



Policy name: Post Sentence Supervision Requirements Policy Framework

Reference: N/A

Issue Date: 26 March 2020

Implementation Date: 26 March 2020

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:

- PI 29/2014/PSI 31/2014 Post Sentence Supervision Requirements

Associated documents:

- PI 09/2015 Licence Conditions and Temporary Travel Abroad
- PSI 12/2015 Licence Conditions, Licences and Licence and Supervision Orders
- PI 30/2014 PSI 32/2014 Drug Appointment and Drug Testing for Licence Conditions and Post Sentence Supervision Requirements
- PI 24/2014 Enforcement of Post Sentence Supervision

Introduces amendments to the following documents:

None

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ	<input checked="" type="checkbox"/>	Governors
<input checked="" type="checkbox"/>	Public Sector Prisons	<input type="checkbox"/>	Heads of Group
<input checked="" type="checkbox"/>	Contracted Prisons	<input type="checkbox"/>	Contract Managers in Probation Trusts
<input checked="" type="checkbox"/>	National Probation Service	<input checked="" type="checkbox"/>	Community Rehabilitation Companies (CRCs)
<input type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input checked="" type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input type="checkbox"/>	Other providers of Probation and Community Services	<input type="checkbox"/>	Under 18 Young Offender Institutions

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

For Information:

By the implementation date Governors¹ of Public Sector Prisons and Contracted Prisons must ensure that their local procedures do not contain the following:

¹ 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).

How will this Policy Framework be audited or monitored: IT systems are in place to automatically prevent incorrectly applied supervision requirements, while staff will be appropriately critical in questioning the qualifying criteria for the drug testing/appointment requirements.

Resource Impact: No changes in resourcing requirements have been made with this version of the policy.

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Approved by OPS for publication: Sonia Crozier, Michelle Jarman-Howe, Joint Chairs, Operational Policy Sub-board, January 2020

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I. Purpose

- 1.1 This Policy Framework aims to ensure that staff are aware of the post sentence supervision (PSS) requirements which apply to an offender during their PSS period. Furthermore, this framework intends to highlight that the licence and PSS periods are two similar but separate periods undertaken by the offender through the management of a probation provider in the community.

2. Outcomes

- 2.1 Staff are aware of PSS, which offenders it applies to, the purpose, and the requirements that can be imposed under it and:
- The process for imposing and approving supervision requirements is understood by relevant staff; and,
 - All staff are aware of the distinction between a post-sentence supervision period and a licence period, in particular that licence conditions are imposed only during a licence period, whereas supervision requirements are imposed in a post-sentence supervision period

3. Outcomes

- 3.1 In accordance with section 256AA of the Criminal Justice Act 2003 (the 2003 Act), offenders will be subject to a PSS period where:
- The offender's offence took place on or after 1 February 2015; and
 - They received a standard determinate custodial sentence of more than 1 day but less than 2 years.
 - The offender is 18 years or older at the half way point of the sentence.
- 3.2 Offenders who meet the above criteria are subject to a PSS period as part of the community phase of their determinate sentence. The length of the PSS period will depend on the length of the licence period, as the two combined will result in a 12-month long community phase.
- 3.3 The PSS period commences on the expiry of the licence period. The end point of the PSS period is calculated by adding 12 months to the Conditional Release Date (CRD), as adjusted by relevant remand/tagged bail and unlawfully at large time. This means that generally the length of the PSS period will be equivalent to 12 months minus the length of the licence period.
- 3.4 The purpose of the PSS period is the rehabilitation of the offender.

Default Post Sentence Supervision Requirements

- 3.5 As per section 256AB of the 2003 Act, the following default requirements may be included on all notices of supervision (the PSS equivalent of a licence):
- 3.6 To be of good behaviour and not behave in a way that undermines the rehabilitative purpose of the supervision period:
- Not to commit any offence;
 - To keep in touch with your supervisor in accordance with instructions given by your supervisor;
 - To receive visits from your supervisor in accordance with instructions given by your supervisor;
 - To reside permanently at an address approved by your supervisor and obtain the prior permission of the supervisor for any stay of one or more nights at a different address;
 - Not to undertake work, or a particular type of work, unless it is approved by your supervisor and to notify your supervisor in advance of any proposal to undertake work or a particular type of work;
 - Not to travel outside the British Islands except with the prior permission of your supervisor or in order to comply with a legal obligation (whether or not arising under the law of any part of the British Islands);
 - To participate in activities in accordance with any instructions given by your supervisor.
- 3.7 These conditions are described as “default” and not “standard” as seen in licence conditions, since they are only applied where they are necessary and proportionate to managing the offender’s rehabilitation. The presumption is that in the majority of cases, all of the requirements will be applied.
- 3.8 Simplified versions of these default requirements will appear on updated supervision orders templates using the Licence Management System (LMS). This alternative wording is designed to improve the offender’s understanding of their requirements during the PSS period. The objectives of these requirements will remain unchanged.

Exceptional Circumstances for Not Applying Default PSS Requirements

- 3.9 There may be exceptional circumstances where it is not necessary or proportionate to impose one or more of the default supervision requirements. This must be considered by the supervisor as part of the pre-release preparation.
- 3.10 If the supervisor decides there is good reason for excluding a requirement prior to release then they must ensure the releasing prison is notified of the reasons for this, so that the releasing Governor may consider it when the licence and supervision notice is prepared. Following release, the removal of default requirements is treated as a variation request.

Additional Post Sentence Supervision Requirements

- 3.11 There are two further supervision requirements under sections 256D and 256E of the 2003 Act which may be requested by the supervisor to manage the offender in the community. These are the drug testing requirement and the drug appointment requirements:

The Drug Appointment Requirement

- Attend [INSERT APPOINTMENT TIME DATE AND ADDRESS], as directed, to address your dependency on, or propensity to misuse, a controlled drug;

The Drug Testing Requirement

- Attend [INSERT NAME AND ADDRESS], as reasonably required by your supervisor, to give a sample of oral fluid / urine in order to test whether you have any specified Class A or specified Class B drugs in your body, for the purpose of ensuring that you are complying with the requirement of your supervision period requiring you to be of good behaviour.
- Details on the application, testing regime and management of breaches of these requirements are included in PI 30/2014 PSI 32/2014 "Drug Appointment and Drug Testing for Licence Conditions and Post-Sentence Supervision".

Requesting, Approving and Varying PSS Requirements

- 3.12 When explaining the purpose of PSS and any PSS requirements to an offender, staff must ensure that appropriate actions are taken to ensure that the offender understands what they are being told on a case by case basis. Where appropriate, prison staff and the Community Offender Manager (COM) must consider what actions can be taken to ensure that the offender can refer to their requirements under PSS on an ongoing basis, for example through the use of translation services, or by seeking a version produced in braille etc.

Requesting, Approving and Varying PSS Requirements

- 3.13 The means for requesting PSS requirements, as well as agreeing them and subsequently varying them each mirror the processes in place for licence conditions. For further details on those processes, see Equip or the related licence instructions.
- 3.14 Unlike licence conditions, there is no means to add further conditions/requirements outside of those in paragraph 10 above, nor is there a means to add bespoke requirements.
- 3.15 Default supervision requirements can be removed as a variation through the probation provider, should they no longer be necessary and proportionate to support the offender's rehabilitation. However, they must not be removed as an alternative to considering changes under those requirements, i.e. the employment default requirement must not be removed instead of considering whether or not new employment proposed by the offender is suitable; likewise, the travel restriction requirement must not be removed instead of considering whether or not temporary travel can be permitted under the relevant policy.

Court-recommended Amendments to Requirements following Breach of Supervision

- 3.16 During a licence period, a breach of a licence condition can result in return to custodial through executive recall. This is not available during the PSS period; instead breaches are brought before the courts in a similar fashion to a breach of requirement on a community order. Where an offender is before the courts for breach during the PSS period, the court may make recommendations on whether any PSS requirements should be amended or removed. In this instance, the enforcement officer must ensure they pass these recommendations to the supervising officer, as part of the information shared following the outcome of the breach hearing.
- 3.17 The supervising officer must review the supervision requirements following breach proceedings. If this variation is recommended by the court as an alternative to imposing a further period in custody or a fine, then it must be followed where possible and the supervising officer must request a variation of the PSS requirements accordingly.

4. Constraints

- 4.1 While PSS requirements look similar to licence conditions, and may share identical wording, they are not licence conditions. Licence conditions are only imposed during a licence period and must not be imposed during a PSS period.
- 4.2 The list of additional licence conditions in PI 09/2015 “Licence Conditions and Temporary Travel Abroad” and PSI 12/2015 “Licence Conditions, Licences and Licence and Supervision Notices” do not apply during the PSS period despite the wording for the drug testing and drug appointment supervision requirements being similar to licence conditions in that annex.
- 4.3 Activities imposed under the activity requirement on PSS must be considered on a case by case basis, taking into account the qualification requirements identified for each activity and considering the impact on the offender’s rehabilitation, as well as any protected characteristics under the Equalities Act 2010 such as gender (including gender reassignment) and disabilities (both physical and mental disabilities) etc.