who is a serving or remand prisoner or detained in State custody, without the prior approval of your supervising officer</p> <p>(d) Not to associate with any person currently or formerly associated with [NAME OR DESCRIBE SPECIFIC GROUPS OR ORGANISATIONS] without the prior approval of your supervising officer.</p>	<p>Non-association conditions should always be subject to the clause “.....without the prior approval of your supervising officer.”</p> <p>In most cases it will be difficult to justify a general condition preventing an offender from associating with “any ex-offender”. The name of the offender must be inserted. It is acceptable to require non-association with named individuals who are linked with previous offending (for example, convicted members of a child sex offender ring) or individuals with whom the supervising officer has good reason to believe that association could lead to future offending (for example, a child sex offender who has forged links with other child sex offender whilst in prison). In cases where a person’s offending is not linked to a restricted number of individuals it is more difficult to justify a non-association condition.</p> <p>In respect of associating with sex offenders the Offender Manager can consider this condition if it is reasonable that the offender could be expected to know certain individuals as they have served on the same wing, attended the same programme etc. The Offender Manager should evidence this at the point of enforcing this condition.</p> <p>Where an offender is associating with other criminals and there is reason to believe that the association is likely to lead to reoffending, the offender could be recalled under the good behaviour condition.</p> <p>The groups and organisation condition may be appropriate for certain offenders, but only if there is a clear link between the offending behaviour and/or current risk factors and one</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
		<p>or more identifiable groups or organisations such as extremist groups or gangs. As with other conditions that engage the offender's rights, this condition can only be used where it is necessary and proportionate to manage the risk posed by the offender. You will need to take into account the nature of the offending to check that the condition is justified.</p>
Drug testing	Attend [INSERT NAME AND ADDRESS], as reasonably required by the probation officer, to give a sample of oral fluid / urine in order to test whether you have any specified Class A drugs (heroin or crack/cocaine) in your body, for the purpose of ensuring that you are complying with the condition of your licence requiring you to be of good behaviour.	<p>Any offender who is found to be in possession of Class A drugs has immediately put himself in breach of the standard condition to be well behaved.</p> <p>This provision is limited to offenders defined as 'Prolific and other Priority' (PPOs) by local Crime and Disorder Reduction Partnerships (CDRPs). It is limited by the Secretary of State to particular drugs (currently heroin and cocaine/crack cocaine). The condition must be necessary and proportionate. Beside being PPOs, offenders must also be over 18, have a substance misuse condition linked to their offending, and have served their sentence for a 'trigger offence' specified by the Criminal Justice and Court Services Act, s.64 and Schedule 6 (as amended). These are (broadly) acquisitive crimes and Class A drugs offences.</p>

REQUIREMENT	LICENCE CONDITION	ADVICE
Polygraph testing	To comply with any instruction given by your Offender Manager requiring you to attend polygraph testing. To participate in polygraph sessions and examinations as instructed by or under the authority of your Offender Manager and to comply with any instruction given to you during a polygraph session by the person conducting the polygraph.	<p>This can be added to the licences of certain sexual offenders after 8 August 2014 – see PSI 36/2014. The condition requires the offender to take part in regular polygraph tests. The aim is to monitor compliance with other licence conditions. The results of a (failed) polygraph examination cannot be used in Criminal Courts or be the basis of recall.</p> <p>If the offender is aged 18 years and over, received a custodial sentence of 12 months or more for a specified sexual offence (those listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003) and is assessed as High/Very High Risk of both Serious Harm and sexual reoffending, the Offender Manager MUST seek a polygraph condition.</p> <p>If the offender is aged 18 years and over and received a custodial sentence of 12 months or more for a specified sexual offence but is NOT High/Very High risk, a polygraph condition MAY be imposed where it can be shown that testing is necessary and proportionate to manage risk - for example, for an offender with a history of licence non-compliance.</p> <p>A polygraph condition may also be requested to be inserted into the licences of any relevant sexual offender already released on licence without a condition, but whose risk of serious harm has escalated, providing s/he meets the criteria & for whom it is considered necessary to impose a condition to manage their risk.</p> <p>The condition may be imposed on both men and women, and offenders whose sexual offence pre-dates their 16th birthday (but only if necessary and proportionate).</p>

