

Licence Conditions

Member Guidance

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Document History

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1. Introduction

- 1.1 This guidance is to assist panels with their understanding of, and responsibility for, setting licence conditions when they are directing the release of a prisoner.
- 1.2 The Board will direct release on the basis of the licence conditions that it considers to be appropriate. A panel will set the licence conditions it considers appropriate to manage risk.
- 1.3 There are currently four types of licence conditions available:
- **Standard** licence conditions, which apply in every case (see [paragraphs 7.1 – 7.4](#))
 - **Additional** licence conditions, which can be selected from an approved list¹ and imposed to meet the particular needs of a case (see [paragraphs 8.1 – 8.6](#))
 - **Bespoke** licence conditions, which can be adaptations of the approved additional licence conditions, or an entirely new condition to meet the particular needs of the case (see [paragraphs 9.1 – 9.5](#))
 - **Compulsory** licence conditions, which are required by legislation for those cases that meet the criteria (see [paragraphs 10.1 – 10.3](#))
- 1.4 The general rule for any licence condition over and above the standard conditions is that **the restriction which the condition imposes must be no greater than is necessary to manage the relevant risk²**. Conditions should be preventative, not punitive. These are the principles of requiring the condition to be *necessary and proportionate*.
- 1.5 Article 8 of the European Convention on Human Rights (ECHR) is relevant to the setting of licence conditions, subject to the overall requirement for proportionality to be exercised. It reads:
- Everyone has the right to respect for his private and family life, his home, and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.*
- 1.6 If the licence conditions proposed are very onerous and restrictive (so that they amount to detention but outside of custody), it is also possible that Article 5 of the ECHR³ might be engaged. However, these cases will be very rare, and Her Majesty's Prison and Probation Service (HMPPS) Public Protection Group (PPG) has carefully set out guidance in the [Licence Conditions Policy Framework](#) to avoid creating such conditions.

¹ HMPPS list of additional licence conditions – see [Annex A](#)

² However, see [paragraph 13.6](#) on victim related conditions for wider applications

³ [European Convention on Human Rights \(coe.int\)](#)

- 1.7 If panels believe that a proposed licence condition is so onerous as to amount to detention (for example, a lengthy curfew of more than 18 hours) but they are minded to agree to it, they should seek advice from the Practice Advisor to determine if it is lawful. In fact, it is recommended to seek advice on any arrangement involving curfews and reporting instructions that may result, in effect, a curfew of more than 12 hours.
- 1.8 When setting licence conditions, for them to be lawful and in accordance with Article 8 and the ECHR generally, a balance must be made between the rights of the prisoner under this article, and what is **necessary and proportionate** in the interests of prevention of crime and protection of the public.
- **Necessary:** Any licence condition proposed must have been identified as a way to manage a specific risk or issue posed by the prisoner, without limitation to the current index offence
 - **Proportionate:** Any licence condition must be the least intrusive means of enabling that management
- 1.9 However, the overarching consideration is public protection. In the judgment of *Buxton (2004)*⁴, the Court found that, when considering representations against the recall of a determinate sentence prisoner, Article 8 does not require the Board to balance the risk of further offending against the prisoner’s personal interests. Where there is a judgement to be made about protecting the public and the Article 8 rights of the prisoner or their family, **the issue of risk remains paramount.**
- 1.10 Licence conditions can only be applied to the prisoner. The Board cannot lawfully impose requirements on other people (such as members of the prisoner’s family) even if they have consented to them.
- 1.11 Other individuals named in a licence condition are not required to give consent to being named on the document. However, different rules exist for cases under the Victim Contact Scheme (VCS) where being named may be detrimental to that victim’s wellbeing. More information about this can be found in [paragraphs 13.14 – 13.18](#).
- 1.12 The HMPPS policy framework sets out the various licence conditions that can be imposed on a determinate, extended, or indeterminate sentence licence. Relevant content for panels is summarised in this guidance.
- 1.13 A list of **standard, additional, and compulsory** licence conditions is set out in the HMPPS Policy Framework and the wording of additional licence conditions can be found at [Annex A](#) of this guidance.

⁴ *Buxton [2004] EWHC (Admin) 1930* was considered and upheld in the 2015 case of *Hall v Parole Board [2015] EWHC 252 (Admin)*
[Buxton, R \(on the application of\) v The Parole Board & Anor | \[2004\] EWHC 1930 \(Admin\) | England and Wales High Court \(Administrative Court\) | Judgment | Law | CaseMine](#)

2. Issuing and management of licences

- 2.1 Prisoners should be familiar with their licence conditions before they are released from custody. They will be issued with a copy of their licence at the point of release, and a copy that they have signed should be retained on official records. Where the prisoner refuses to sign the licence (or is unable to do so), this will be noted on the official records and does not invalidate the licence. Licences where a refusal to sign has taken place will be double signed by HMPPS staff to note that the prisoner was informed about his licence and an explanation of each condition provided has taken place, as set out paragraph 2.3 below.
- 2.2 Further copies should be sent by the prison to the National Identification Service (NIS) at New Scotland Yard and to the Chief Constable of the area to which the prisoner is being released. If the licence is subsequently varied, updated copies will be distributed by the Public Protection Casework Section (PPCS) in the same way.
- 2.3 Prisoners should have their licences and licence conditions explained to them prior to release and they should have a clear understanding of what the requirements are. This may require HMPPS staff to present the information to them in an accessible format. These will be revisited with them at their first probation appointment for supervision in the community.
- 2.4 Where a panel is reviewing the circumstances of a recalled prisoner, sometimes the prisoner's understanding of a licence condition will be an important point of consideration.

3. Responsibility for setting licence conditions

Determinate Sentences

- 3.1 For determinate sentence prisoners who are released automatically, the Governor at the releasing establishment is responsible for approving and setting out the licence conditions (but note: conditions can only be proposed by Probation Service staff). This includes those cases where a panel has refused release or re-release and there will not be a further review by the Board before the automatic release date, for example the Conditional Release Date (CRD). In such cases, the panel's decision should not include possible conditions that may be needed, and it must be left to the prison Governor to determine these on the recommendations of probation professionals at the actual time of release.
- 3.2 For determinate sentence prisoners who are released following a Parole Board review, or re-released following recall on the direction of the Board, the panel is responsible for setting the licence conditions.
- 3.3 The requirement for the Board's agreement of licence conditions for determinate sentence prisoners is set out in section 250(5A)-(5C) of the Criminal Justice Act (CJA) 2003. Subsection (5A) provides the Board must, effectively, approve the licence condition if the licence is within the scope

of subsection (5B). Licences within that subsection are those granted to a “*relevant prisoner*” on initial release or release after recall where such release is at the direction of the Board (i.e. not automatically or by the Secretary of State).

- 3.4 The Board has responsibility for setting and varying licence conditions in all cases where it directs release and a prisoner is:
- Serving a Sentence for Offender of Particular Concern (SOPC);
 - Serving an Extended Determinate Sentence (EDS) where:
 - the prisoner was sentenced on or after 15 April 2015; or
 - the prisoner was sentenced prior to 15 April 2015 and either:
 - the custodial element is 10 years or more; or
 - the offence is one included in Schedule 15B (Parts 1 to 3) of the CJA 2003;
 - Serving a determinate sentence subject to initial release by the Board under Chapter 6 of Part 12 of the CJA 2003;
 - Serving a serious terrorism sentence.
- 3.5 It should be noted that prisoners serving either an EDS or SOPC who are released automatically at CRD no longer come before the Board to set licence conditions⁵.
- 3.6 The Police, Crime, Sentencing and Courts Act 2022 provides for the Secretary of State to refer certain high risk Standard Determinate Sentence (SDS) prisoners to the Board instead of automatically releasing them at their CRD. These are known as Power to Detain (PTD) cases⁶. The Board sets the licence conditions when releasing these prisoners under the scope of “*relevant prisoner*,” as set out in paragraph 3.3 above. This includes PTD prisoners at both initial release and re-release following recall where this has been directed by the Board.
- 3.7 As such, where the Board directs the initial release, the PTD prisoner will be on a licence set by the Board and any re-release following recall on that licence, or a variation to the licence, will be for the Board to determine. The prisoner remains a “*relevant prisoner*” until they reach their sentence expiry date, after which the PTD ends. If a prisoner returns to custody on a different sentence after the PTD sentence has expired, they will serve the new sentence in the same way as any other prisoner.
- 3.8 The Secretary of State is not required to adopt some licence conditions set by the Board for determinate recall cases as they are recommendations only. The requirement is for the conditions to be set by the Secretary of State and the Board cannot set them directly since the Board is independent and not within the *Carltona Doctrine*⁷. However, in almost all cases, such conditions will be included on the licence and the Secretary of State rarely exercises the power to remove a condition set by the Board.

⁵ These cases ceased to be referred to the Parole Board following the commencement of the Police, Crime, Sentencing and Courts Act 2022 on 28 June 2022

⁶ For more information, please refer to Types of Cases guidance.

⁷ A principle that permits civil servants to act as the Secretary of State. The principle was recognised by the courts in *Carltona v Commissioner of Works* [1943] 2 All ER 560.

Indeterminate Sentence Prisoners

- 3.9 The legislation is rather perplexing in terms of licence conditions for indeterminate sentence prisoners. The Board has the responsibility for *recommending* licence conditions in all indeterminate sentence cases where the panel is making a direction for release. Panels do not “direct” licence conditions in the same way as they “direct” release. The Board does not represent the Secretary of State in this manner. Licence conditions are placed on the licence by HMPPS, based on the Board’s recommendations.
- 3.10 However, the Secretary of State cannot impose a licence condition that the Board has *not* recommended or reject one that *has* been recommended. The Secretary of State must release the prisoner on the terms set by the Board. The prisoner has a legitimate expectation that those will be the conditions on their licence.
- 3.11 The Board retains ownership for these licence conditions after release and/or any recall and most will require the Board’s consent to vary them. However, there are several with which the Secretary of State has the power to vary without seeking consent from the Board. More information about these particular conditions is set out in [paragraph 12.4](#).
- 3.12 It is the Community Offender Manager (COM) who will propose relevant licence conditions to the Board, including any conditions requested by the victim via their Victim Liaison Officer (VLO). Panels do not have to accept or impose a proposed condition but must explain why in their decision. Panels must also explain if they have varied or adapted a condition. An explanation for all conditions being recommended by the panel is good practice as part of the section of the decision on managing risk. It enables professionals to explain why a condition has not been added or varied in some way; it also enables anyone considering a future licence variation request to understand why the condition was made in the first place. It also ensures that the prisoner and their COM will be clear about the panel’s rationale. Additionally, such clarification will ensure that the decision can withstand any subsequent legal challenge.
- 3.13 It should also be noted that under the Code of Practice for Victims of Crime⁸, victims are entitled to an explanation if a requested licence condition has not been accepted or has been varied or adapted.
- 3.14 For prisoners who fall under the Multi-Agency Public Protection Arrangements (MAPPAs) management, proposed conditions will be discussed at MAPPAs meetings as part of the development of risk management plans (RMP). MAPPAs itself does not propose or endorse conditions as it is a set of arrangements, not an agency. The RMP is owned by the lead agency, which will be the Probation Service in the case of parole eligible prisoners. Responsibility for requesting conditions rests with the Probation Service but should be informed by consultation with MAPPAs colleagues (the other agencies/bodies involved).

⁸ [MoJ Victims Code 2020 \(publishing.service.gov.uk\)](#)

- 3.15 Panels can recommend conditions that have not already been proposed if they consider them to be necessary and proportionate. These should be discussed with the COM to ensure that the need is fully understood and that the condition can be managed and is viable in practice. MCA panels may wish to issue a short adjournment in order to engage the COM in any new conditions felt to be necessary where minded to release on the papers. Additional conditions may also emerge through discussions at oral hearings. Again, an explanation for why additional conditions have been imposed must be set out in the panel's decision.
- 3.16 Panels should **not** set future licence conditions where a prisoner has received a further sentence and must therefore remain in custody on that new sentence⁹. Licence conditions will be considered at the point where the prisoner is eligible to be considered for release, or automatically released, on that new sentence.

4. Licence condition recommendations made by Sentencing Judges

- 4.1 In some cases (custodial sentences of more than 12 months for offences committed after 4 April 2005¹⁰), Sentencing Judges have the power to recommend to the Secretary of State the inclusion of additional licence conditions for the prisoner's eventual release. In practice, this is a power that has not been exercised frequently. Panels may come across these recommendations in Judges Sentencing Remarks (JSR) which are a mandatory document in the parole dossier, and best practice would be for these to have been identified by the COM.
- 4.2 There is a presumption that these will be included on the release licence, but panels must remember that the circumstances of a prisoner may have changed significantly since sentencing and with the passing of time. Each case must be assessed on its own merit with what is necessary and proportionate to manage risk being the overriding factor in any determination. Panels are not obliged to recommend these conditions but must provide an explanation in the decision if they do not.

5. Types and lengths of licences

- 5.1 When panels are determining whether the test for release is met and what licence conditions are required, they need to bear in mind the period over which they must consider risk. This is now indefinite for all case types¹¹.
- 5.2 Licence conditions imposed on release will remain in place until the Sentence Expiry Date (SED) for determinate cases. They cease to remain in force beyond SED, irrespective of the period of risk.

⁹ Such cases should not be referred to the Board following the commencement of the Police, Crime, Sentencing and Courts Act 2022 on 28 June 2022

¹⁰ As set out on s328 of the [Sentencing Act 2020](#)

¹¹ The judgment in *Johnson EWHC 1282 (Admin)*, the Court determined that the statutory test for release has no temporal element.

- 5.3 Licence conditions imposed on release will remain in place indefinitely in life sentence cases and IPPs (unless the IPP licence has been terminated¹²).
- 5.4 However, COMs will periodically review licence conditions and can seek to vary or remove those that are no longer required to manage the current risk.
- 5.5 Some licence conditions are only intended to be in place during the initial period after release, for example, electronic monitoring, Approved Premises (AP) residence, curfew etc, and others come into effect after the initial period (for example electronic monitoring following a move on from an AP). Where they are no longer relevant, the COM can apply to have them removed from the licence although in many cases they remain dormant on the licence (see [paragraphs 26.1 – 26.12](#)).
- 5.6 For more detailed information on sentence types and periods of risk please refer to the *Guidance on Types of Cases*.

6. Post-sentence supervision

- 6.1 Post-sentence supervision (PSS) was introduced from 1 February 2015 through the Offender Rehabilitation Act 2014 and applies to all prisoners sentenced to a determinate sentence of more than one day but less than 2 years. The PSS period is an additional period of supervision that follows the licence period and extends beyond SED. The length of the PSS varies and depends on the length of the licence, but it will always be calculated to ensure that supervision overall will add up to a total of 12 months for eligible prisoners.
- 6.2 The important thing for panels to remember is that the Board has no jurisdiction over any PSS period and panels should not take PSS into account when assessing risk (including beyond SED) and its manageability. **Therefore, licence conditions must not be set for the PSS period** on the sentence that is being considered.
- 6.3 More information about PSS can be found in the [HMPPS Post Sentence Supervision Requirements Policy Framework](#).

7. Standard licence conditions

- 7.1 There are a number of **standard** licence conditions that will apply in every case (see [paragraph 7.4](#) below), although these must still be subject to a formal direction by a releasing panel.
- 7.2 These are set by the Secretary of State using a power in subsection 250(4)(a) of the CJA 2003 and are contained in an Order¹³ made under that section.

¹² Information about IPP licence termination can be found in the *Duty Member Activities Guidance*

¹³ *The Criminal Justice (Sentencing) (Licence Conditions) Order 2015, as amended*

- 7.3 The standard licence conditions are required in all determinate sentence cases. The Board has put in place a policy that they should also be adopted in all indeterminate sentence cases. These conditions do not need to be added to a release decision as, whilst the Board does need to adopt them, the current position is that they are automatically included for all cases. They will be populated onto the licence automatically by HMPPS.
- 7.4 These standard conditions are generally anticipated to be all that is needed to manage risk in most cases and the first condition in particular (be of good behaviour and not behave in a way which undermines the purpose of the licence period) has a wide application for the COM to use in terms of enforcement and risk management. The good behaviour condition is designed to cover most eventualities.
- 7.5 Panels do not need to add the list of standard conditions set out below to their decision as it is taken that they will be included in the licence. However, the decision should reference that the licence must include them. Standard licence conditions set out that the individual must:
- *be of good behaviour and not behave in a way which undermines the purpose of the licence period;*
 - *not commit any offence;*
 - *keep in touch with the supervising officer in accordance with instructions given by the supervising officer;*
 - *receive visits from the supervising officer in accordance with instructions given by the supervising officer;*
 - *reside permanently at an address approved by the supervising officer and obtain the prior permission of the supervising officer for any stay of one or more nights at a different address;*
 - *not undertake work, or a particular type of work, unless it is approved by the supervising officer and notify the supervising officer in advance of any proposal to undertake work or a particular type of work;*
 - *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;*
 - *tell your probation officer if you change your name, and any other names you use in person or on the internet¹⁴; and*
 - *tell your supervising officer if you change or update any contact details, including phone number or email address¹⁵.*
- 7.6 As the standard conditions should usually be sufficient to manage risk, any additional conditions over and above those should only be used to cover specific areas of concern or complex risk that the panel considers could not be adequately managed by the standard conditions.

8. Additional licence conditions

¹⁴ This condition was implemented with the revised HMPPS Policy Framework in July 2022 and will only be applied on cases where the licence has been produced or varied after the implementation date of the Policy Framework.

¹⁵ This condition was implemented with the revised HMPPS Policy Framework in July 2022 and will only be applied on cases where the licence has been produced or varied after the implementation date of the Policy Framework.

- 8.1 A licence may also include other conditions prescribed by the Secretary of State under subsection 250(4)(b)(ii) of the Criminal Justice Act 2003.
- 8.2 A panel is entitled to consider **additional** licence conditions where it has determined that the standard conditions are not sufficient to assist the prisoner's successful integration into the community, to prevent further re-offending, or to ensure the protection of the public, and that the additional conditions are necessary and proportionate. The panel will direct release on the basis of the licence conditions it considers are necessary and proportionate. The Secretary of State will then release the prisoner on those terms (notwithstanding those conditions that may be removed as set out in [paragraph 12.5](#)).
- 8.3 Additional licence conditions cover a broad range of issues and are listed at paragraph 8.5 below. [Annex A](#) provides a table setting out the specific wording set by HMPPS that **must** be used for it to be considered an additional condition. In most cases, there will be a condition in this table to cover almost every eventuality.
- 8.4 If a panel imposes any of these additional licence conditions, the Board retains ownership for them after the prisoner is released and must be consulted about any requests for revocation or variation as set out on subsection 250(5A)-(5C) of the Criminal Justice Act 2003.
- 8.5 The Secretary of State can remove any conditions from a licence without seeking approval from the Board, but only if they are not the conditions prescribed under subsection 250(4)(b)(ii) of the Criminal Justice Act 2003. These are set out in [paragraph 12.5](#).
- 8.6 As mentioned in [paragraph 3.5](#), panels do not have to accept or impose a proposed condition but must explain why in their decision. Panels must also explain if they have varied or adapted a condition.
- 8.7 An explanation for all conditions being recommended is good practice as part of the explanation to manage risk. The only exception is where the condition is compulsory, as these must be included on the licence.
- 8.8 Additional licence conditions cover these categories:
- *Residence at a specified place;*
 - *Restriction of residency;*
 - *Making or maintaining contact with a person;*
 - *Participation in, or co-operation with, a programme or set of activities;*
 - *Possession, ownership, control, or inspection of specified items or documents;*
 - *Disclosure of information;*
 - *Curfew arrangement;*
 - *Freedom of movement;*
 - *Supervision in the community by the supervising officer, or other responsible officer, or organisation;*
 - *Restriction on specified conduct or specified acts;*

- *Extremism;*
- *Polygraph condition;*
- *Drug testing conditions;*
- *Electronic monitoring conditions;*
- *Terrorist search condition.*

8.9 If a panel wishes to impose a condition not set out in this list, or if they wish to alter the wording of an additional condition, they can impose a bespoke condition, but caution is advised.

9. Bespoke licence conditions

9.1 There is no restriction on setting bespoke conditions, **but they should be considered exceptional** as well as necessary and proportionate, and viable in practice. Bespoke licence conditions can be set under the same powers within the Criminal Justice Act 2003 as for additional licence conditions.

9.2 If a COM recommends a **bespoke** condition, it is important for the panel to ascertain that it has been considered and supported by PPCS. PPCS must have considered all requests for bespoke licence conditions (see [paragraph 27](#)).

9.3 A panel is advised to seek advice from the Board's Practice Advisor if it is considering a bespoke condition and it has not been proposed by the COM.

9.4 A full explanation for the reason for such conditions would be required in the panel's decision.

9.5 In particular, panels should be mindful that any curfew of more than 12 hours, or where there is a curfew and reporting conditions i.e., sign-in times that may impact on the prisoner for 12 hours or more, should be carefully considered if recommended as a bespoke condition. Care should be taken when considering such restrictive conditions as they may be unlawful (potentially amounting to a deprivation of liberty). Such an arrangement would usually only be considered for a prisoner subject to level MAPPA 3.

9.6 It would not be advisable to impose any bespoke conditions without first discussing these with the COM. Panels should seek advice from the Board's Practice Advisor where a condition is complex or may have legal implications (which may require the case to be adjourned).

9.7 Furthermore, any bespoke conditions should always be structured with a statement included similar to "*without the prior approval of your supervising officer*". This enables flexibility in supervision, and for emergency operation outside of the expected scope of the licence condition to take place without the prisoner potentially and unavoidably breaching the condition and being recalled.

10. Compulsory licence conditions

- 10.1 In accordance with section 62A of the Criminal Justice and Court Services Act 2000¹⁶, the Secretary of State may by Order require an electronic monitoring condition to be included on the licence of prisoners described in the Order in accordance with its provisions.
- 10.2 Where the Secretary of State makes such an Order, the electronic monitoring condition required to be included in accordance with that Order is known as a compulsory licence condition.
- 10.3 The only compulsory licence condition currently applied to licences is electronic monitoring for prisoners serving sentences for acquisitive crime. See [paragraph 16B](#) for more information about the legislation behind this and the condition that must be included for relevant cases.

11. Requests for additional licence conditions

- 11.1 Requests for additional licence conditions usually come from the COM, including those from the VLO (on behalf of a victim). Occasionally, a prisoner's representative, or even the prisoner themselves, may suggest a particular licence condition that they consider to be helpful either to them, or to provide reassurance to the panel about their intentions after release. Provided this is lawful, enforceable, and meets the necessary and proportionate test, there is no reason why panels cannot include such a condition. Such proposed conditions must be discussed with the COM. This ensures that they are enforceable and that the COM, who will ultimately be responsible for the licence conditions, can contribute to the discussion about how the condition will effectively contribute to manage risk.
- 11.2 Any proposed licence conditions will usually be presented in the PAROM1 report for GPP reviews, or the Part B and Part C report for recall cases.
- 11.3 A VLO can also make representations for particular licence conditions in a Victim Contact Report (VCR). The VLO should have represented the wishes of a victim or a victim's family in any submitted VCR, but panels may also note requests emphasised in Victim Personal Statements (VPS) where these are submitted. See [paragraph 13](#) for more detail about this.
- 11.4 As mentioned in [paragraph 3.9](#) above, panels can consider adding conditions not put forward by any other individual, but they must discuss this with the COM in terms of how it will support the management of risk and how it will be enforced.

12. Enforceability

- 12.1 The Probation Service and, where relevant, the police must be able to enforce any licence conditions that are imposed.

¹⁶ [Criminal Justice and Court Services Act 2000 \(legislation.gov.uk\)](#)

- 12.2 It is assumed that the additional and compulsory licence conditions set out in [Annex A](#) are enforceable, therefore it is any bespoke (exceptional) conditions that would need to be checked that they are viable and can be enforced.
- 12.3 Broad-brush conditions such as 'Do not drink alcohol' or 'Do not enter any licenced premises' cannot realistically be enforced (and are arguably unreasonable) and so must not be used.
- 12.4 Licence conditions requiring activities or services that are not available in the area (or surrounding area) to which the prisoner is being released should also be avoided. For example, there is no requirement to specify an offending behaviour programme or service provider in the condition and this protects against the condition becoming obsolete should a programme or service no longer be available in that area. HMPPS policy has advised that COMs should not be asking for a programme to be specified on a condition and panels should not be asked to do so. Panels should seek advice from the Practice Advisor if there is and challenge in relation to this.
- 12.5 The Secretary of State does have the power to remove certain conditions for some cases where they are considered not to be necessary or proportionate or are felt to be unmanageable (as mentioned in paragraph 8.5). Practically, such action will usually be limited to operational reasons such as equipment being unavailable or an individual on licence not in fact meeting a health requirement that the Board was unaware of. PPCS will manage this and only do so on rare occasions. The conditions involved are:
- a) Some electronic monitoring conditions
 - b) Some drug testing conditions
 - c) Some polygraph examination conditions
- 12.6 If such a condition is critical to the risk management plan, panels should seek confirmation from the COM (or the PPCS) that the condition can be applied to the licence. If, for whatever reason, the condition is not eligible, the Secretary of State may remove it without seeking approval from the Board. The Secretary of State will need to consider whether the remaining conditions are sufficient to cover the risk and request any alternatives that may be considered necessary using the licence variation option.

13. Licence conditions and victims

- 13.1 The Board's duties towards victims are prescribed by legal requirements within the Code of Practice for Victims of Crime (2020)¹⁷ issued under Section 32 of the Domestic Violence, Crime and Victims Act 2004.
- 13.2 As set out in the Code, those victims who qualify for the **statutory** Victim Contact Scheme (VCS) managed by the Probation Service have the right

¹⁷ [MoJ Victims Code 2020 \(publishing.service.gov.uk\)](#)

to make representations about licence conditions that relate to them and that will make them feel safer. The Code requires the Board to consider such representations.

- 13.3 Victims who do not qualify for statutory contact may still be able to have **discretionary** contact through the VCS. Where the Probation Service offer this discretionary service, the victim is entitled to the same level of service as statutory victims.
- 13.4 Discretionary victims can make requests for victim related licence conditions. It should be noted that discretionary victims do not have an automatic right to submit a VPS; to be allowed to do so would be considered on a case-by-case basis by the Probation Service.
- 13.5 Where a victim does not fall within the remit of the VCS, they will not have a VLO assigned. In those cases, where the COM has identified that there is a risk of serious harm posed to the victim by the prisoner then it is entirely appropriate to put in place additional licence conditions to mitigate that risk. These would fall under the normal considerations for the COM as part of the request for additional licence conditions.
- 13.6 Licence conditions should be necessary, proportionate, and enforceable. However, victim related conditions can address the victim's fear of confrontation, which may be real or perceived, and address both physical and psychological risk of serious harm. In this way, the consideration and reasoning for conditions requested under the VCS differ considerably from other requests i.e., the management of risk is not the only consideration.
- 13.7 Victims will be supported by a VLO to request licence conditions that will make them feel safer.
- 13.8 If a VLO advises a victim against making a particular request but the victim wishes to continue, the VLO and COM have a statutory duty to forward the victim's representations for consideration by the Board.
- 13.9 The VLO should discuss the proposed condition with the COM before submitting the request. The COM is required to consider these requests but does not have to support them. Where the COM does not agree with such requests, they need to set out why and propose alternatives for the panel to consider. However, the original request from the victim must be submitted alongside any alternative proposal from the COM.
- 13.10 Victim related licence conditions must be submitted with sufficient information to explain the justification and context for them so that the panel can make an informed and considered decision. Information may be within a VPS, or as part of the supporting information from the victim or the VLO. The COM should also set out their position in relation to the request within their report.

- 13.11 When panels are considering requests, it will be helpful to note that the Court in the 2001 case of *Craven*¹⁸ provides the position that the victim's rights outweigh those of the prisoner, where they are equal. The judgment confirmed that interference with the prisoner's rights under article 8 of the ECHR is lawful by virtue of the ability to interfere "*for the protection of the rights and freedoms of others*". In this instance, it is referring to the victims. It also recognised the need to be "*sensitive to the emotional harm done to victims of crime, particularly the most serious crimes, to their anxieties and concerns, and to the risks of emotional and psychological harm*". However, it does not extend to unnecessary interference.
- 13.12 Victims signed up to the VCS must be notified of the decisions about victim related licence conditions made by the panel even if the victim did not request them. An explanation must be set out in the panel's decision where a request is either refused or varied.
- 13.13 This information can then be provided alongside a summary of the decision which can be requested by the victim. Information about licence conditions is not usually included in the actual summary as it may not be appropriate for it to be publicly available; it will more usually be provided in a covering email to the VLO who will then explain to the victim.
- 13A Non-contact condition and naming victims on licences
- 13.14 Licence conditions that require a prisoner not to contact the victim, members of the victim's family, or another individual, should ordinarily contain the names of the individuals to whom the non-contact condition applies. This is however a **preference and not a requirement**.
- 13.15 In some cases, there are circumstances where naming the victim would not be appropriate as it could cause emotional distress or identify to the prisoner unknown details about a victim. In such cases, the licence should stipulate that the non-contact condition applies to "*the victim of the index offence*" or "*any person whom the offender knows to be a victim of their crime*". Other individuals can be identified as "*the victim's mother*" or "*the victim's aunt*" etc.
- 13.16 **A non-contact condition should never just refer to "the victim's family"** as this is not a clearly defined individual or group and is far too vague for the prisoner and hence unenforceable. It is essential the condition should be sufficiently precise so that the prisoner is able to know who they should not be contacting. Panels will need to take a balanced view in situations such as this. Panels must consider the need for the prisoner to be clear about who the non-contact condition is referring to, against the psychological distress that naming might have on the individual. Alternatives can include "victim's mother", "victim's siblings" etc, as these are much smaller and more well-defined descriptions.

¹⁸ *R (Craven) v Secretary of State for the Home Department and the Parole Board* [2001] EWHC 850 (Admin) [Craven, R \(on the application of\) v Parole Board | \[2001\] EWHC Admin 850 | England and Wales High Court \(Administrative Court\) | Judgment | Law | CaseMine](#)

- 13.17 It is not necessary for the relevant individual to give permission to being named in a non-contact condition, but they should be notified of this, where possible. A condition can be imposed against the wishes of the named individual, although in such circumstances, care is needed to ensure the reasons for imposing this condition are fully set out.
- 13.18 A non-contact condition may be seen as more protective than an exclusion zone as this protects the victim/individual wherever they may be, rather than just within a specific location. However, in many cases, both a non-contact and an exclusion zone will be requested.
- 13B Who is defined as a 'victim' where a victim related condition is being considered?
- 13.19 A non-contact condition or exclusion zone does not have to be restricted to the victim of the index offence. It could be applied to protect the victim of a previous offence where they have discretionary contact with the VCS, the victim of a recall offence, or specified family members of the victim of the index offence, where there are grounds to believe that the prisoner may target or contact them, or is likely to come into accidental contact with them, thus causing distress.
- 13.20 A non-contact condition could also be added to protect an alleged victim of other allegations, or potential victim.
- 13.21 These conditions can even be imposed for the protection of the prisoner, although typically it will suffice to advise the prisoner to avoid any contact or confrontation that might increase their own risk.
- 13.22 It is also permissible to have a condition that manages contact with someone who may be at risk of becoming a victim or who is vulnerable to the risks posed by the prisoner. This is particularly relevant in cases of domestic abuse, or where children are involved.
- 13.23 More detailed information can be found in the *Guidance on Victims*.

14. Exclusion zones

14A Exclusion zones and victims

- 14.1 The case of *Craven* has determined that conditions can be imposed to prevent distress caused to the victim by a *possible* encounter between the victim and the prisoner, rather than to protect them from a specific risk posed by the prisoner. For that reason, exclusion zones can be imposed even if the prisoner is not assessed as posing a risk of harm to the victim.
- 14.2 This often results in a request for an exclusion zone and/or a non-contact condition. VLOs should advise victims that exclusion zones and non-contact conditions must be proportionate, must not unnecessarily infringe the free movement of the prisoner, and must be enforceable.

- 14.3 VLOs should manage the expectations of victims whilst at the same time not putting them under pressure and increasing their distress.
- 14.4 For the purposes of an exclusion zone, it may be necessary for a panel to obtain information about the victim and/or specified members of their family, such as where they live, work, and socialise, as well as similar information about the prisoner. The sensitivities involved in doing so are apparent but, setting too broad an exclusion zone may impinge on the prisoner's rights, protective factors and even constrain supervision and rehabilitative arrangements. The Court in the 2009 case of *Gunn*¹⁹ reinforced the need for detailed information when setting exclusion zones.
- 14.5 An exclusion zone and any applicable restrictions must be considered carefully and be no greater in extent or severity than is needed to minimise the risk of chance encounters, whilst taking into consideration the effects on the prisoner's ability to visit specified family or friends who are considered to be protective, undertake work, or carry out other legitimate activities. The interference with the prisoner's specified family must also be considered where they are unable to meet with the prisoner outside of the zone and it should be recognised that the complete eradication of any risk will often not be achievable whilst maintaining a proportionate exclusion zone.
- 14.6 The COM should discuss requests with the VLO to ensure a victim's views have been fully considered and represented in the VLOs report (if there is one) and the report of the COM.
- 14.7 It is clear from the case law that the victim's rights can outweigh those of the prisoner, where a necessary and proportionate licence condition can be imposed.
- 14.8 This requires that the victim's wishes must be considered with regard to exclusion zones that disclose a location of residency, work, or other activity. It may not be in a victim's best interest to have a particular exclusion zone or non-contact condition. For example, if they do not know the prisoner and the prisoner does not know them, imposing such a condition would in effect, disclose to the prisoner the victim's current whereabouts or daily movements.
- 14B Other reasons for exclusion zones
- 14.9 An exclusion zone on a licence is allowed for the purpose of preventing a prisoner from entering a particular area.
- 14.10 In some instances, it will be necessary to impose an exclusion zone to prevent a prisoner from entering or visiting a specific area whilst they are on licence. The purpose of an exclusion zone is to prevent further offending associated with a particular area or location, or to manage risk posed to individuals in that area. Exclusion zones can cover a geographical

¹⁹ [Gunn, R \(on the application of\) v Secretary State for Justice & Anor \[2009\] EWHC 1812 \(Admin\) \(21 July 2009\) \(bailii.org\)](#)

area, a street, a particular address, or an area where risk could be increased. For example, this could include but is not limited to the following: a school; a children's playground; a place of worship (where there are terrorism-related concerns); hotspot areas for drug related offending; gang territories.

- 14.11 **Whatever the purpose, such a condition must be made very clear to the prisoner. It must be necessary, and the extent and impact of the zone on both the prisoner, and others it relates to, must be reasonable and proportionate.** There must be a risk-related reason to impose an exclusion zone and they should not be used as a punitive measure. There will be occasions when it is necessary to balance the views of those who will be affected by the exclusion zone with the need to support a prisoner's effective resettlement. For example, in some cases, a prisoner (with prior approval from a supervising officer) could be permitted to cross or enter an exclusion zone by a prescribed route to get to work or seek medical treatment. However, it should be presumed that the access is only granted where there are no other alternatives – the prisoner's convenience is not a reason for modifying an exclusion zone.

14C Defining an exclusion zone

- 14.12 If asked to impose an exclusion zone as a licence condition, the panel should expect to have sufficient information on which to make its decision; the reason why it is being asked for, the justification, and the exact terms being proposed.
- 14.13 It is important that an exclusion zone is drawn as proportionately and accurately as possible, to effectively manage the risk that the prisoner presents and to ensure that it can be managed and enforced.
- 14.14 It is also important to get the exclusion zone right the first time. Although variations can take place, this can lead to unwanted consequences, particularly the re-victimisation of the individual who may have requested the zone in the first instance. It is far better to take a balanced view from the start and to take into account the requirements of all parties.
- 14.15 Any geographical exclusion zone must be clearly defined in terms of roads or other boundaries such as rivers, canals, parks etc and should leave the prisoner and the supervising officer in no doubt about the boundaries so there can be certainty about any breach. An exclusion zone that is drawn across the middle of a street, field or park may not be sufficient to clearly establish where the prisoner can and cannot enter.
- 14.16 If panels impose a geographical exclusion zone, the prisoner must be given a map by the COM. The panel must also see the map to ensure it is reasonable and precise. Panels should not assume that this will be provided at a later date and, if necessary, may wish to issue a short adjournment at either the MCA stage or following an oral hearing to obtain it.

- 14.17 A map should be very clear with boundaries clearly drawn – a simple circle or radius is not feasible in most cases. For example, it is not always clear whether a boundary road is inside or outside the zone. Postcodes alone should not be relied upon to define an exclusion zone.
- 14.18 If an extensive exclusion zone is proposed – such as a whole city or county – the justification will need to be carefully considered to establish whether such a restriction is necessary and proportionate. This should form part of the information about the proposed risk management plan. A blanket ban on entering a large town or county, for example, will not usually be acceptable unless supported by sufficient evidence. What constitutes an unreasonable exclusion zone will depend entirely on the individual circumstances of the case. For example, in London, a zone covering the boroughs of Bromley and Croydon might be extensive in geographical and population density but if the same size was applied to rural Devon it may not seem nearly as extensive. It is more constructive to consider the overall impact on the movements of the prisoner, and what is necessary to manage risk within that.
- 14.19 The requirements of a licence or supervision should not be the inadvertent cause of a breach of an exclusion zone. A COM should not require a prisoner to attend a location within the exclusion zone without consideration of how to manage this or the impact of it.
- 14.20 Consideration must also be given to the impact on a prisoner who has to attend medical appointments or other agencies that may lie within or involve crossing an exclusion zone. If a prisoner is unavoidably required to attend a location within a proposed exclusion zone, a specific access route should be detailed, or the condition could be stated as only applicable at certain times.
- 14.21 As a general rule, it is reasonable to refuse access to an exclusion zone for a prisoner who wishes to visit specified family members who are physically able to leave that zone and meet the prisoner elsewhere. However, if they have a specified family member who is elderly or physically unable to travel, it may be appropriate to allow access in defined circumstances via a prescribed route. The Court in the 2014 case of *Bentham*²⁰ was content with permitting a prisoner to access an exclusion zone using a prescribed route at set times on the basis that the prisoner was providing care to elderly family members.
- 14.22 Similarly, it can be appropriate to refuse access to an exclusion zone for a prisoner who wishes to undertake some activities within the zone that could just as easily take place elsewhere.

15. Approved premises

- 15.1 Approved premises (APs) are primarily a public protection measure for prisoners released on licence. COMs are bound by admission criteria that

²⁰ [Bentham, R \(on the application of\) v HMP Usk and Prescoed & Anor | \[2014\] EWHC 2469 \(Admin\) | England and Wales High Court \(Administrative Court\) | Judgment | Law | CaseMine](#)

define the purpose of an AP to be the provision of intensive supervision for prisoners who present a high or very high risk of serious harm.

- 15.2 A prisoner will not be referred to an AP unless the risk they pose cannot be managed in a less restrictive community setting, and unless residence in an AP is critical to their overall risk management and the protection of past or future victims.
- 15.3 Panels should not impose a condition of residence at an AP unless the referral has been made by the Probation Service and the prisoner has been assessed as meeting the criteria. A suitable AP will be secured if release is directed. APs are a scarce resource with limited capacity; there is pressure on beds and usually a waiting list, although most parole cases fall within the requirements for priority one status²¹ for the purposes of allocation. Where that is not the case, HMPPS will look at these cases on an individual basis to try to accommodate them, whilst taking into consideration any constraints. In such cases, liaison will take place between the COM and HMPPS Public Protection Team to review suitability for other accommodation options/licence conditions.
- 15.4 However, panels are often told at oral hearings that placements may take weeks to become available. If a delay in securing a bedspace is felt to be unreasonable, panels can consider raising their concern via the case manager. The case manager can then begin the escalation route with PPCS whereby the COM can be contacted to raise the matter with the regional AP Head of Public Protection and ultimately to the AP Head of Operations if the situation cannot be resolved.
- 15.5 APs are generally intended for use of up to 12 weeks in the community. However, the type of offence can lead to an increase in the duration of an AP placement (for example, terrorism related offences, Serious Organised Crime, Critical Public Protection Cases, or prisoners who have committed multiple sexual offences may reside in an AP for up to 12 months). The panel may wish to ask the COM to confirm whether the proposed period of occupancy is the standard 12 weeks, and what plans will be in place to manage the risk once the individual leaves the AP.
- 15.6 The need for accommodation alone is NOT a sufficient criterion for a referral to an AP.
- 15.7 AP residence should be provided for through the use of the additional residency requirement. A licence condition requiring AP residence automatically brings with it a requirement to observe the standard overnight curfew and the AP house rules which include being subject to drug and alcohol testing; panels do not need to impose a separate licence condition to enforce these.
- 15.8 However, if panels assess that in order to manage risk, the prisoner should be subject to drug and/or alcohol testing and this should continue

²¹ *If it is essential that the prisoner has a placement in an AP for public protection, the protection of individuals or to avoid compromise to the risk management plan*

post AP placement, it may be helpful to include this as an additional licence condition (the condition does not mandate drug testing, it provides the COM the power to do so). If panels wish to deviate from the standard curfew arrangements, this will require a bespoke licence condition which should be discussed with the COM (and possibly seek advice from the Practice Advisor as set out in [paragraph 9.3](#)). However, unless the curfew is more than 12 hours, or more than 10 hours with two or more sign-in conditions, there is no need to seek advice from the Practice Advisor.

- 15.9 Electronic monitoring is not normally required for AP residents due to the permanent staff presence, but it can be sought in exceptional cases with the agreement of the COM. It may be considered as a condition following the move-on from an AP.
- 15.10 Other additional licence conditions for APs could include daily reporting or sign-in's, additional daytime curfews, or activity requirements. It is likely these would be proposed by the COM, but panels should always ensure that what they are requiring by way of licence condition can be delivered at the AP in question; not all APs provide the same services.
- 15.11 Legislation enacted in 2022 implemented a provision for substance testing in APs; and for connected purposes²². Panels may wish to explore whether this will form part of a prisoner's time in an AP, where it is considered necessary and proportionate.

16 Electronic monitoring

- 16.1 Electronic Monitoring (EM) has been available across England and Wales since 2018 and is a way of remotely monitoring and recording information on an individual on licence's whereabouts or behaviour, using an electronic tag which is normally fitted to their ankle.
- 16.2 The tag transmits the information to a monitoring centre where it is processed, recorded, and forwarded on to the relevant Responsible Officers when necessary.
- 16.3 EM can be applied flexibly dependent on the offence, demographics, and the circumstances of the case, with conditions and requirements that can be tailored to individual circumstances where necessary and appropriate.
- 16.4 The current EM service offers three types of tags:
- **Location/trail monitoring (GPS) tags** monitor an individual on licence's compliance with their condition to not enter or remain in a specific location or address as identified on a map, or to monitor a their trail. If an individual has a curfew requirement, this can be monitored with a GPS tag. See [paragraph 16A](#) for more information.
 - **Alcohol monitoring tags** collect, sample, and test the perspiration between the individual on licence's skin and the tag to monitor alcohol consumption. See [paragraph 17](#) for more information.

²² [Approved Premises \(substance testing\) Act 2022](#)

- **Curfew (radio frequency) tags** are used to monitor a curfew requirement/condition, which requires the individual on licence to be present in their registered residence during specified times.

16.5 EM can be used to monitor the compliance with other requirements or conditions, such as the list below, and a combination of these may be the most effective way to use EM. This includes a combination of the different requirements as well as combining multiple types of the one requirement (i.e. multiple curfews or multiple zones).

- **Exclusion:** where an individual on licence cannot enter a specific location or address as identified on a map
- **Attendance at appointment:** where an individual on licence is required to attend a programme, employment, or education
- **Curfew:** as a requirement/condition alongside location monitoring

16.6 More information about EM can be read on SharePoint.

16A Location/trail monitoring licence condition

16.7 Location monitoring, also referred to as trail monitoring, is where an individual on licence's whereabouts are tracked. The individual must be at least 18 years old. In brief, the following table sets out eligibility:

Cohort	Curfew	Monitored exclusion zone	Monitored appointment attendance	Trail monitoring
Life sentence IPP EDS ESP SOPC (on initial release, re-release or as a licence variation)	Individual on licence can have a monitored curfew, only if there is another condition that requires monitoring through GPS.	Yes	Yes	Yes

16.8 Location/trail monitoring is **not** currently available to add to the licences of standard determinate sentence prisoners at initial release or re-release following recall²³.

16.9 The prisoner requires a fixed address with an electricity supply in order to have trail monitoring added to their licence.

16.10 In addition to the option to have a location monitoring tag added to the licence, the following pilots are currently underway.

16B Trail monitoring for acquisitive crime licence condition

²³ There are some exceptions to this such as terror or terror connected, special provision for MAPPA level 3, and those subject to HDC

- 16.11 This compulsory licence condition came into force on 12 April 2021 and, whilst it is set out in legislation²⁴, it is currently a project as part of a live service which will be evaluated. Six police force areas were involved in the first phase of the project.
- 16.12 Subsequent legislation²⁵ came into force on 29 September 2021, which extended the phase 1 legislation to a further 13 police force areas. There are now 19 police force areas included in the project²⁶.
- 16.13 The legislation **requires** an electronic monitoring condition to be included in the licence of qualifying individuals described in section two of the Order pursuant to section 62A(1), (2), (3) and 76(3) of the Criminal Justice and Court Services Act 2000.
- 16.14 Under the Acquisitive Crime project, trail monitoring is the only condition that is electronically monitored, save for Home Detention Curfew (HDC) or case where exceptional circumstances exist. Additional conditions can be added to the licence, where deemed necessary and proportionate, however these will not be electronically monitored.
- 16.15 There is a set of criteria that must be met for a prisoner to be eligible, but where all the criteria are met, the condition is compulsory (unless circumstances deem them to be unsuitable).
- 16.16 The prisoner must be tagged for the duration of their licence period, or for the maximum duration of 12 months if their licence length exceeds this. This is defined in legislation and therefore is not at the discretion of the COM or the Board to amend this period. The minimum duration for the compulsory licence condition is 30 days. Any time spent on post-sentence supervision is not considered.
- 16.17 As it is a compulsory requirement set out in secondary legislation, the COM must include it within their proposals for all eligible prisoners. The panel does not have discretion on whether it should or should not be included.
- 16.18 This condition is only available at the point of release or re-release. It is not available as a licence variation. The only exception is where the licence condition was missed in error and the individual was eligible at the point of release or re-release.
- 16.19 Prisoners who meet the eligibility criteria and who are of no fixed abode at the point of release are eligible for the compulsory condition.
- 16.20 More detailed information about Trail Monitoring can be found on SharePoint.

²⁴ [The Compulsory Electronic Monitoring Licence Condition Order 2021](#).

²⁵ [The Compulsory Electronic Monitoring Licence Condition \(Amendment\) Order 2021 \(legislation.gov.uk\)](#).

²⁶ A list of the police force areas can be found here: [EM SharePoint](#)

16C MOPAC knife crime and domestic abuse licence condition pilots

- 16.21 The Mayor of London Office for Policing and Crime (MOPAC) pilot of GPS tagging for knife crime was launched in February 2019 following a commitment in the London Knife Crime Strategy and is due to run until March 2023. A new pilot testing the use of GPS tagging with domestic abuse perpetrators was launched in March 2021.
- 16.22 The MOPAC GPS tagging pilots are endorsed and supported by joint work with the Ministry of Justice (MoJ) and designed to work alongside the national GPS programme. There is no overlap or duplication between the national programme and the MOPAC GPS provision.
- 16.23 It is only available at first release where the prisoner will be released automatically; or where the prisoner has been recalled to prison and is being considered for re-release.
- 16.24 The prisoner needs to be identified as meeting the eligibility criteria by the COM, by police nomination, or through MAPPA. The prisoner is then checked against the suitability checklist.
- 16.25 Finally, the COM will consider the suitability and proportionality of the licence condition and, if considered appropriate, will include it within the proposed licence conditions sent to the prison (for automatic first release cases), or submitted to the Board where re-release following recall is being considered.
- 16.26 It can also be applied as a licence variation, but such cases will rarely come to the Board. For the Board to be asked to add it as a licence variation the individual on licence would need to have been automatically released without the condition, recalled and re-released by the Board without the condition, and then for the risk to have changed whilst in the community to now consider it a necessary and proportionate addition to the licence
- 16.27 Prisoners must be released/re-released by the pilot end date of 31 March 2023. The maximum monitoring period for either pilot is **6 months**.
- 16.28 The licence conditions for the MOPAC GPS tagging pilots are the same as those used for the MoJ National GPS programme.
- 16.29 Following the roll-out of the Acquisitive Crime Project in London, any case eligible for that project will then not be eligible for the MOPAC pilots.
- 16.30 More detailed information about the MOPAC pilots can be read on SharePoint. An FAQ document has also been produced.

17 Alcohol monitoring

- 17.1 Conditions prohibiting the consumption of alcohol have generally been hard to enforce and there has previously been no national system in place to allow prisoners who are released on licence to be required to comply

with an alcohol test. The condition to be of good behaviour contains sufficient power to request recall in those cases where risk is considered unmanageable in the community after alcohol consumption or where an individual is removed from an AP for consuming alcohol.

- 17.2 Intrusive alcohol testing can only be conducted with the individual's consent, although complying with alcohol testing can be made a condition of an AP agreement that they are asked to sign on entry.
- 17.3 However, on 17 November 2021, HMPPS launched an Alcohol Monitoring on Licence (AML) Pathfinder in Wales. On 15 June 2022 AML was rolled out to England and is now available to add to a licence for both male and female prisoners being released across England and Wales.
- 17.4 The AML condition is an additional licence condition that can be applied to specific cohorts of prisoners where alcohol is deemed to be a dynamic risk factor. It is not solely determined by whether the index offence was alcohol related. It can be applied retrospectively to prisoners already on licence in the community.
- 17.5 There are two alcohol monitoring licence conditions:
 - total abstinence for the duration of the licence condition (14d)
 - alcohol intake is monitored for the duration of the condition (14e)
- 17.6 Whilst there are eligibility and suitability criteria that must be met, there is also a professional assessment to be made as to whether the condition is considered to be necessary and proportionate to manage risk.
- 17.7 Panels will need to determine if the condition is necessary and proportionate. Panels will need to be satisfied that the condition is needed as part of the robust risk management plan provided, and that the prisoner meets the eligibility criteria.
- 17.8 In order to impose AML, the generic condition 14(a) must be added to the licence, with "alcohol monitoring" added to the free text portion of the condition, and either 14(d) (for alcohol abstinence) or 14(e) (for alcohol monitoring) must also be added. These conditions may also help to enforce elements of an alcohol related programme/workplan required under condition 4(a).
- 17.9 A prisoner subject to tagging under the Acquisitive Crime Trail Monitoring Project ([see paragraphs 16.11 – 16.20](#)) is not currently eligible to have the AML condition added to their licence.
- 17.10 Prisoners who meet the eligibility criteria and who are of no fixed abode at the point of release are eligible for AML.
- 17.11 More detailed information about AML can be read on SharePoint.

18 Licence conditions for prisoners convicted of a sexual offence

18.1 As with other types of offences, most of the additional licence conditions panels may wish to impose will be included in the table of additional licence conditions. For prisoners convicted of sexual offences, these are likely to cover the following areas:

- *Restriction on activities;*
- *Restrictions on using the internet;*
- *Restrictions on using mobile phones and cameras;*
- *Managing contact with victims or young people under 16 or 18 years of age;*
- *Preventing them from entering or being in sight of places where there are children, such as schools or play areas;*
- *Managing contact with other individuals convicted of a sexual offence and other prisoners;*
- *Exclusion zones;*
- *Restrictions on where someone can work or volunteer;*
- *Take part in a programme or intervention to address sexual offending;*
- *Attend for polygraph testing;*
- *Disclosure of relationships;*
- *Curfews;*
- *Reporting details of vehicle ownerships or use;*
- *Attending specific appointments for medical treatment (including mental health).*

18.2 Many of the licence conditions covering these areas are self-explanatory and should be clearly defined by the COM (with additional information from the VLO, where relevant) before panels are required to make a decision about them.

18.3 There is further information in the next few sections about issues that can be more complex, and which are often contentious.

19 Sexual harm prevention orders (SHPO)

19.1 Sexual Offending Prevention Orders (SOPOs) have been renamed Sexual Harm Prevention Orders (SHPOs), but in older sentencing remarks and documents, the term SOPO will still appear.

19.2 The Court provided guidance about the relationship between the terms of an SHPO and the conditions of a licence in the 2011 case of *Smith*²⁷. The judgment in that case may be referred to by representatives who seek to challenge licence conditions that they consider to be over-harsh in terms of proportionality.

19.3 Guidance issued to members at the time in 2011 remains relevant and is summarised in paragraphs 19.4 to 19.9 below.

19.4 The test of being necessary and proportionate applies both to an SHPO and a licence condition, but the application differs slightly because an SHPO often extends beyond the end of the sentence, unlike determinate sentence licences which have a defined end. In some cases, panels could

²⁷[Smith & Ors, R. v \(Rev 1\) \[2011\] EWCA Crim 1772 \(19 July 2011\) \(bailii.org\)](#)

justify a more restrictive licence condition than might be appropriate in an SHPO.

- 19.5 The Court emphasised the necessity for SHPO conditions to be individually worded to meet the needs of the case. The Board took the view that this in turn meant it could not be restricted to the table of additional licence conditions provided and could consider more 'bespoke' conditions tailored to individual cases.
- 19.6 The Court concluded that an SHPO is not necessary in an indeterminate sentence case as such prisoners will be released on a licence of at least 10 years. It assumes that residual risks can and will be managed by licence conditions. Exceptions may exist where an SHPO could add something useful which is not achievable elsewhere.
- 19.7 Panels may need to consider whether a particular licence condition is necessary if it duplicates the requirement of an SHPO.
- 19.8 Panels should always double-check the lifespan of the SHPO and consider whether the breach of an SHPO requirement would necessarily equate to the breach of a licence and thus potentially trigger recall.
- 19.9 It may also be the case that SHPO conditions are less understood than licence conditions and the need for clarity is likely to be in the prisoner's interest.
- 19.10 The above can equally be relevant for any other Ancillary Orders that are in place, such as a Restraining Order (RO) or a Violent Offender Prevention Order (VOPO).

20 Access to the internet

- 20.1 When considering imposing conditions that restrict access to the internet and use of mobile phones, panels should remember that blanket conditions preventing access to the internet, possession of a camera phone, and use of a camera are very unlikely to be lawful. This is because such a blanket condition:
*"is disproportionate because it restricts the offender in the use of what is nowadays an essential part of everyday living for a large proportion of the public, as well as a requirement of much employment"*²⁸.
- 20.2 The following conditions impose less restrictions and include a requirement for relevant devices to be kept available for inspection by a supervising officer and/or the police:
 - *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 or one you have regular use of, including the IMEI number and the SIM card that you possess;*

²⁸ [Smith & Ors, R. v \(Rev 1\) \[2011\] EWCA Crim 1772 \(19 July 2011\) \(bailii.org\)](#)

- *Not to own or possess a mobile phone with a photographic function without the prior approval of your supervising officer;*
- *Not to own or use a camera without the prior approval of your supervising officer;*
- *To make any device capable of making or storing digital images (including a camera and a mobile phone with a camera function) available for inspection on request by your supervising officer and/or a police officer;*
- *Not to use or access any computer or device which is internet enabled without the prior approval of your supervising officer; and only for a purpose, and only at a specific location, as specified by that officer;*
- *Not to delete the usage history on any internet enabled device or computer used and to allow such items to be inspected as required by the police or your supervising officer. Such inspection may include removal of the device for inspection and the installation of monitoring software.*
- *Not to own or possess a [SPECIFIED ITEM] without the prior approval of your supervising officer.*

20.3 Panels should be careful to ensure that such conditions do not override or come into conflict with any rules that APs may have in relation to the use of electronic devices on the premises.

20.4 The authority for COMs to put forward certain licence conditions, particularly bespoke conditions, has been curtailed and so such conditions need to be carefully considered and worded by panels. A revocation request or recall to custody will only be supported if the wording of the licence condition reflects the current legal advice. If a panel (or COM) has not worded the licence condition correctly, it could result in the licence not being enforced in the way it was intended. Any variation in wording for additional²⁹ licence conditions (including bespoke) which the panel considers necessary and proportionate for the prisoner's licence can still be used but it is advisable to check with the Board's Practice Advisor first.

21 Polygraph examinations

21.1 The polygraph examination licence condition is considered to be an additional licence condition that is applied to specific cohorts of prisoners and is not solely determined by the offence committed. Whilst the legal criteria, as set out in Statute³⁰, is: age, offence, and sentence types, the HMPPS policy framework criteria³¹ additionally narrows the focus by risk level. There is, therefore, a professional judgement to be made.

21.2 Polygraph examinations are suitable for most prisoners providing they understand the difference between a truth and a lie. However, polygraph examinations are not suitable for any prisoner under the age of 18 years of age, regardless of the offence they have committed.

²⁹ *Wording of standard licence conditions cannot be amended.*

³⁰ *Section 28 of the Offender Management Act 2007*

³¹ [Polygraph examination licence condition policy framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- 21.3 A polygraph condition can be applied to prisoners of any gender including anyone who is transitioning from one gender to another.
- 21.4 A very small number of prisoners who are experiencing untreated mental health problems or disorders may not be suitable.
- 21.5 If a polygraph examination indicates that a released prisoner was potentially not telling the truth, this would not, in itself, constitute a breach of a licence condition. If they admit to, or inadvertently disclose behaviour that would constitute a breach of a licence condition before the examination, during, or afterwards when explaining a failed examination, enforcement procedures could follow. Failure to attend or comply with a polygraph examination condition would constitute a breach.
- 21.6 The range of examinations available is set out below but more comprehensive information has been provided for members.
- 21A. Polygraph examinations for prisoners convicted of sexual offences
- 21.7 From 6 January 2014, it became possible to add a polygraph examination condition to the licence of certain prisoners with sexual convictions across England and Wales. HMPPS policy sets out that national examinations are targeted at those prisoners convicted of sexual offences assessed as posing the highest risk of further offending and harm.
- 21.8 This is an additional licence condition. Panels will need to consider whether the request is necessary and proportionate when considered alongside any other conditions proposed and the management of risk.
- 21.9 In order to be made subject to a polygraph examination licence condition, **all** cases must fit the legal criteria (as outlined in section 28 of the Offender Management Act 2007³²), without exception.
- 21.10 Where the legal criteria are met, it is compulsory that those cases that also fit the HMPPS criteria **must** be referred for a polygraph licence condition.
- 21.11 There will be cases that fall outside of the criteria for whom there are serious risk concerns. In addition to those prisoners who are required to be examined, a limited number of cases who fall outside of the HMPPS criteria may be examined on a discretionary basis each year but only after liaison with, and approval by, a polygraph examiner.
- 21.12 There may be very exceptional circumstances where a polygraph licence condition is considered to be necessary and proportionate to manage the risk posed, but the case does not meet the policy criteria and is not considered appropriate as a discretionary case. Such cases should be *very rare*.
- 21B. Polygraph examinations for terrorism/terrorism-connected offences

³² [Offender Management Act 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)

21.13 Section 32 of the Counter-Terrorism and Sentencing Act 2021³³ amends section 28 of the Offender Management Act 2007, which provides for specified prisoners serving a relevant custodial sentence (defined in section 28(3) of the 2007 Act) to have a condition included in their licence requiring them to undergo polygraph testing. Section 32 extends the provision of polygraph testing to adult terrorism or terrorism-connected prisoners who have been convicted of a relevant terrorism offence.

21.14 The provisions came into force at midnight on 29 June 2021 and were applied retrospectively.

21.15 The arrangements and basis for examinations mirror those for prisoners convicted of sexual offences already contained in the Offender Management Act 2007.

21.16 This is an additional licence condition. It is required that the COM makes an application for those prisoners who meet both the legal and policy criteria. Panels will still need to consider whether the request is necessary and proportionate when considered alongside any other conditions proposed and the management of risk.

21.17 In order to be made subject to a polygraph examination licence condition, **all** cases must meet the legal criteria (as outlined in section 32 of the Counter-Terrorism and Sentencing Act 2021), without exception.

21.18 Where the legal criteria are met, it is compulsory that those cases that also fit the HMPPS criteria³⁴ **must** be referred for a polygraph licence condition.

21.19 The HMPPS policy criteria is expected to bring all terrorism/terrorism-connected cases into scope for the polygraph licence condition.

21.20 There may be very exceptional circumstances where a polygraph licence condition is considered to be necessary and proportionate to manage the risk posed, but the case does not meet the policy criteria. Such cases should be *very rare*.

21C. Considerations

21.21 The following points should be borne in mind:

- In all cases the prisoner must meet the legal criteria to be examined;
- The polygraph licence condition must be necessary and proportionate to manage their risk³⁵;
- COMs are required to submit a referral to senior management (the Public Protection Group (PPG) for prisoners who commit sexual

³³ [Counter-Terrorism and Sentencing Act 2021 \(legislation.gov.uk\)](#)

³⁴ [Offender Management Act 2007 \(legislation.gov.uk\)](#)

³⁵ HMPPS Policy advice sets out that COMs are not required to apply the necessary and proportionate test; however, this puts no restriction on panels

offences or the National Security Division (NSD) for terrorism/terrorism-connected prisoners) and await confirmation that it has been accepted before requesting the condition be added to the licence;

- COMs are required to notify the prisoner that polygraph examinations will be proposed as one of their licence conditions;
- Prisoners identified as meeting the legal and policy criteria are required to comply with the condition if it is added to their licence;
- It is not possible to carry out a polygraph examination on an individual who does not have the condition included in their licence; this may lead to a breach of their Article 8 right to privacy.

21.22 The wording of the condition must be:

To comply with any instruction given by your supervising officer requiring you to attend polygraph testing. To participate in polygraph sessions and examinations as instructed by or under the authority of your supervising officer and to comply with any instruction given to you during a polygraph session by the person conducting the polygraph.

21.23 A similar wording can be used for those cases where the condition is being proposed on a discretionary basis.

21.24 When considering a request for a polygraph examination licence condition, panels will wish to satisfy themselves that the legal criteria are met. For terrorism/terrorism-connected cases, it is expected that the condition will have been proposed as a compulsory condition (i.e. that both the legal and policy criteria are met).

21.25 Whilst panels are at liberty to refuse a request for a polygraph examination to be added to a licence, as stated above the condition should only have been proposed where the case meets the legal and HMPPS policy criteria.

21.26 Where panels have carefully considered the need and are not fully persuaded that it is either necessary or proportionate, they can:

- a) direct further information from the COM to evidence the need for the licence condition;
- b) refuse to add the condition.

21.27 It is always recommended to seek further information and to consult with the Practice Advisor before refusing the request.

21.28 Conversely, panels may find themselves in a position where they believe the condition should be added. Panels will need to satisfy themselves that the legal criteria are met and then seek a view from the COM before adding the condition. It is expected that such occurrences will be *very rare*.

21.29 As the Board is not bound by HMPPS policy, panels can impose the condition if the legal criteria alone are met, should this be considered

necessary and proportionate to manage risk. However, it will be important in practice to have the support of HMPPS with any such condition, as the Board cannot prevent it from being removed from the licence following release.

21.30 In cases where adding the polygraph examination condition may lead to the licence being unwieldy or overly restrictive, panels may wish to consider whether other recommended conditions could be amended or removed if that would provide a more manageable and proportionate licence.

21.31 More detailed information on polygraph examinations for both prisoners convicted of sexual offences and of terrorism/terrorism-connected offences can be read on SharePoint.

21D. Domestic abuse prisoners polygraph examination pilot

21.32 The Domestic Abuse Act received Royal Assent on 29 April 2021. Provisions within the Act enable the Secretary of State to impose compulsory polygraph examinations on prisoners convicted of domestic abuse connected offences who are assessed as very high and high risk.

21.33 The Act introduced a three-year pilot of compulsory polygraph examinations on prisoners convicted of domestic abuse related offences, who have met the test for release (or are subject to automatic release) and whose risk can be managed in the community on licence, although this risk is assessed as being at very high or high risk of causing serious harm.

21.34 The pilot was implemented on 1 August 2021 and currently operates across four probation regions: **North East, Yorkshire & the Humber, North West, and Greater Manchester.**

21.35 Panels will need to be satisfied that the risk management plan provided is sufficiently robust to manage the risk posed by the prisoner in the community if the test for release is met, and that the proposed licence conditions are necessary and proportionate. The polygraph licence condition is an additional measure to be added for the purposes of the pilot.

21.36 More detailed information on the domestic abuse polygraph examination pilot can be read on SharePoint.

21.37 HMPPS has published its Policy Framework on polygraph examinations which can be read here: [Polygraph Policy Framework](#)

22 Mental health cases (restricted patients)

22.1 Prisoners residing as restricted patients in mental health settings who come before the Board will, in most cases, have been recently discharged

by a Mental Health Tribunal (MHT)³⁶. Most will remain in the mental health setting³⁷ following concerns around the possible impact on their mental health and wellbeing of a return to the prison estate, or they are awaiting the outcome of their parole review.

22.2 It is important to note that when such a prisoner is released, the restriction direction under Section 49 of the Mental Health Act ceases to have effect i.e. there is no longer any Compulsory Treatment Order (CTO) in place once released. Even though the MHT may have considered conditions that would have been necessary at the time of discharge, the prisoner is not subject to such conditions unless they are included in the release licence. In essence, all protection from risk must come from the release licence conditions and supervision as the prisoner is no longer subject to any part of the Mental Health Act.

22.3 The following licence conditions are likely to apply in these cases:

3(a) Attend all appointments arranged for you with a psychiatrist / psychologist / medical practitioner.

3(b) Receive home visits from [INSERT NAME or "a" if name not known] Mental Health Worker

22.4 The above licence conditions require the prisoner to attend appointments but do not require the prisoner to undergo treatment.

22.5 Panels cannot impose a condition that requires a prisoner to comply with treatment.

23 Terrorism

23.1 Terrorism related prisoners are defined by the MoJ as all those convicted of offences under terrorism legislation. This is detailed as those whose offending is known to be linked to extremist organisations or causes including but not limited to Al Qaida/Islamic State bodies, extreme right wing or left-wing activity, animal rights or environmental issues and those where there is evidence that they may have become radicalised in custody or pose a risk of engaging in terrorism related activity.

23.2 A range of specific licence conditions have been developed to manage the risks to the community which may be posed by these types of prisoners. As with other additional conditions, these should only be used where they can be demonstrated to be necessary and proportionate.

23.3 A case must be adequately made by the Probation Service for the application of these additional conditions and in consultation with the Regional Probation Counter Terrorism Lead.

³⁶ In some instances, an individual will be remitted to prison on the instruction of the Secretary of State without having an MHT

³⁷ Some prisoners may be remitted to prison where such a return is considered appropriate and will not impact on their mental wellbeing

- 23.4 These additional licence conditions are set out under category 11 in the table of additional licence conditions - [Annex A](#). If panels add these conditions to a licence, they must not deviate from the wording provided.
- 23.5 The areas covered by the additional conditions include:
- *Prohibited contact;*
 - *Non-association requirement;*
 - *Restricted activity;*
 - *Supervision requirement;*
 - *Disclosure of information.*
- 23.6 These conditions can be considered where the prisoner poses a related extremism/terrorism risk; there is no specific requirement for the prisoner to have been convicted of TACT/terrorism related index offence(s). However, the conditions set out in category 11 of [Annex A](#) should not be used for any other type of prisoner.
- 23.7 The Police, Crime, Sentencing and Courts Act 2022 introduced a terrorist search condition. Its legal basis is in paragraph 43C of the Terrorism Act 2000. This allows the police to stop and search an individual who has been released on a licence which includes this condition. The police may also, under this licence condition, stop and search any vehicle, and anything in it, in which the individual on this licence is travelling with, regardless of whether they are a passenger or the driver themselves.
- 23.8 Both of the following criteria must apply in order for the condition to be requested by the COM for inclusion on the licence. Failure to meet these criteria means that the condition cannot be applied for by the COM:
- The prisoner is subject to an indeterminate or determinate sentence where the index offence is a terrorism offence included on Schedule 19ZA or is an offence with a terrorism connection in accordance with the definition in 247A(7A) of the Criminal Justice Act 2003.
 - Based on the most recent risk assessment, the individual on licence poses a high or very high risk of serious harm to the public.
- 23.9 This condition can be applied either on release/re-release, or should risk escalate, as a licence variation.
- 23.10 The specific wording of the terrorist search condition can be found at paragraph 15(a) in [Annex A](#).

24 Foreign national prisoners liable to deportation

- 24.1 Licence conditions set in England and Wales **cannot be enforced in any other country**³⁸. When panels set conditions in such cases, they must do so with the understanding that they will only be enforceable whilst the individual on licence remains in the UK and Islands, or following any

³⁸ Licence conditions issued in England and Wales can only be enforced within England and Wales, Scotland, Northern Ireland, the Isle of Man, and the Channel Islands.

return to the UK and Islands, after a period of absence. The conditions remain active for as long as the licence.

- 24.2 With regard to release outside of England and Wales, it is the duty of the COM to have assessed likely family, cultural and jurisprudence aspects of the intended receiving country. If necessary, the Probation Service can approach the Foreign Office or relevant embassy for advice about the conditions in the receiving country and how these may impact a prisoner's risks. A panel may make a direction for the COM to do so if this information is essential to the assessment of risk and the decision to release a prisoner due for deportation. In addition, the COM must liaise with Home Office Immigration Enforcement (HOIE) to ascertain the situation regarding deportation.
- 24.3 When assessing risk to the general public, a panel will need to consider the risk to the general public in the UK and Islands and also the risk to the general public in any country that the prisoner is proposed or likely to go to.
- 24.4 Please refer to guidance for more information on making decisions in cases of *Foreign National Prisoners*.

25 Restricted transfer cases

- 25.1 There will be some cases where the prisoner is in custody outside of England and Wales on a restricted transfer basis. This will be in another jurisdiction of the UK and Islands - Scotland, Northern Ireland, the Isle of Man, or the Channel Islands.
- 25.2 Whilst the Board retains oversight of these cases, there will be a need to liaise with reciprocal supervising agencies in those jurisdictions when setting licence conditions.
- 25.3 More information about Restricted Transfer cases in Scotland can be found in the *Restricted Transfer cases to Scotland Guidance*.

26 Revocation and variation of licence conditions

- 26.1 If the Board has directed the initial release of a prisoner (indeterminate or determinate) and recommended additional licence conditions, it retains ownership for those conditions and will be asked to authorise any variation to, or revocation of, the conditions.
- 26.2 However, there are some licence conditions that can be varied by the Secretary of State without the need to refer to the Board (as mentioned in [paragraph 12.4](#)).
- 26.3 Where a variation takes place on a determinate sentence licence, the approval body for the licence condition is the same as it would have been on initial release. Where release was automatic, for example at CRD, but re-release following recall was directed by the Board, the responsibility does not move to the Board as a result of the recall. Where release was

directed by the Board, as in PTD SDS cases, the responsibility for variation sits with the Board.

- 26.4 Some requests can come in very soon after an oral hearing has taken place, or a decision recently issued. This will usually be due to a change in circumstances that means the original release plan needs to be amended. For example, an accommodation arrangement may have fallen through and an alternative is being proposed. If a suitable alternative address, date, or other risk management plan can be made, the Board may be able to vary the licence conditions to accommodate this. The panel must be satisfied the prisoner's risk can still be appropriately managed.
- 26.5 Once a prisoner is back in the community, COMs should review the licence conditions on a regular basis and can apply for conditions to be removed or varied/altere. Such applications might reflect good progress, a reduction in risk of harm, a substantive change of circumstances, or an increase in risk.
- 26.6 Any request for a variation of licence conditions needs to come via PPCS or from the individual on licence/their representative. Both parties must be given the opportunity to make representations on any proposed licence variation which will need to be submitted on a Stakeholder Response Form (SHRF).
- 26.7 There are three main points in time for varying or revoking licence conditions, as set out below.
- 26.8 **Where the variation request has been received shortly after the panel has sat (within 14 days), but before the decision has been issued**

In this instance, case managers will ask the panel to consider the variation request. The rationale behind the original condition and its wording will have been explored by the panel and so determining the impact of any change of the condition on the viability of the release plan is important. It may also be that an additional condition is now being proposed.

If the panel considers it has not been given enough information to justify or explain the variation requested, steps should be taken to seek further information before making a decision, or the request can be refused. If seeking further information will delay the decision being issued, the panel may need to issue a short adjournment.

The panel will need to seek representations from the other party and ensure that the victim has been notified of the request, and given the opportunity to also submit representations, where the request concerns a victim related condition.

- 26.9 **Where the variation request has been received after the panel has sat (but within 28 days) and the decision has been issued**

These requests are dealt with by the panel chair if it arrives within 28 days of the decision being issued, or a Duty Member if the request is received after that point or if the panel chair is unavailable. The full dossier from the parole review must be provided to the determining panel, together with the release decision and the variation request.

If the panel consider it has not been given enough information to justify or explain the variation requested, steps should be taken to seek further information before making a decision, or the request can be refused.

The panel will need to seek representations from the other party and ensure that the victim has been notified of the request, and given the opportunity to also submit representations, where the request concerns a victim related condition.

The panel must ensure the changes are necessary and proportionate. They should also be realistic and enforceable. In reaching a decision, the panel must have sufficient evidence to demonstrate that risk can be effectively managed if any licence condition is varied or removed altogether. A change in risk could also result in an additional licence condition being proposed. The panel should be aware that the decision for release will have been made on the basis of, amongst other things, the proposed risk management plan and supporting licence conditions.

Duty Members considering such requests will need to review the dossier to establish the rationale behind the original panel's decision before making a further determination.

26.10 **Where the variation request has been received after 28 days and the individual is in the community on licence**

These requests will be dealt with by a Duty Member.

These can include:

- Removing a condition that is no longer required;
- Varying a condition that needs to be amended due to a change in risk or other circumstances;
- Adding a condition that is additionally required;
- Suspending the supervision element of an IPP or life licence;
- Re-imposing a previously removed or suspended condition;
- Termination of an IPP licence.

However, the following conditions cannot be suspended and must remain on the licence:

- He/she shall be of good behaviour and not behave in a way which undermines the purpose of the licence
- He/she shall not commit any offence

Any request for suspension of supervision of an IPP or life licence must be referred to the Board.

Where the supervision element of the licence is suspended, it is permissible to retain additional or bespoke conditions, such as those prohibiting contact between the individual on licence and certain named persons, and/or those relating to geographical exclusion zones. If any such conditions are to remain in place, the Duty Member dealing with the request should indicate clear reasons why this is the case. The individual on licence and HMPPS must be clear about the Board's current view of the risks which remain.

26.11 More detailed information can be found in the *Duty Member Guidance*.

26.12 In some cases, the change in circumstances will be of a nature that may result in the decision being set aside³⁹. Panels may wish to check the criteria for when this might be appropriate. Panels should contact the Practice Advisor if the case appears to require a decision to be set aside.

27 Licence authorisation

27.1 HMPPS has formalised the process that COMs should follow when considering a temporary change to a licence condition.

27.2 **Licence authorisation** is where the COM identifies that a temporary change to an additional licence condition is required. This is enshrined in the majority of additional licence conditions including text at the end, allowing for the COM to grant permission for the individual on licence to act outside of the condition.

27.3 Permanency and specific need are the primary differences between a variation and an authorisation. A **licence variation** is intended to be a permanent change to the licence, in that it is approved by the Decision Maker and a licence condition is either added, varied, or removed. Licence authorisation is a **temporary change**, allowing the individual on licence to act outside of the licence condition for a temporary period of time.

27.4 Unlike a variation, authorisation is an on/off switch for a licence condition. It is the process by which the COM provides prior approval for the individual on licence to undertake an activity that would be otherwise prohibited. The authorisation must not be any wider in scope than is necessary to achieve the required objective.

27.5 The original licence condition is "switched" back on as soon as the required objective has been achieved.

27.6 The Board is not involved in licence authorisations. Information about the process has been published here:

[*HMPPS variation and Authorisation: Changing and managing licence conditions following release guidance*](#)

³⁹ This option was introduced with the commencement of the Police, Crime, Sentencing and Courts Act 2022

Annex A – Additional Licence Condition Criteria and Table

Any additional conditions must be necessary and proportionate. Use of EPF2 is required.

CATEGORIES	LICENCE CONDITIONS	ADVICE
<p>1. Residence at a specific place</p>	<p><i>(a) You must reside overnight within [REGION] probation region while of no fixed abode, unless otherwise approved by your supervising officer.</i></p>	<p>This condition is to ensure that individuals on licence who are NFA (no fixed abode), whereby they are transient and will not have a permanent address), continue to reside in the probation region in which they are being managed for the purpose of ensuring that they can be rehabilitated into the community through access to local support on licence as signposted by their COM.</p> <p>This does not amount to an inclusion zone, as it is only overnight residency being restricted by this condition. This condition must not be applied to those individuals who identify as Gypsy, Roma or Travellers without making clear that permission can be sought by the individual on licence to request permission to transfer to another area and the length of notice this would require.</p> <p>This condition may be relevant for case subject to electronic monitoring as a compulsory condition to ensure they remain within an in-scope region.</p> <p>Should an individual request a transfer to another probation region permanently, then this condition must be varied and updated to reflect the new location should that individual continue to be NFA.</p>
<p>2. Restriction of residency.</p>	<p><i>(a) Not to reside (not even to stay for one night) in the same household as [ANY / ANY FEMALE / ANY MALE] child under the age of [INSERT AGE] without the prior approval of your supervising officer</i></p>	<p>The [INSERT AGE] field here may only be populated with either 16 or 18.</p> <p>The age limit of 18 may only be included where the individual has previously held a position of responsibility over children, such as a teacher or a children's group staff member.</p>

3. Making or maintaining contact with a person.	<i>(a) Attend all appointments arranged for you with a psychiatrist / psychologist / medical practitioner, unless otherwise approved by your supervising officer</i>	<p>This condition does not require the individual to undergo treatment, but is required to attend any scheduled appointments.</p> <p>There is also no longer a requirement to name a specific staff member in this condition.</p>
	(b) Receive home visits from [INSERT NAME] Mental Health Worker.	Where a named Mental Health Worker is unavailable, insert “a” in the [INSERT NAME] field so that it reads “a Mental Health worker”.
	(c) Attend a location, as directed by your supervising officer, to address your dependency on, or propensity to misuse, a controlled drug.	The requirement to define a location within this condition has been removed based on staff feedback indicating that the location may change over the course of the licence period.
	<i>(d) Should you return to the UK and Islands before the expiry date of your licence then your licence conditions will be in force and you must report within two working days to your supervising officer.</i>	<p>This condition should be applied where an individual has been granted permission to permanently travel outside of the UK and Islands under the Travel Outside England and Wales on Licence Policy Framework.</p> <p>It is not typically necessary to apply this to a licence for an FNO awaiting deportation, as if they were to return to the UK following deportation, then they would be in automatic breach of their deportation order. However, where it is known that the deportation order is shorter than the licence period, this condition should be considered so that it may activate after the end of the deportation order.</p>
	<i>(e) 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].</i>	
	<i>(f) Not to have unsupervised contact with [ANY / ANY FEMALE / ANY MALE] children under the age of [INSERT AGE] without the prior approval of your supervising officer and / or [INSERT NAME OF APPROPRIATE SOCIAL SERVICES DEPARTMENT] except where that contact is inadvertent and not reasonably avoidable in the course of lawful daily life.</i>	<p>The [INSERT AGE] field here may only be populated with either 16 or 18.</p> <p>The age limit of 18 may only be included where the individual has previously held a position of responsibility over children, such as a teacher or a children’s group staff member.</p>

	<i>(g) Not to contact or associate with [NAMED OFFENDER(S) / NAMED INDIVIDUAL(S)] without the prior approval of your supervising officer.</i>	
	<i>(h) 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.</i>	This condition should only be applied where a specific issue has been identified where association with known sex offenders would increase the individual on licence's risks, and not as standard due to the offence profile or the individual's residency in an Approved Premises.
	<i>(i) 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</i>	This condition only applies to contact with individuals in custody, not those on licence. Where the individuals are in the community, contact should be managed through the use of other non-contact conditions.
	<i>(j) Not to associate with any person currently or formerly associated with [NAME OF DESCRIBE SPECIFIC GROUPS OR ORGANISATIONS] without the prior approval of your supervising officer.</i>	This may be applied where a group of individuals operate under a shared name, such as a gang or organisation. It cannot specify a registered political party.
4. Participation in, or co-operation with, a programme or set of activities.	<i>(a) To comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your alcohol / drug / sexual / violent / gambling / solvent abuse / anger / debt / prolific offending / offending behaviour problems.</i>	<p>There is a known issue where the generic "offending behaviour" option is missing on PNOMIS. Should this be chosen, then it will need to be inserted onto the licence using the bespoke field.</p> <p>The course/centre is no longer named. This is because it prevents multiple choices to be included in a single condition, and to allow for flexibility where locations change during the course of a licence period.</p> <p>Where a case has been accepted onto an Integrated Offender Management (IOM) scheme, then this can now be managed through 4(c) below.</p>
	<i>(b) Not to undertake work or other organised activity which will involve a person under the age of [INSERT AGE], either on a paid or unpaid basis without the prior approval of your supervising officer;</i>	<p>The [INSERT AGE] field here may only be populated with either 16 or 18.</p> <p>The age limit of 18 may only be included where the individual has previously held a position of responsibility over children, such as a teacher or a children's group staff member.</p>

	<i>(c) To engage with the Integrated Offender Management Team, and follow their instructions.</i>	<p>This condition is intended to require an individual on licence to follow the requirements of any IOM and cover requirements such as appointments with probation and police representatives, drug and alcohol workers etc.</p> <p>This had previously been covered by condition 4(a), but the specific condition makes it clearer for all involved.</p>
5. Possession, ownership, control or inspection of specified items or documents.	<i>(a) 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 or one you have regular use of, including the IMEI number and the SIM card that you possess.</i>	This condition now includes an additional provision to report the details of a mobile phone/SIM to which the individual has use of. Should the owner of that phone be unwilling to allow the individual to provide that information, then the COM should advise the individual that they should no longer use that phone and any usage of it could be considered to be a breach of licence.
	<i>(b) Not to own or possess a mobile phone with a photographic function without the prior approval of your supervising officer.</i>	
	<i>(c) Not to own or use a camera without the prior approval of your supervising officer.</i>	
	<i>(d) To make any device capable of making or storing digital images (including a camera and a mobile phone with a camera function) available for inspection upon request.</i>	
	<i>(e) To surrender your passport(s) to your supervising officer and to notify your supervising officer of any intention to apply for a new passport.</i>	When using this condition, COMs must be aware of how an individual's passport(s) are stored securely in their local office.
	<i>(f) Not to use or access any computer or device which is internet enabled without the prior approval of your supervising officer; and only for a purpose, and only at a specific location, as specified by that officer.</i>	This condition has now changed from a "public location" to a "specific location", which allows a COM to designate a home location. When using this condition, COMs must be mindful of any police enforcement and should discuss this prior to designating a public location as the only location that the individual may use.
	<i>(g) Not to delete the usage history on any internet enabled device or computer used and to allow such items to be inspected as requested. Such inspection may include removal of the device for inspection and the installation of monitoring software.</i>	This condition should only be used where the offender is assessed as being high and very high risk of harm at the point the condition is requested, and where there is local capability to use the condition meaningfully. Before requesting the

		<p>condition practitioners must have a clear logistical plan for how the condition will be used, and for what purpose. This must be outlined in the risk management plan. It may be more realistic, for example, where there is also a licence condition to only own one internet enabled device.</p> <p>Where there is a named offender manager or other police contact Community Offender Managers/Probation Practitioners should contact them to establish if, how and under what circumstances they will undertake examination of devices – this can then be factored this into the plan. There is no expectation that this condition is used where it is unlikely that the police will play an active role in the monitoring of devices. If a practitioner wishes to request this condition in these circumstances they should get their plan agreed by their SPO.</p> <p>If, on inspecting a device, a Community Offender Manager/Probation Practitioner see something indicating criminal activity, they should stop the inspection immediately and contact the police as soon as is possible to do so safely.</p>
	<p>(h) Not to own or possess a [SPECIFIED ITEM) without the prior approval of your supervising officer.</p>	<p>The COM can specify that the individual on licence is not permitted to own/possess certain items. The specificity of the described item should be as required to manage the risk/issue but no greater than that to ensure this condition remains necessary and proportionate.</p>
<p>6. Disclosure of information</p>	<p><i>(a) 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.</i></p>	<p>The designation of how this condition operates must be set out by the COM to the individual when explaining the condition and will vary from case to case depending on the risks and issues posed. This will include what a “short journey” is or how they define “regular use of”.</p> <p>It should not be used to restrict access to public transport, or taxi/cabs, as the individual will not have the ability to know these details prior to the journey taking place. Public transport access can be restricted using condition 8(b).</p>

	<p><i>(b) Notify your supervising officer of any developing relationships, including the ending of any relationships.</i></p>	<p>Paragraph 3.49 contains details of how these conditions must be managed.</p>
	<p>(c) Notify your supervising officer of any developing personal relationships, whether intimate or not, with any person you know or believe to be resident in a household containing children under the age of 18. This includes persons known to you prior to your time in custody with whom you are renewing or developing a personal relationship with.</p>	<p>Further information on the management of domestic abuse cases can be found in the Domestic Abuse Policy Framework.</p>
	<p>(d) To notify your supervising officer of the details of any passport that you possess (including passport number), and of any intention to apply for a new passport.</p>	
	<p>(e) Provide your supervising officer with the details of any bank accounts to which you are a signatory and of any credit cards you possess. You must also notify your supervising officer when becoming a signatory to any new bank account or credit card, and provide the account/card details. This condition will be reviewed on a monthly basis and may be amended or removed if it is felt that the level of risk that you present has reduced appropriately.</p>	<p>*This condition can be found in the Extremism category of additional licence conditions on PNOMIS. This condition has been moved from the extremism category of licence conditions, as it may be appropriate to use where there are relevant risks posed by the individual related to financial crime, such as organised crime, money laundering, or such as financial control of a vulnerable adult or a victim subject to Domestic Abuse.</p>

<p>7. Curfew arrangement</p>	<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 that the level of risk that you present has reduced appropriately.</p>	<p>Where an individual is subject to a standard curfew in an Approved Premises (AP) under the AP rules, this does not need to be added to the licence. It is only where the curfew differs from the standard curfew that this will need to be specified as a licence condition for an AP resident.</p> <p>The details of when curfew licence conditions may need to be reviewed by PPCs are contained in paragraph 3.24. Where a curfew is to be electronically monitored, the processes set out in 3.40 must be followed.</p> <p>The second curfew condition (formerly 7(b)) has now been removed, as the appropriate way to indicate an electronically monitored curfew is to use a combination of 14(a) with the curfew indicated and 7(a) from this section.</p>
<p>8. Freedom of movement</p>	<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/TYPE OF PREMISES / ADDRESS / ROAD] without the prior approval of your supervising officer.</p> <p>(c) Not to enter or remain in sight of any [CHILDREN'S PLAY AREA, SWIMMING BATHS, SCHOOL ETC] without the prior approval of your supervising officer.</p>	<p>This condition is not limited to individuals convicted of sexual offences against children, but can be applied to any type of individual where they are to be excluded from a specific type of premises. Examples could be for someone with a history of robbery, and a restriction could be put in place for a type of shop. It can further be restricted by including a geographical limit in the free text box – i.e. “branches of Tesco’s within Kent”.</p> <p>It may also be used to restrict access to public transport or taxis/cabs, by specifying the types of public transport, specific routes or similar.</p> <p>This condition is not restricted to individuals convicted of sexual offences against children, as the text included in the square brackets are purely examples. There may be other uses which</p>

		are also appropriate, such as where stalking has taken place (but where locations cannot be easily defined through an exclusion zone map).
	<i>(d) On release to be escorted by police to Approved Premises.</i>	Agreement must be sought with the local police before this condition is applied. This would most frequently come up through the MAPPA process, as this condition is typically applied to complex individuals where there is a degree of risk that they would fail to attend an Approved Premises upon release. There is no need to conduct a licence variation to remove this condition after the individual has been escorted by Police to the AP. Should a licence variation take place for another reason, then it can be removed at that point.
	<i>(e) To only attend places of worship which have been previously agreed with your supervising officer.</i>	This condition can be applied where it is appropriate to limit an individual to a specific place of worship, specifically where that place of worship has a protection plan in place to manage the individual, or where the COM has a specific engagement with a practitioner at a single place of worship to encourage the rehabilitation of the individual.
9. Supervision in the community by the supervising officer, or other responsible officer, or organisation	<i>(a) Report to staff at [NAME OF APPROVED PREMISES] at [TIME / DAILY / OTHER], 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.</i>	The details of when reporting requirements may need to be reviewed by PPCS are contained in paragraph 3.24. These licence conditions were previously combined as a single condition, however practice usage has demonstrated that sometimes an individual on licence is required to report to both an Approved Premises and a Police Station at different times of the day. As such this has now been split into two.

	<i>(b) Report to staff at [NAME OF POLICE STATION] at [TIME / DAILY / OTHER], 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.</i>	
10. Restriction of specified conduct or specified acts	(a) Not to participate directly or indirectly in organising and/or contributing to any demonstration, meeting, gathering or website without the prior approval of your supervising officer. This condition will be reviewed on a monthly basis and may be amended or removed if your risk is assessed as having changed.	This condition has been moved from the extremism category, as it may be appropriate for gang related individuals to prevent them from attending related meetings or contributing to websites related to those groups such as appearing in online videos promoting violence.
11. Extremism	(a) Not to contact directly or indirectly any person whom you know or believe to have been charged or convicted of any extremist related offence, without the prior approval of your supervising officer.	A list of specific persons should not be provided to the individual on licence, as if the intention was for the individual not to have contact with a specific list of persons then this should be managed through a non-contact condition.
	(b) Not to attend or organise any meetings or gatherings other than those convened solely for the purposes of worship without the prior approval of your supervising officer.	What constitutes a meeting or gathering can be defined by the COM when explaining this licence condition to an individual and can be tailored to the individual circumstances of the case.
	(c) Not to give or engage in the delivery of any lecture, talk, or sermon whether part of an act of worship or not, without the prior approval of your supervising officer.	
	(d) Not to engage in any discussion or act to promote grooming or influencing of an individual or a group for the purpose of extremism or radicalisation.	
	(e) Not to have in your possession any printed or electronically recorded material or handwritten notes which contain encoded information or that promote the destruction of or hatred for any religious or ethnic group or that celebrates, justifies or promotes acts of violence, or that contain information about military or paramilitary technology, weapons, techniques or tactics without the prior approval of your supervising officer.	

12. Polygraph Condition	(a) To comply with any instruction given by your supervising officer requiring you to attend polygraph testing. To participate in polygraph sessions and examinations as instructed by or under the authority of your supervising officer and to comply with any instruction given to you during a polygraph session by the person conducting the polygraph.	The criteria and cohorts under which this condition can be applied are described in the <u>Polygraph Examinations Policy Framework</u> .
13. Drug Testing Condition	<i>(a) Attend a location as required by your supervising officer, to give a sample of oral fluid / urine in order to test whether you have any specified Class A and specified Class B drugs 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. Do not take any action that could hamper or frustrate the drug testing process.</i>	<p>The criteria under which these conditions are applied are described in PI 32/2014 – Drug Appointment and Drug Testing For Licence Conditions and Post Sentence Supervision Requirements. This condition must not be applied outside of the criteria set out in that policy.</p> <p>The requirement to specify a location has been removed, based on staff feedback that this may change over time during the course of the licence period.</p> <p>This condition is a merged version between the former conditions 13(a) and 13(b), where (b) was only the requirement not to frustrate the drug testing process. The new merged version of this condition more accurately reflects the wording for drug testing as set out in the Criminal Justice (Sentencing) (Licence Conditions) Order 2015.</p>
14. Electronic Monitoring Conditions	<p>(a) Allow person(s) as designated by your supervising officer to install an electronic monitoring tag on you and access to install any associated equipment in your property, and for the purpose of ensuring that equipment is functioning correctly. You must not damage or tamper with these devices and ensure that the tag is charged, and report to your supervising officer and the EM provider immediately if the tag or the associated equipment are not working correctly. This will be for the purpose of monitoring your [INSERT TYPES OF CONDITIONS TO BE ELECTRONICALLY MONITORED HERE] licence condition(s) unless otherwise authorised by your supervising officer.</p> <p>(b) You will be subject to trail monitoring. Your whereabouts will be electronically monitored by GPS Satellite Tagging, ending on [INSERT END DATE], and you must cooperate with the</p>	<p>This condition must be applied in order to enable the electronic monitoring of any other licence conditions. Should 14(a) not be added to the licence, then the EM contractor will not install nor monitor any conditions on the licence.</p> <p>When requesting this condition, COMs must ensure that they have planned which of the other licence conditions will be electronically monitored and state those conditions in the free text box at the end of this condition.</p> <p>The cohorts that this condition may be applied to are listed in a separate document alongside this PF on EQUIP, and built into EPF2.</p>

	monitoring as directed by your supervising officer unless otherwise authorised by your supervising officer.	Refer to the relevant guidance for the specific cohorts for details of the appropriate timeframes to place in EM conditions. For example, the acquisitive crime cohort end date will be the licence end date if less than 365 day licence, or 365 days for any longer licence.
	(c) You must stay at [approved address] between 5pm and midnight every day until your electronic tag is installed unless otherwise authorised by your supervising officer.	This condition is to allow for the installation of an electronic monitoring device on an individual who is not being released on HDC. The EM provider is contracted to conduct the installation within two days. A temporary curfew to allow for installation of equipment is only required where there is no other curfew between 5pm and midnight already in place.
	(d) You must not drink any alcohol until [END DATE]. You will need to wear an electronic tag all the time so we can check this.	The cohorts that this condition may be applied to will be listed in a separate document alongside this PF on EQUIP, and built into EPF2. The previous version of this policy combined conditions (d) and (e) into a single condition. In order to make it easier to understand for those on licence, this condition has been split in two and has had the reading level reduced.
	(e) You will need to wear an electronic tag all the time until [END DATE] so we can check how much alcohol you are drinking, and if you are drinking alcohol when you have been told you must not. To help you drink less alcohol you must take part in any activities, like treatment programmes, your probation officer asks you to.	
15. Terrorist Personal Search	(a) You must let the police search you if they ask. You must also let them search a vehicle you are with, like a car or a motorbike.	Mandatory actions related to the application of this condition are contacted in 3.51. Where the individual is travelling with a vehicle, a search may take place whether or not they are the driver. Expected exceptions would be where they are travelling by public transport, private hire car, or commercial airliner.

[END]