



Policy name: Travel and Transfer on Licence and PSS Outside of England and Wales

Reference: N/A

Issue Date: 26 July 2021 **Implementation Date:** 2 August 2021

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

- PI 09/2015 Licence Conditions and Temporary Travel Abroad;
- PI 07/2015 PSI 08/2015 Permanent Resettlement Outside of England and Wales

Introduces amendments to the following documents: N/A

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"/>	The Probation Service	<input type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input type="checkbox"/>	Under 18 Young Offender Institutions
<input type="checkbox"/>	Other providers of Probation and Community Services		

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:

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).

In this document the term Governor also applies to Directors of Contracted Prisons

How will this Policy Framework be audited or monitored: This policy will be monitored by exception – that being the escalation route by which staff will send challenging cases to the functional mailbox (listed below) for advice from the central policy team.

Resource Impact: This policy does not introduce any significant changes to current working practice or resources.

Contact: licence.policy@justice.gov.uk

Deputy/Group Director sign-off: Gordon Davison, Deputy Direction, Public Protection Group

¹ In this document the term Governor also applies to Directors of Contracted Prisons.

Approved by OPS for publication: Sarah Coccia and Ian Barrow, Joint Chairs Operational Policy Sub-Board, July 2021.

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1. Purpose

- 1.1 This Policy Framework aims to ensure that staff are aware of the three different means under which an individual on licence or post sentence supervision (PSS) can travel/transfer outside of England and Wales either on a temporary or permanent basis and the criteria which applies in each case.

2. Outcomes

- 2.1 Staff are aware that individuals may request permission to travel abroad under the standard licence condition/default PSS requirement:
- a. The process for reviewing an application for either temporary or permanent travel abroad; and,
 - b. The criteria that must be met in order for an individual to qualify for this process.
- 2.2 Staff are aware of the ability for individuals to request transfer to another jurisdiction within the UK and Islands (defined as England and Wales, Scotland, Northern Ireland, the Isle of Man and the Channel Islands) during the licence and PSS periods:
- c. The criteria to be considered when considering such applications; and,
 - d. The difference between a restricted and unrestricted transfer, and where unrestricted transfers cannot be considered; and,
 - e. The need to ensure that cases remain open for restricted transfers, and the means of undertaking breach action if required.

3. Requirements

Part A: Travel Abroad on Licence/PSS

Introduction

- 3.1 All individuals on licence will be subject to a standard licence condition regarding travel abroad, which reads:
- You must not travel outside the United Kingdom, the Channel Islands or the Isle of Man except with the prior permission of your supervising officer or for the purposes of immigration deportation or removal.
- 3.2 As with licence, those individuals on PSS will also be subject to a similar default requirement, which reads:
- You are 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);
- 3.3 Under both of these there is the ability for an individual to apply to their Community Offender Manager (COM) for permission to travel outside of the UK and Islands, also referred to as the British Islands under PSS legislation, which is defined as the United Kingdom, the Channel Islands and the Isle of Man. This may be conducted on either a temporary or permanent basis.
- 3.4 Both temporary and permanent travel require the individual under supervision themselves to make an application to their COM based on the criteria set out in the appropriate sections below, providing any evidence as required to back up their application. The

exception being is that where the individual is unable to make such an application because of either a physical or mental health issue, then this may be conducted by a separate party with power of attorney over the individual under supervision.

- 3.5 When undertaking assessments based on the criteria for any given type of travel, COMs must be mindful where any protected characteristics may be relevant to a reason for undertaking travel, be it age, gender (including gender identification), religion, disability and pregnancy. Should a COM need further advice on a case of this type, then they should contact licence.policy@justice.gov.uk.
- 3.6 There is an expectation with both types of external travel that the individual will have been in the community for a period sufficiently long enough that the understanding of risk can be updated and so more accurately considered against the criteria for travel where needed. There is no set period of time, as this will vary by case based on the intensity of supervision. However, where there is a specific time sensitive situation that requires the individual's presence overseas, then this requirement may be bypassed with approval by a senior manager within the probation provider.

Sex Offender Notification

- 3.7 An individual who is a Registered Sex Offender is required to inform the Police prior to travel outside of the UK and Islands of any length of time. Should permission be granted under either of the following two schemes, then they must separately contact the Police directly in order to meet their Sex Offender notification requirements.
- 3.8 Supplying information to the probation provider in order to apply for a travel abroad scheme does not meet the requirements of sex offender notification. The COM in these types of cases should remind the individual on licence of this obligation and record that discussion on local casework systems.

Foreign National Offenders

- 3.9 Foreign National Offenders (FNOs) are specifically those individuals who are of interest to Home Office Immigration Enforcement (HOIE). They may be subject to deportation orders, and will still be pending deportation should they be released on licence or PSS in England and Wales.
- 3.10 Should an FNO apply for under either travel policy, then they should instead be directed to their HOIE caseworker to discuss the ability to return to their home country voluntarily.
- 3.11 While they can apply under temporarily travel abroad, they should be informed that any departure from the UK may lead to their deportation order being activated and their return being prevented.

4. Temporary Travel Abroad

Reasons for Temporary Travel

- 4.1 The reasons for travelling overseas for a temporary period while under supervision are numerous, however an individual may only travel under this policy where they meet the criteria below. This includes if it is identified that the activity they wish to undertake overseas can only be undertaken while outside of the UK and Islands and cannot wait until the end of the period on licence or PSS.
- 4.2 For example, a popular request from an individual on licence or PSS is to undertake a holiday or honeymoon while under supervision. In the vast majority of cases this does not meet the criteria for approval as there is both no requirement to complete this while supervision is underway, and also because the outcomes of such an activity (such as strengthening family ties) can be met through the use of a holiday within the UK and Islands should the individual not wish to wait.
- 4.3 Where the individual wishes to visit sick and/or elderly relatives living overseas, this is permissible as the individual meets both of the first two criteria for this purpose – however, medical evidence must be provided which shows that the individual's family member has a limited life expectancy or a degenerating mental illness. This medical evidence must then be independently verified by the probation provider contacting the doctor/medical practice directly to confirm the information given on the report. This does not mean that the individual automatically meets the criteria for this reason, as criteria 3 through 7 must also be considered separately.
- 4.4 It is also suitable to undertake temporary travel abroad where an individual is preparing for permanent resettlement abroad and needs to make arrangements in person in the country they wish to be resident of permanently. In this case, permanent travel must be considered first, as approval of that would fulfil criteria 1 and 2 of the temporary travel policy.

Criteria for Temporary Travel

- 4.5 Travel of this type was previously referred to as only being given in exceptional circumstances – whether these circumstances are exceptional or not are based on whether the individual's application meets the following set of criteria:
- A. Does the individual need to travel abroad to undertake the activity?
 - B. Will the benefits to the individual of travelling abroad be realised if the travel is deferred until after the end of the licence and PSS period (for individuals subject to determinate sentences) or suspension of the supervision element of the licence (for individuals subject to indeterminate sentences)?;
 - C. Are travel or activities carried out abroad connected or potentially connected to the individual's index offence (e.g. importation of drugs; fraud involving companies set up outside of the United Kingdom; human trafficking)?;
 - D. Will the travel interfere with the sentence plan or:
 - 1. During a licence period: increase any risk of re-offending or risk of serious harm, including risk of serious harm to prior victims, or risk to the individual themselves?;
 - 2. During a PSS period: deter from the rehabilitation of the individual, and interfere with the reestablishment of family/community ties?;

- E. Will the travel interfere with reporting requirements or attendance at offending behaviour programmes or interventions?;
- F. Have there been any concerns regarding a lack of compliance or any escalation in risk of reoffending or risk of serious harm in the past 12 months?;
- G. Is the Senior Manager satisfied that the individual can be trusted to return and resume the supervisory period?

Employment Related Temporary Travel

4.6 If the individual is applying to travel abroad temporarily for employment related purposes, the presumption is that the employment has already been reviewed by the COM and found to be suitable. Criteria a and b of the temporary travel criteria can pose a potential problem for supervising officers to judge with business-related temporary travel abroad as they are often not in a position to be able to determine accurately whether this type of travel can wait until after supervision has been completed. Therefore, for business related travel abroad, the following criterion applies, replacing criteria A and B:

- H. Does the employer support the individual's request to travel abroad, and is the employer fully aware of the restrictions placed on the individual by the licence and/or PSS period?

4.7 Any request to travel abroad for business requires that disclosure of the individual's offending history has already occurred to that employer, and a written letter from that employer should be supplied to the supervising officer supporting the individual's request. This should be seen as fulfilling the requirement in criteria a; however, the supervising officer may need to further discuss with the individual and employer the arrangements for reporting during this period and should seek to come to a compromise over the time spent overseas and any adjustments to the reporting schedule.

4.8 These requirements will be more difficult to fulfil for self-employed or freelance individuals, due to the need for independent evidence of the need to travel. Therefore criterion 8 will not apply in those cases, and it will be up to the individual under supervision to supply sufficient evidence to meet criteria A and B.

Approval Authority

4.9 Temporary travel outside the UK and Islands for all types of individuals either on licence or PSS under the supervision of a provider of probation services must be authorised in line with this policy by a senior manager within that organisation.

Lifers and Indeterminate Sentences for Public Protection

4.10 As a general rule for individuals subject to indeterminate sentences, permission to travel abroad during the early part of the licence (prior to the suspension of the supervising element of the licence) must be considered according to the criteria as above. Criterion 1 must be considered in relation to the estimated time until the suspension of supervision instead of the end of the licence and/or PSS period.

Scotland, Northern Ireland, Isle of Man and the Channel Islands

4.11 The criteria set out above do not apply to requests from individuals to travel within the area defined as the "UK and Islands" – England and Wales, Scotland, Northern Ireland, the Isle

of Man and the Channel Islands. However, restrictions may be in place to specific areas of those jurisdictions should an exclusion zone be in place.

- 4.12 Individuals on licence must still notify COMs of their intention to travel to another jurisdiction of the UK and Islands as although permission to travel may not be required, an address check is needed to permit them to stay overnight for one or more nights. Upon receiving that enquiry, COMs must get in touch with the contact for that jurisdiction so that they may conduct an address check locally, and for the COM to provide any information requested to enable management of the case while the individual is in the other jurisdiction.
- 4.13 COMs must consider the reason for why the individual is travelling to the other jurisdiction – in particular in drug offence related cases where there may be concerns around cross-jurisdiction “county lines” activities potentially occurring.
- 4.14 In some circumstances the receiving jurisdiction may request for the individual to report to a local COMs (or equivalent) during their stay. This will depend on the individual nature of the case.
- 4.15 It must be noted that should an individual overstay or refuse to return to England and Wales following the end of their notified trip to another jurisdiction then they are in breach of the standard licence condition related to residency, which may result in the offender returning to custody in particular if they continue to refuse to return.
- 4.16 Should the individual on licence only intend to conduct a day trip to another jurisdiction, the COM must still get in touch to inform the local contact so that they are aware and safeguarding measures may be put in place if required.
- 4.17 Contact points for other jurisdictions will be stored separately but alongside this policy framework on EQUIP in the sections related to travel and transfer outside of England and Wales on licence.

5. Permanent Travel Abroad

Reasons for Permanent Travel

- 5.1 Permanent Travel Abroad (referred to in previous policies as “resettlement abroad”), enables an individual on licence to leave the UK and Islands and live elsewhere on a permanent basis during the course of their post-release supervision.
- 5.2 As neither a licence period or a PSS period can be enforced outside of the UK and Islands, this has the effect of bringing those periods to an early end as long as the individual does not return to the UK and Islands. As such, permanent travel is restricted only to those who fit a very specific category of individuals, where they either hold a non-British nationality (either exclusively or as a dual national), or where they were resident abroad prior to the offence being committed.

Criteria for Permanent Travel

- 5.3 Although there are fewer criteria than temporary travel, the ability to travel permanently while under supervision is extremely limited due to the first criterion. Should the individual

not meet that criterion, then any application for permanent travel must be refused at that point.

- A. Does the individual hold the nationality or have strong residential ties in the place s/he wishes to resettle, including, but not limited to, any compassionate reasons?

If the answer to criterion a is 'no' then the application should be refused.

- B. Is the individual's index offence connected or potentially connected with the country s/he wishes to resettle in, or is generally connected with overseas activities? (e.g. fraud involving companies set up outside of the United Kingdom; sexual offences against children and wishes to travel to a country known for child sexual exploitation; people trafficking; extremism with potential or actual international links).

If the answer to criterion b is 'yes', then the application should be refused.

- C. Would the protection of the public (including victims), reduction in the risk of reoffending and rehabilitation of the individual be undermined by such resettlement?

If the answer to criterion c is 'yes', then the application should be refused.

- D. Have there been any concerns regarding a lack of compliance or any escalation in risk of reoffending or risk of serious harm in the past 12 months?;

If the answer to criterion d is 'yes', then the application should be refused.

Approval Authority

- 5.4 Permanent travel outside the UK and Islands individuals either on licence or PSS under the supervision of a provider of probation services must be authorised on behalf of the Secretary of State in line with this policy as follows:

- Determinate sentences: The head of the Probation Service local delivery unit.
- Indeterminate sentences: The Public Protection Casework Section (PPCS) within HMPPS, who will refer to the Parole Board where required.

- 5.5 There is only a requirement to refer cases to PPCS specifically where the Parole Board approved release, and not where it has simply approved licence conditions for a case.

Immediate Travel

- 5.6 In some circumstances it may be suitable for the individual to travel permanently immediately upon leaving custody. Any such plans must be planned in advance as part of the release plan and coordinated between the COM, the individual in question and the Prison Offender Manager (POM). The COM can require the individual to report on the day of release as normal and then travel, or travel directly from the releasing prison. The individual must still meet all permanent travel criteria, and approval from a senior manager as per paragraph 5.3.

Irish Nationals

- 5.7 Irish nationals are not excluded from either travel policies contained in this document. However, additional and careful consideration must be given to Irish nationals applying for permanent travel due to the lack of border controls between the Republic of Ireland (RoI) and Northern Ireland, and thereby the ease of ability to travel between the RoI and the rest

of the United Kingdom. This does not extend to a further test to be in place for Irish Nationals, only that the possibility of borderless movement between countries needs to be understood by the COM.

- 5.8 This consideration falls mostly within criterion 3, which asks whether the protection of the public, and the risks/rehabilitation would be undermined by such travel. The additional question for Irish nationals is whether or not permanent travel is a means to end the licence period early, only to then turn around and return to the United Kingdom. Therefore family and community connections need to be considered to ensure that the individual really does tend to resettle permanently in the RoI.
- 5.9 Additionally, while there is no means of transferring an individual on licence/PSS and have them undergo proper supervision while in the RoI, there are two additional possible means of adding additional engagement for the individual once permanent travel has taken place, either through the Irish Probation Service or the Irish Council for Prisoners Overseas (ICPO). The individual will only be engaging on a voluntary basis, and so that engagement cannot be considered to mitigate any identified risks posed by the individual. Contact points are as follows:
- Irish Probation Service: Contact points can be found here:
<http://probation.ie/en/PB/officecontactspage?readform>
 - ICPO: Email: prisoners@irishchaplaincy.org.uk
- 5.10 As Irish nationals are not eligible for deportation, none are considered to be “FNOs” under the description elsewhere in this policy. This also applies to individuals who hold Irish nationality as part of dual nationality. Where a dual national individual holding Irish nationality wishes to resettle to the country of the other nationality, the additional considerations related to the free travel area between the UK/RoI do not apply.

6. Part B: Transfer to/from Another Jurisdiction on Licence/PSS

Introduction and allocation

- 6.1 There is the ability to transfer an individual on licence/PSS to another jurisdiction of the UK and Islands (defined as England and Wales, Scotland, Northern Ireland, The Isle of Man and the Channel Islands) while continuing supervision by means of either transferring just the supervision element of the licence to the new jurisdiction and the sending jurisdiction retains responsibility for the overall sentence and recall (a “restricted transfer”) or by matching the individual’s sentence to that of similar structure in the receiving jurisdiction and transferring the sentence to that jurisdiction to be entirely enforced in that jurisdiction (an “unrestricted transfer”).
- 6.2 Transferring under this policy is the only means of enabling an individual to transfer and reside within another jurisdiction once they have been released from custody. All individuals who identify as being normally resident of a jurisdiction other than England and Wales must instead be considered to be of No Fixed Abode (NFA) at the point of allocation, and allocated as per PI 05/2014 / PSI 14/2014 Case Allocation. Staff conducting case allocations are not permitted to allocate cases outside of England and Wales.

- 6.3 An individual must request to transfer between jurisdictions, through a discussion with their COM, and any discussions must be noted on local case management systems. While the individual may request a transfer to another jurisdiction generally, they have no ability to request which of the two types of transfer their case will be managed under. This is entirely a case management decision, and the day to day supervision experience of the individual will be mostly unaffected regardless of whether a restricted or unrestricted transfer applies.

Initial Consideration and Criteria

- 6.4 A COM who receives a request from an individual to transfer to another jurisdiction must first make an initial assessment, following a request to transfer by the individual, according to the following criteria:

1. Does the individual have close family or residential ties in the place he wishes to resettle, including, but not limited to, any compassionate reasons?

If the answer is 'no', the application should be refused.

2. Can the sentence plan be implemented in the receiving jurisdiction or will the transfer:
 - a. During a licence period: increase any risk of re-offending or risk of serious harm, including risk of serious harm to prior victims, or risk to the individual themselves?;
 - b. During a PSS period: deter from the rehabilitation of the individual, and interfere with the reestablishment of family/community ties?;

Types of Transfers

- 6.5 There are two ways in which an individual subject to licence or PSS can be transferred to another UK jurisdiction:
- Restricted: This is where an individual is allowed to reside within another jurisdiction, and reports into an officer locally. The case remains open in the sending jurisdiction, and the COM in England and Wales continues to be responsible for undertaking all processes other than meeting with the individual personally.
 - Unrestricted: The individual is transferred to a sentence of similar structure within the receiving jurisdiction, who take complete control of the case, and the case is closed down by the sending jurisdiction.
- 6.6 The COM will need to consider both types of transfer and decide which one would result in the best outcomes for public protection (including victims should there be Victim Contact Scheme involvement), and the rehabilitation of the individual on licence. There are exceptions to unrestricted transfers, where they cannot be applied to certain types of cases. These are specified in paragraph 78.
- 6.7 The expectation is that most cases will be transferred initially on a restricted basis. This allows for an easy transition for the individual concerned, and allows both the COM and the receiving jurisdictions to ease into information sharing arrangements. This also allows for the individual to be returned to the sending jurisdiction should the receiving jurisdiction be unable to supervise them.

Initial Liaison with the Receiving Jurisdiction

- 6.8 Should an application be approved by the COM, then they must then make initial contact with the receiving jurisdiction. The contact points for this are in a separate document which

sits alongside this Policy Framework on EQUIP. The receiving jurisdiction must be alerted to the potential transfer at least 28 days prior to the intended date of transfer, which can include time spent in custody if the intention is for the individual to transfer immediately upon release.

- 6.9 At the request of the COM in the sending jurisdiction, the receiving jurisdiction will undertake checks locally (such as for accommodation, employment etc) to help inform risk assessments and release planning. Likewise, the sending COM will be expected to provide the receiving jurisdiction with any documentation/information as required, so they may undertake an assessment of whether or not to manage the case. This may include completing transfer forms required by the receiving jurisdiction. At this point, the sending COM must inform the receiving jurisdiction of any status under the Multi-Agency Public Protection Arrangements (MAPPA) so that safeguarding concerns can be looked at.
- 6.10 If agreement is reached to transfer the individual between the jurisdictions, then the type of transfer and a specific date of transfer will be set. A transfer order must be completed by the COM, and signed by the head of the local probation delivery unit as part of the approval process, including in cases where the ultimate authority to approve a transfer resides with the Public Protection Casework Section of HMPPS. The transfer order template is found at Annex A. This is a generic form which can be used by all jurisdictions.

Multi Agency Public Protection Arrangements (MAPPA) Cases

- 6.11 Where the individual is subject to MAPPA, and there are active case meetings taking place (due to the individual being managed at level 2 or 3) then the COM must raise the requested transfer with the MAPPA panel. This will enable the panel to contact any reciprocal arrangements in the receiving jurisdiction such as Public Protection Arrangements Northern Ireland (PPANI) and enable direct information sharing between the two. This is in addition to the information sharing taking place between the COM and the representative of the receiving jurisdiction, and not instead of. Any invitations to attend MAPPA meetings must be made to both the COM and the receiving jurisdiction, however, the latter must not be expected to attend in person.

Approval Authority

- 6.12 Cross jurisdictional transfers for individuals either on licence or PSS under the supervision of a provider of probation services must be authorised on behalf of the Secretary of State in line with this policy as follows:
- Determinate sentences where release was automatic: The head of the Probation Service local delivery unit.
 - Indeterminate sentences and determinate sentences where release was authorised by the Parole Board: PPCS within HMPPS, who will refer to the Parole Board where required.
- 6.13 There is only a requirement to refer cases to PPCS specifically where the Parole Board approved release, and not where it has simply approved licence conditions for a case.

Actions Following a Restricted Transfer

- 6.14 Following a restricted transfer, the COM in England and Wales remains the lead on the case, and case records must remain open, with the case remaining allocated.
- 6.15 The sending COM must undertake all activity required of them by other policies and practice, with the exception of direct reporting between the individual and the COM.

- 6.16 To facilitate this, the COM must keep in contact with the representative managing the individual on behalf of the other jurisdiction with telephone/video conferencing meetings taking place as agreed between the two parties, but no less frequently than the frequency of the individual's reporting timetable other than if agreed with the receiving jurisdiction.
- 6.17 The COM remains responsible for authorising any licence variations or breach action, including recall, as the individual remains on an England and Wales licence. Should recall take place, then this will be via the Public Protection Casework Section (PPCS) and the Parole Board of England and Wales. For further details see the Recall, Review and Re-Release of Recalled Prisoners Policy Framework.
- 6.18 However, the COM must remain mindful of the needs of the receiving jurisdiction. No two jurisdictions have the same breach standards and so there will likely be differences of opinions at times. While the COM in England and Wales remains the lead on this, the receiving jurisdiction reserves the right to terminate the transfer at any point should they feel that the individual is no longer manageable by them. Should that occur, the COM must require the individual to return to England and Wales with additional breach action taken if they refuse these instructions.

Conversion to an Unrestricted Transfer

- 6.19 As part of these cross jurisdiction case management discussions, if the individual is eligible for an unrestricted transfer then the COM and the receiving jurisdiction must set out a timetable for when to review the case to see if it would be suitable for conversion to an unrestricted transfer. The expectation is that this would take place every six months, but this can be conducted sooner at the receiving jurisdiction's discretion.
- 6.20 Should conversion be agreed, then this requires the completion of a transfer order set out in paragraph 6.10 and the approval authority as set out in paragraph 5.4.

Actions Following an Unrestricted Transfer

- 6.21 Following an unrestricted transfer, the COM must ensure that all relevant information on the case has been transferred to the receiving jurisdiction. Once that has been completed, then all case records which are limited to England and Wales may be closed down.

Transfers to England and Wales

- 6.22 Where an individual on licence in another jurisdiction has requested a transfer to England and Wales, the other jurisdiction will approach probation to undertake allocation of the case so that transfer arrangements can be discussed. The allocation process is set out in PI 05/2014 / PSI 14/2014 Case Allocation.
- 6.23 The same considerations set out in paragraph 5.3 must be considered when reviewing an incoming transfer.
- 6.24 When considering the types of transfer, the likelihood that an individual would be eligible for an unrestricted transfer when being transferred to England and Wales is very high. This would extend to applying PSS to incoming cases who are subject to determinate sentences of 2 years or less, should an unrestricted transfer be approved for a case of that type.

- 6.25 The default position for incoming transfers is to accept them on an unrestricted basis wherever possible, unless the COM has sufficient concerns about the risks and issues posed by the individual in question that may result in a potential breach or return to the sending jurisdiction within the period spent on licence, or if the individual is ineligible for an unrestricted transfer.
- 6.26 Any incoming transfers must be approved using the same approval authority as set out in paragraph 6.12. Once approval authority is given for both the transfer and the type of transfer, then case records must be created as appropriate including the creation of an England and Wales licence should the individual transfer on an unrestricted basis.
- 6.27 If a restricted transfer takes place, then as with paragraph 6.27, joint management meetings must take place between the COM and the sending jurisdiction, along with reviews to consider whether conversion to an unrestricted transfer should take place per paragraph 6.19. Any breach action for a restricted transfer would be undertaken by the sending jurisdiction, including recall.
- 6.28 Should the sending jurisdiction not request the removal of the individual from the community, and the COM believes them to be unmanageable then a restricted transfer may be terminated. This requires consultation with senior management first, and approval of the head of the probation local delivery unit. Following that, final approval must be sought from the Public Protection Unit: licence.policy@justice.gov.uk, who may liaise with the sending authority on behalf of probation to rectify the issues before any action is taken.
- 6.29 If an unrestricted transfer takes place, then all information received from the sending jurisdiction must be incorporated into the case management systems as appropriate. The individual is then treated as if the case originated in England and Wales, and would be eligible for any licence conditions otherwise not available in the sending jurisdiction (for example, polygraph testing on licence) or programmes.
- 6.30 If an individual breaches their licence following an unrestricted transfer to England and Wales, then they would be treated in the same way as a case which originated in this jurisdiction. This includes recall to the Parole Board of England and Wales via PPCS where required. For further details see Recall, Review and Re-Release of Recalled Prisoners Policy Framework.

7. Constraints

Part A: Travel Abroad on Licence/PSS

Foreign National Offenders

- 7.1 Neither set of criteria set out for travel abroad may be applied to the deportation of FNOs by HOIE. Permission under this policy is not required for deportation to take place.

Risk to the Individual

- 7.2 It would not be appropriate to permit travel either on a temporary or permanent basis, where the travel would put the individual at risk of serious harm. This may be related to a protected characteristic such as sexual orientation, religion or belief or gender identity being discriminated against in the country they wish to travel to.

- 7.3 Information on this should be sought from the Foreign and Commonwealth Office website at: <https://www.gov.uk/foreign-travel-advice>
- 7.4 The acceptance of these risks by the individual under supervision does not mitigate those risks, and if the FCO has stated that travel must not be undertaken to a country or certain region of that country, then permission under these criteria must not be given.

Part B: Transfer to Another Jurisdiction on Licence/PSS

Liaison with the Receiving Jurisdiction

- 7.5 Transfers must not take place without the agreement of both jurisdictions, nor can the sending jurisdiction require the receiving jurisdiction to undertake an unrestricted transfer if they do not elect to do so.

Residency Outside of Transfers

- 7.6 COMs are not permitted to allow individuals on licence or PSS to reside in another jurisdiction without agreement being sought from the receiving jurisdiction and a formal transfer having been arranged.

Ineligibility for Unrestricted Transfers

- 7.7 Individuals may on transfer on an unrestricted transfer where there is a similar sentence structure available in the receiving jurisdiction. No two jurisdictions of the UK and Islands fully mirror another's sentencing structure, or even the structure of the post-release period. As such, the following types of cases are not eligible for unrestricted transfer, and may only be transferred on a restricted basis:
- A. Individuals who are subject to post-sentence supervision (either currently, or after they have completed their period on licence);
 - B. Individuals subject to Imprisonment for Public Protection (IPP), except where the transfer is between England and Wales, and Northern Ireland;
 - C. Individuals who would be subject to a shorter licence period in the receiving jurisdiction than if they remained in the sending jurisdiction, or no licence period at all;
 - D. Individuals who have been identified as requiring a specific licence condition that would be undeliverable if they transferred on an unrestricted transfer;
 - E. Any other sentence where there is not an similarly structured sentence in the receiving jurisdiction comprising of the same or a longer licence period.

Foreign National Offenders

- 7.8 FNOs who have no links to any location within the UK and Islands may not be transferred between those jurisdictions outside of this policy. They may only be transferred following a request from that individual, and only to a jurisdiction where they have some sort of family or residential tie. All other considerations apply, and approval must still be given by the other jurisdiction.

ORDER FOR THE TRANSFER OF SUPERVISION

FROM: [SENDING JURISDICTION]

TO: [RECEIVING JURISDICTION]

This transfer between jurisdictions is taking place under the basis of the legislation in place in those two jurisdictions, following a request by [INSERT NAME HERE] to be transferred.

This individual will be supervised by the receiving jurisdiction until [INSERT END OF SUPERVISION DATE HERE]. This will be under the basis of a [RESTRICTED/UNRESTRICTED] transfer.

Signed:

Status:

Date:

for the [SENDING JURISDICTION'S LEGAL AUTHORITY (for example Secretary of State for Justice)]

This Order has been given to me and its effect has been explained.

Signed:

Date: